

DUE TO THE ONGOING EMERGENCY CONCERNING THE COVID-19 VIRUS, THIS CITY COUNCIL MEETING WILL BE CONDUCTED PURSUANT TO THE GOVERNOR'S EXECUTIVE ORDER N-29-20 WHICH SUSPENDS CERTAIN REQUIREMENTS OF THE RALPH M. BROWN ACT.

RESIDENTS MAY OBSERVE THE MEETING REMOTELY VIA LIVESTREAM ON THE CITY WEBSITE OR ON SPECTRUM CABLE TV CHANNEL 3 AND FRONTIER CABLE TV CHANNEL 26

FOR DETAILED INFORMATION ON HOW TO PARTICIPATE IN REMOTE PUBLIC COMMENT PLEASE VISIT OUR WEBSITE AT: www.uplandca.gov/city-council-agendasminutes OR CONTACT THE CITY CLERK'S OFFICE AT 909-931-4120

AGENDA ATTACHED



UPLAND CITY COUNCIL

AGENDA

April 27, 2020

City Council Chamber

**DEBBIE STONE, MAYOR
RICKY FELIX, MAYOR PRO TEM
JANICE ELLIOTT, COUNCILMEMBER
RUDY ZUNIGA, COUNCILMEMBER
BILL VELTO, COUNCILMEMBER**

**ROSEMARY HOERNING, CITY MANAGER
STEVEN FLOWER, INTERIM CITY ATTORNEY**

DISRUPTION OF MEETINGS

Individuals who demonstrate disruptive conduct during City Council meetings that prevent the City Council from conducting its meeting in an orderly manner are guilty of a misdemeanor as stated in PC403, disrupting a public meeting, and are subject to removal from the chamber or arrest.

- 1. CALL TO ORDER AND ROLL CALL**
- 2. ADDITIONS-DELETIONS TO AGENDA**
- 3. ORAL COMMUNICATIONS**

This is a time for any citizen to comment on item listed on the closed session agenda only. Anyone wishing to address the legislative body is requested to submit a speaker card to the City Clerk at or prior to speaking. The speakers are requested to keep their comments to no more than three (3) minutes. The use of visual aids will be included in the time limit.

- 4. CLOSED SESSION None**

7:00 PM

5. INVOCATION

6. PLEDGE OF ALLEGIANCE

7. PRESENTATIONS

8. CITY ATTORNEY

9. ORAL COMMUNICATIONS

This is a time for any citizen to comment on any item listed on the agenda only. Anyone wishing to address the legislative body is requested to submit a speaker card to the City Clerk at or prior to speaking. The speakers are requested to keep their comments to no more than three (3) minutes. Speakers will be given five (5) minutes during public hearings. The use of visual aids will be included in the time limit.

10. COUNCIL COMMUNICATIONS

11. CONSENT CALENDAR

All matters listed under the Consent Calendar are considered to be routine and will be enacted by one roll call vote. There will be no separate discussion of these items unless members of the legislative body request specific items be removed from the Consent Calendar for separate action.

A. APPROVAL OF MINUTES

Approve the Regular Meeting Minutes of April 13, 2020. (Staff Person: Keri Johnson)

B. APPROVAL OF MARCH WARRANT AND PAYROLL REGISTERS

Approve the March Warrant Registers (check numbers 29211-29642) and Direct Disbursements totaling \$3,888,125.34 and Payroll Registers totaling \$1,225,929.85 (check Numbers 161339-161361 and EFT's 20466-20712). (Staff Person: Londa Bock-Helms)

C. TREASURY REPORT MARCH 2020

Receive and file the March 2020 Treasury Report. (Staff Person: Londa Bock-Helms)

D. 2ND READING OF ORDINANCE 1938 APPROVING A DEVELOPMENT AGREEMENT FOR THE BRIDGE POINT AT UPLAND PROJECT

Hold second reading by number and title only, waive further reading, and adopt Ordinance No. 1938 approving Development Agreement No. 20-0001 for the Bridge Point Upland Project which Bridge Development Partners, LLC has legal or equitable interest on approximately 50.25 acres intended to be developed as a 201,096 square foot warehouse/parcel delivery service building with an ancillary office/retail space, northeast of the intersection of Foothill Boulevard and Central Avenue, further described as Assessor's Parcel Numbers 1006-351-09, 1006-351-10, 1006-572-11, 1006-551-22, and 1006-574-10. (Staff Person: Robert Dalquest)

E. ACCEPTANCE OF WORK FOR PROJECT NO. 7072 & 7081, CITYWIDE SLURRY SEALS

Accept the work; record the Notice of Completion; and, reduce the Faithful Performance Bond to 10% for Warrantee for a period of twelve months for Project 7072 & 7081, Citywide Slurry Seals. (Staff Person: Steven Nix)

F. ACCEPTANCE OF WORK FOR PROJECT No. 7073, CITYWIDE STRIPING REPLACEMENT

Accept the work; record the Notice of Completion; and, reduce the Faithful Performance Bond to 10% for Warrantee for a period of twelve months for Project No. 7073, Citywide Striping Replacement. (Staff Person: Steven Nix)

G. ACCEPTANCE OF PUBLIC IMPROVEMENTS FOR TRACT MAP 18697 LOCATED ON THE NORTHEAST CORNER OF SULTANA AVENUE AND 8TH STREET BY TAYLOR MORRISON

Accept the public improvements constructed by Taylor Morrison, formerly known as William Lyons Homes, generally located on the northeast corner of Sultana and 8th Street; and approve the reduction of the faithful performance bond to ten percent (10%). (Staff Person: Steven Nix)

H. ACCEPTANCE OF PUBLIC AND PRIVATE IMPROVEMENTS FOR TRACT MAP 18249 LOCATED ON THE NORTHEAST CORNER OF MONTE VISTA AVENUE AND 11TH STREET BY KB HOMES

Accept the public and private improvements for Tract Map 18249 generally located at the northeast corner of Monte Vista Avenue and 11th Street and approve reduction of the Faithful Performance Bond to ten (10%) percent. (Staff Person: Steven Nix)

I. ACCEPTANCE OF IMPROVEMENTS FOR ARROW VISTA VILLAGE, LLC AND REDUCTION OF CASH SURETY

Accept the public improvements related to the Arrow Vista Village project, generally located on the southeast corner of Monte Vista Avenue and Arrow Route; and approve a reduction of the cash surety to fifty percent (50%). (Staff Person: Steven Nix)

J. SECOND AMENDMENT TO THE WATERSHARE ASSIGNMENT AND USE AGREEMENT WITH UPLAND HILLS COUNTRY CLUB

Approve the Second Amendment to the Watershare Assignment and Use Agreement with Upland Hills Country Club; and authorize the City Manager to execute the agreement. (Staff Person: Steven Nix)

K. UPDATE ON THE STATUS OF THE FISCAL YEAR 20-21 WEED ABATEMENT PROGRAM AS A RESULT OF THE COVID-19 PANDEMIC

Receive and file this report on the status of the Fiscal Year 2020-21 Weed Abatement Program due to the extraordinary circumstances surrounding the COVID-19 pandemic. (Staff Person: Robert Dalquest)

L. CONSIDERATION TO ADOPT A RESOLUTION OF THE CITY COUNCIL RATIFYING EXECUTIVE ORDER 2020-1 OF THE DIRECTOR OF EMERGENCY SERVICES

Adopt a resolution ratifying the Director of Emergency Services Executive Order 2020-1 permitting temporary signage in the right of way for essential businesses and permitting the use of recreational vehicles and trailers for the purpose of complying with public health orders during the local emergency caused by the COVID-19 pandemic. (Staff Person: Robert Dalquest)

12. PUBLIC HEARINGS

13. COUNCIL COMMITTEE REPORTS

14. BUSINESS ITEMS

A. GIS SOFTWARE AND PROFESSIONAL SERVICES FOR WATER FACILITIES

Approve a Professional Services Agreement with Nobel Systems to implement a data conversion of the City's water system improvement drawings and facility information for incorporation into the City GeoViewer system; and authorize the City Manager to execute the agreement in an amount of \$111,300. (Staff Person: Steven Nix)

B. AWARD OF BID FOR PROJECT NO. 9128, PUMP STATION DEMOLITION (BID NO. 2020-01)

Approve the plans and specifications for Project No. 9128, Pump Station Demolition; declare the bids received by Asbestos Instant Response, Inc., Standard Demolition, and 5M Contracting, Inc. to be non-responsive; award the construction contract to American Wrecking, Inc. in the amount of \$79,700.00; and, approve a construction contingency in the amount of \$20,300.00, for a total amount of \$100,000.00. (Staff Person: Steven Nix)

C. POLICY DISCUSSION CONCERNING LAND USE REGULATIONS FOR WAREHOUSING FACILITIES

Provide direction to the City Manager on whether to pursue an amendment to the Zoning Code to expand the definition of warehousing and/or modify the regulatory process. (Staff Person: Robert Dalquest)

15. ORAL COMMUNICATIONS

This is a time for any citizen to comment on any item not listed on the agenda. Anyone wishing to address the legislative body is requested to submit a speaker card to the City Clerk at or prior to speaking. The speakers are requested to keep their comments to no more than three (3) minutes. The use of visual aids will be included in the time limit. Public comments and questions for the purpose of hearing current matters of concern in our community and to provide citizens a method for the public to hear those concerns in an open venue is encouraged. However, under the provisions of the Brown Act, the City Council is prohibited from discussion of items not listed on the agenda, and therefore, the City Council, City Manager, or City Attorney will take communications under advisement for consideration and appropriate response or discussion at a later time.

16. CITY MANAGER

17. ADJOURNMENT

The next regularly scheduled City Council meeting is Monday, May 11, 2020.

NOTE: If you challenge the public hearing(s) or the related environmental determinations 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 of Upland, at, or prior to, the public hearing.

All Agenda items and back-up materials are available for public review at the City Clerk's Office at 460 North Euclid Avenue and the City website at www.uplandca.gov.

In compliance with the Americans with Disabilities Act, if you need special assistance to

participate in this meeting, please contact the City Clerk's Office, 931-4120. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADA Title II]

POSTING STATEMENT: On April 22, 2020 a true and correct copy of this agenda was posted at 450 N. Euclid Avenue (Upland Public Library) and 460 N. Euclid Avenue (Upland City Hall) and the City website at www.uplandca.gov.

**MINUTES OF THE REGULAR MEETING OF THE
UPLAND CITY COUNCIL
APRIL 13, 2020**

OPENING

The regular meeting of the Upland City Council was called to order by Mayor Debbie Stone at 6:03 p.m. in the Council Chamber of the Upland City Hall.

1. ROLL CALL

Present: Mayor Debbie Stone, Council Members Janice Elliott, Ricky Felix, Bill Velto, and Rudy Zuniga

Staff: Interim City Manager Rosemary Hoerning, Interim City Attorney Steven Flower, and City Clerk Keri Johnson

This City Council meeting was conducted pursuant to the Governor's Executive Order N-29-20 which suspended certain requirements of the Brown Act. The Mayor was present in the City Council Chamber and all other Council Members and staff were present via videoconference. The public was able to observe the meeting via live stream on the City's website or on the public access cable channels. Public comment was taken via telephone.

2. ADDITIONS/DELETIONS TO AGENDA None

3. ORAL COMMUNICATIONS None

4. CLOSED SESSION

At 6:04 p.m. Mayor Stone announced the City Council would recess to Closed Session pursuant to Government Code Section

A. CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

(Paragraph (1) of subdivision (d) of California Government Code Section 54956.9)

Case Name: Doreen Herring v. City of Upland

Case Number: San Bernardino County Superior Court Case No. CIVDS1820885

B. CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

(Paragraph (1) of subdivision (d) of California Government Code Section 54956.9)

Case Name: Karla Hernandez v. City of Upland

San Bernardino County Superior Court of California Case No. CIVDS2001708

The City Council reconvened in open session at 7:00 p.m.

5. INVOCATION None

6. PLEDGE OF ALLEGIANCE None

7. PRESENTATIONS

Supervisor Curt Hagman provided an update on the Coronavirus (COVID-19) emergency operations in San Bernardino County.

8. CITY ATTORNEY

Interim City Attorney Flower announced there was nothing to report from Closed Session.

9. ORAL COMMUNICATIONS

Doug Dennington, stated that Ordinance 1937 puts a burden on landlords and requested that the Council repeal the Ordinance.

10. COUNCIL COMMUNICATIONS

Councilmembers thanked staff and the community for their efforts during the COVID-19 emergency and provided information on services available to residents.

11. CONSENT CALENDAR

Mayor Stone removed Consent Calendar Item 11D for separate action. Motion by Councilmember Velto to approve the remainder of the Consent Calendar, seconded by Councilmember Elliott, and carried unanimously.

A. APPROVAL OF MINUTES

Approved the Regular Meeting Minutes of March 23, 2020, the Special Meeting Minutes of March 31, 2020, and the Special Meeting Minutes of April 1, 2020.

B. TREASURY REPORT FEBRUARY 2020

Received and filed the February 2020 Treasury Report.

C. RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UPLAND RATIFYING THE SAN BERNARDINO COUNTY FIRE PROTECTION DISTRICT FIRE CODE ORDINANCE PURSUANT TO STATE HEALTH & SAFETY CODE SECTION 13869

Adopted Resolution No. 6534 ratifying the San Bernardino County Fire Protection District Fire Code Ordinance No. FPD 20-01 amended and adopted by the Board of Directors of the San Bernardino County Fire Protection District.

E. BOARD OF DIRECTORS FOR WEST END CONSOLIDATED WATER COMPANY

Appointed Tom Thomas as proxy to vote all shares at the annual stockholder's meeting of the West End Consolidated Water Company.

ITEMS REMOVED FOR SEPARATE ACTION

D. RESIGNATION OF AIRPORT LAND USE COMMITTEE MEMBER

Mayor Stone announced the vacancy and requested that any residents interested in serving on the Airport Land Use Committee contact the City Clerk's Office to submit an application.

Motion by Mayor Stone to accept the resignation from Airport Land Use Committee Member Howard Bunte and instruct the City Clerk to post the vacancy pursuant to Government Code Section 54974, seconded by Councilmember Velto, and carried unanimously.

12. PUBLIC HEARINGS

- A. CONSIDERATION OF SPECIFIC PLAN NO. SPR-18-02, GENERAL PLAN AMENDMENT NO. GPA-18-04, ZONE CHANGE NO. ZC-18-04, TENTATIVE TRACT NO. 20245 (TT-18-03), SITE PLAN NO. SP-18-10, DESIGN REVIEW NO. DR-18-14, AND ENVIRONMENTAL ASSESSMENT REVIEW NO. EAR-0070 FOR THE VILLA SERENA SPECIFIC PLAN, A RESIDENTIAL SPECIFIC PLAN FOR THE DEVELOPMENT OF A RESIDENTIAL COMMUNITY THAT CONSISTS OF 65 SINGLE-FAMILY DETACHED RESIDENTIAL UNITS AT A DENSITY OF 7.1 DWELLING UNITS PER ACRE INCLUDING ON-SITE ACTIVE AND PASSIVE RECREATIONAL AMENITIES WITHIN THE COMMON AREA OPEN SPACE ON AN EXISTING 9.2-ACRE PORTION OF THE 15TH STREET FLOOD CONTROL DETENTION BASIN INCLUDING MODIFICATIONS TO THE REMAINDER DETENTION BASIN.

Development Services Director Dalquest introduced Associate Planner Winter, who presented the staff report along with a PowerPoint presentation, which is on file in the City Clerk's office.

There was discussion on the ingress and egress to the development, the potential fiscal impacts of the project, traffic impacts, and flood control.

Andrew Wennerstrom of Frontier Communities answered questions posed by the Council regarding traffic issues, flood control, and the ingress and egress to the development.

Mayor Stone opened the public hearing.

Shari Wasson, spoke in opposition of the project and requested a full environmental impact report be performed for the project. She further stated the biological survey was incomplete as the site is a seasonal wetland.

Caryn Zappia, spoke in opposition of the project stating concerns regarding the increased traffic on the streets existing streets and the proposed lot sizes not fitting with the surrounding area.

P. Chris Jackson, spoke in opposition of the project and stated concerns regarding flood protection and the storm drain capacity.

Betty Cavanaugh, stated concerns about the height of the homes, loss of mountain views for existing residents, and loss of habitat for existing wildlife in the area.

Anita Kerzic, stated concerns regarding water runoff from the mountains, potential flooding of residences, and loss of habitat for wildlife in the area.

Kathleen Carter, requested that the Council consider the past flood of 1969, and the potential for a flood of this magnitude in the future, when making their decision on the project.

Alex Hwang, stated concerns about the loss of mountain views and privacy for existing residents and requested the Council consider requiring single story homes. He further stated concerns regarding increased traffic and loss of wildlife habitat.

Diana Reymundo, requested that the Council postpone the public hearing until the after the COVID-19 emergency so the public could attend the hearing in person and stated opposition to the project citing concern over potential flooding.

Joe Hudson, stated that his home is directly affected by the project and questioned how the city will provide services for the additional residents

Joshell Koliva, stated concerns that the height and density of the project will directly impact her property; and further stated concerns regarding traffic impacts, air pollution, and the loss of wildlife habitat.

John Anderson, stated objections to the increased traffic that would be created by the project; and further stated the roads in area are poorly maintained and already have more traffic than they can handle.

Gary Coyne, spoke in opposition of the project and stated the proposed height of the development would cause a loss of mountain views for current residents.

Steve Bierbaum, stated opposition to the project and requested a full environmental impact report be performed.

Cindy Matistic, stated that the Council should not be conducting the public hearing while stay at home orders are in place. She further spoke in opposition of the project and stated concerns regarding the traffic impacts, and the reduction of the flood basin.

Mustafa Koliva, requested the Council vote to deny the project and stated concerns regarding flooding, housing density, and loss of wildlife habitat.

Dwayne Ulloa and Regina Black, requested that the Council make sure that flood control is protected and stated flood control is there for a reason. They further questioned who would be responsible should there be flooding issues in the future.

Colin Kesterson, stated opposition to the public hearing being conducted during the COVID-19 emergency and requested the hearing be continued to a future date when the public can attend. He further stated concerns regarding increased traffic and safety issues associated with the traffic.

Natasha Walton, requested the Council deny the project and stated concerns regarding the negative impact on a biological resource. She further stated the mitigated negative declaration was inadequate and requested a full environmental impact report for the project.

Susan Jennings, spoke in opposition to the development and stated concerns that the project will block the mountain views of current residents, destroy the wildlife habitat, and cause future flooding issues.

David Hardesty, requested that the Council not approve the project and stated concerns over the gated entrances and traffic impacts.

Tina Stoner, requested the Council consider a full environmental impact report before approving any proposed development; and further requested the Council consider using the land for open space, walking paths, and cycling trails.

Mayor Stone requested the applicant respond to comments.

Andrew Wennerstrom of Frontier Communities responded to comments regarding the flood basin, the requests for an environmental impact report, and the wildlife habitat.

There was further discussion regarding the ingress and egress from the property, the elevation gain of the project, water percolation and migration related to the closed land fill, the maintenance of green spaces and pocket parks, and wildlife in the area.

Councilmember Elliott addressed concerns about the importance of plant and animal species in the area and requested a full environmental impact report be performed.

There being no other speakers, Mayor Stone closed the public hearing.

Motion by Councilmember Elliott to adopt the City Council Denial Resolution, there being no second, the motion failed.

The Council discussed proposed changes to the easterly entrance to the development and the proposed pad elevation gain restrictions in sections 20.4 f and 20.4 h of the proposed entitlement resolution.

At 10:17 p.m. Mayor Stone called a recess and the City Council reconvened in open session at 10:29 p.m.

Director Dalquest proposed changes to the resolution to include 20.4 f and 20.4 h to read as follows:

- f. The main driveway entrance into the project at the easterly end of the subdivision on 15th Street shall be gated and be designed for exit only traffic. The driveway entrance shall include, for public use, an opening that enables the existing neighborhood to have pedestrian access through the project for access to the east basin area.
- h. The applicant shall design the project so that the lowest pad elevations possible shall be utilized, given the street grades and underground utility constraints, in order that the project is integrated into the existing neighborhood and public views of the mountains are maintained.

Motion by Councilmember Felix to approve the project including the mitigated negative declaration, general plan amendment, zone change, specific plan, tentative tract map, site plan, and design review through the proposed resolutions of approval including changes to conditions of 20.4 paragraph f and and h, seconded by Councilmember Velto, and carried with Councilmember Elliott opposed.

13. COUNCIL COMMITTEE REPORTS None

14. BUSINESS ITEMS

A. DISCUSSION OF DISPOSITION OF THE CITY MANAGER POSITION

City Manager Hoerning presented the staff report, which is on file in the City Clerk's Office.

The City Council received and filed the report, no action was taken.

B. DISCUSSION OF THE DISPOSITION OF CITY COUNCIL APPOINTED COMMITTEE MEMBERS

City Manager Hoerning presented the staff report, which is on file in the City Clerk's Office.

The City Council directed the City Manager to make the changes proposed by the City Council Advisory Committee and bring the item back at a later date for consideration.

C. PROFESSIONAL SERVICES AGREEMENT WITH J.G. BAUTISTA CONSULTING FOR ENGINEERING SERVICES

City Manager Hoerning presented the staff report, which is on file in the City Clerk's Office.

Motion by Councilmember Elliott to approve Amendment No. 3 to the Professional Services Agreement with J. G. Bautista Consulting and authorize the City Manager to execute the amendment, seconded by Councilmember Felix, and carried unanimously.

D. CONSIDERATION OF URGENCY ORDINANCE OF THE CITY OF UPLAND CITY COUNCIL ADOPTING EMERGENCY REGULATIONS RELATED TO RESIDENTIAL AND/OR COMMERCIAL TENANT EVICTIONS

City Manager Hoerning presented the staff report which is on file in the City Clerk's office.

There was discussion regarding the potential for future litigation, the differences between the local ordinance and the action taken by the State and the Judicial Council.

City Clerk Johnson read the title of the Ordinance for the record.

Motion by Councilmember Velto to hold first reading by title only, and adopt Urgency Ordinance No. 1939 repealing urgency Ordinance No. 1937 regarding emergency regulations related to residential and commercial tenant evictions and declaring the urgency thereof, seconded by Councilmember Felix, and carried unanimously.

15. ORAL COMMUNICATION (items not on the agenda) None

16. CITY MANAGER

City Manager Hoerning introduced Assistant City Manager Stephen Parker.

17. ADJOURNMENT

At 11:21 p.m., Mayor Stone adjourned in memory of former City Councilmember Dave Stevens. The next regularly scheduled City Council meeting is Monday, April 27, 2020.

SUBMITTED BY



Keri Johnson, City Clerk

APPROVED

April 27, 2020



STAFF REPORT

ITEM NO. 11.B.

DATE: April 27, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: STEPHEN PARKER, CPA, ASSISTANT CITY MANAGER
LONDA BOCK-HELMS, CPA, FINANCE OFFICER
SUBJECT: APPROVAL OF MARCH WARRANT AND PAYROLL REGISTERS

RECOMMENDED ACTION

It is recommended that the City Council approve the March Warrant Registers (check numbers 29211-29642) and Direct Disbursements totaling \$3,888,125.34 and Payroll Registers totaling \$1,225,929.85 (check Numbers 161339-161361 and EFT's 20466-20712).

GOAL STATEMENT

The proposed action supports the City's goal to manage the City's resources in a fiscally responsible and transparent manner.

BACKGROUND

The City Council is presented with the financial disbursements for the purchase of materials, supplies, services, capital projects, and payroll warrants issued in the prior month. This process provides the City Council the opportunity to review the expenses of the City.

ISSUES/ANALYSIS

In accordance with Government Code Section 37208, the Finance Officer hereby certifies that the attached Warrant Registers, Direct Disbursements, and Payroll Registers have been found to conform to the approved budget and have been paid. These demands are submitted to the City Council for review and approval.

FISCAL IMPACTS

Funds are available for the payment of the Warrant Registers, Direct Disbursements, and Payroll Registers.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

March Check Register



City of Upland
Accounts Payable Check Reconciliation Register
03/01/20-03/31/20

CHECK #	CHECK DATE	TYPE	VENDOR #	VENDOR NAME	AMOUNT
29211	03/04/2020	PRINTED	125761	CITY EMPLOYEE ASSOCIATES	\$ 276.00
29212	03/04/2020	PRINTED	751	FIDELITY SECURITY LIFE INSURANCE COMPANY	\$ 2,617.47
29213	03/04/2020	PRINTED	99418	FRANCHISE TAX BOARD	\$ 50.00
29214	03/04/2020	PRINTED	295	INLAND EMPIRE UNITED WAY	\$ 26.00
29215	03/04/2020	PRINTED	114711	METROPOLITAN LIFE INSURANCE CO	\$ 6,173.94
29216	03/04/2020	PRINTED	736	UPLAND POLICE MANAGEMENT ASSN	\$ 1,183.00
29217	03/04/2020	PRINTED	737	UPLAND POLICE OFFICERS ASSN	\$ 5,061.00
29218	03/04/2020	PRINTED	14	ACTION AWARDS	\$ 25.92
29219	03/04/2020	PRINTED	358	ADVANCED AUTO, SMOG CHECK CENTER	\$ 31.75
29220	03/04/2020	PRINTED	12564	ALL CITY MANAGEMENT SERVICES INC	\$ 6,358.77
29221	03/04/2020	PRINTED	59121	ARMORCAST	\$ 10,567.63
29222	03/04/2020	PRINTED	6683	ATMAA INC	\$ 2,120.00
29223	03/04/2020	PRINTED	30541	BAB STEERING & HYDRAULICS	\$ 1,051.41
29224	03/04/2020	PRINTED	933	BRIGGS LAW CORPORATION	\$ 8,700.00
29225	03/04/2020	PRINTED	325	CALIFORNIA ASSOCIATION OF CODE ENFORCEMENT	\$ 86.00
29226	03/04/2020	PRINTED	29561	CAROLLO ENGINEERS	\$ 4,974.00
29227	03/04/2020	PRINTED	291	CARQUEST AUTO PARTS	\$ 416.04
29228	03/04/2020	PRINTED	122791	CODE 3 INC	\$ 361.35
29229	03/04/2020	PRINTED	134181	COWAN, PATRICK	\$ 125.00
29230	03/04/2020	PRINTED	16226	DASH MEDICAL GLOVES	\$ 1,162.11
29231	03/04/2020	PRINTED	19101	DURAN, MAURICE	\$ 8.61
29232	03/04/2020	PRINTED	4402	VARGAS, LUPE B	\$ 445.00
29233	03/04/2020	PRINTED	96251	FORD OF UPLAND	\$ 177.69
29234	03/04/2020	PRINTED	78	FRONTIER	\$ 83.09
29235	03/04/2020	PRINTED	78	FRONTIER	\$ 111.68
29236	03/04/2020	PRINTED	833	G4S SECURE SOLUTIONS (USA) INC	\$ 17,179.46
29237	03/04/2020	PRINTED	290	GRAINGER	\$ 406.29
29238	03/04/2020	PRINTED	26601	GUTIERREZ, SUE	\$ 167.21
29239	03/04/2020	PRINTED	918	HARD HEAD VETERANS LLC	\$ 8,566.13
29240	03/04/2020	PRINTED	329	HOLLIDAY ROCK CO INC	\$ 899.71
29241	03/04/2020	PRINTED	48371	JEEP CHRYSLER OF ONTARIO	\$ 190.83
29242	03/04/2020	PRINTED	93421	KABAYAN, ANTHONY	\$ 144.17
29243	03/04/2020	PRINTED	47861	KAZMI, SALEHA	\$ 1,057.96
29244	03/04/2020	PRINTED	772	KIDS SPORTS NEWS NETWORK	\$ 2,500.00
29245	03/04/2020	PRINTED	107341	LAWSON PRODUCTS INC	\$ 133.05
29246	03/04/2020	PRINTED	16001	LAYNE, RANDALL	\$ 704.35
29247	03/04/2020	PRINTED	197	LOS ANGELES FREIGHTLINER	\$ 21.00
29248	03/04/2020	PRINTED	16385	MAIN STREET SIGNS	\$ 226.28
29249	03/04/2020	PRINTED	901	MANAGEMENT PARTNERS	\$ 5,354.20
29250	03/04/2020	PRINTED	445	MATHISEN OIL CO INC	\$ 609.54
29251	03/04/2020	PRINTED	681	MONROY, ALEXANDER	\$ 2,530.65

29252	03/04/2020	PRINTED	473	MUNICIPAL MAINTENANCE EQUIPMENT INC	\$	3,569.52
29253	03/04/2020	PRINTED	64331	PACIFIC TELEMAGEMENT SERVICE	\$	60.00
29254	03/04/2020	PRINTED	4509	PARKHOUSE TIRE INC	\$	1,134.69
29255	03/04/2020	PRINTED	21711	PARSONS, DEBORAH	\$	128.25
29256	03/04/2020	PRINTED	1731	R E S ENVIRONMENTAL INC	\$	1,587.90
29257	03/04/2020	PRINTED	10638	RICHARDS, WATSON & GERSHON	\$	34,141.37
29258	03/04/2020	PRINTED	90591	S & J SUPPLY CO INC	\$	5,853.33
29259	03/04/2020	PRINTED	11671	SAN BERNARDINO COUNTY	\$	13,508.84
29260	03/04/2020	PRINTED	17582	SCHWARY, GARY	\$	100.00
29261	03/04/2020	PRINTED	1300	SELECT TRENCHLESS PIPELINES	\$	575.00
29262	03/04/2020	PRINTED	77751	IDSC HOLDINGS LLC	\$	773.86
29263	03/04/2020	PRINTED	4640	DS SERVICES OF AMERICA INC	\$	49.50
29264	03/04/2020	PRINTED	16607	STAPLES BUSINESS ADVANTAGE	\$	1,213.25
29265	03/04/2020	PRINTED	69231	STEP SAVER CA LLC	\$	1,823.84
29266	03/04/2020	PRINTED	625	STILES ANIMAL REMOVAL	\$	90.00
29267	03/04/2020	PRINTED	11583	THOMPSON PLUMBING SUPPLY	\$	609.72
29268	03/04/2020	PRINTED	21671	TIME WARNER CABLE	\$	151.52
29269	03/04/2020	PRINTED	21671	TIME WARNER CABLE	\$	1,287.40
29270	03/04/2020	PRINTED	62321	U.S. TELEPACIFIC CORP	\$	1,720.24
29271	03/04/2020	PRINTED	148	UPLAND CHAMBER OF COMMERCE	\$	500.00
29272	03/04/2020	PRINTED	148	UPLAND CHAMBER OF COMMERCE	\$	950.00
29273	03/04/2020	PRINTED	635	WESTERN EXTERMINATOR COMPANY	\$	285.00
29274	03/04/2020	PRINTED	297	WILLIAMS, MARCI	\$	38.88
29275	03/04/2020	PRINTED	999999	ANDREA FISCHER	\$	26.95
29276	03/04/2020	PRINTED	999999	ASHLEY ESQUIVEL	\$	25.19
29277	03/04/2020	PRINTED	999999	HOME DEPOT AT HOME SERV	\$	206.10
29278	03/11/2020	PRINTED	7683	PATRICK VAN DUSEN	\$	864.00
29279	03/11/2020	PRINTED	14	ACTION AWARDS	\$	3,282.12
29280	03/11/2020	PRINTED	358	ADVANCED AUTO, SMOG CHECK CENTER	\$	31.75
29281	03/11/2020	PRINTED	3	AIRGAS USA LLC	\$	83.21
29282	03/11/2020	PRINTED	117291	ANDERSON, CAROLYN	\$	100.00
29283	03/11/2020	PRINTED	131971	ANNEALTA GROUP	\$	27,366.00
29284	03/11/2020	PRINTED	308	ASPINALL, ROBIN JEAN	\$	100.00
29285	03/11/2020	PRINTED	701	B & W AUTOMOTIVE INC	\$	29,550.56
29286	03/11/2020	PRINTED	862	BADGER METER INC	\$	1,687.31
29287	03/11/2020	PRINTED	3987	BALDY VIEW GYMNASTICS	\$	2,597.82
29288	03/11/2020	PRINTED	120021	BRIGHTVIEW	\$	3,475.59
29289	03/11/2020	PRINTED	732	BROUSE, LINDEN	\$	100.00
29290	03/11/2020	PRINTED	291	CARQUEST AUTO PARTS	\$	194.32
29291	03/11/2020	PRINTED	84141	CARTY, DIANE	\$	410.40
29292	03/11/2020	PRINTED	12511	CCSINTERACTIVE	\$	125.00
29293	03/11/2020	PRINTED	663	CHEMSCAN, INC.	\$	6,496.07
29294	03/11/2020	PRINTED	363	CHINO MOWER & ENGINE SERVICE	\$	215.16
29295	03/11/2020	PRINTED	448	CINTAS CORPORATION	\$	966.31
29296	03/11/2020	PRINTED	111301	CITY CLERK MANAGEMENT SERVICES	\$	1,400.00
29297	03/11/2020	PRINTED	475	CITY OF MONTCLAIR	\$	752.49
29298	03/11/2020	PRINTED	655	CLEANSTREET INC	\$	268.50

29299	03/11/2020	PRINTED	163	CLINICAL LABORATORY OF SAN BERNARDINO, INC	\$	434.00
29300	03/11/2020	PRINTED	45421	COSTAR REALTY INFORMATION GROUP INC	\$	473.58
29301	03/11/2020	PRINTED	521	COUPLAND, DONNA	\$	224.70
29302	03/11/2020	PRINTED	205	ROSALYN MARIE NICHOLAS	\$	797.42
29303	03/11/2020	PRINTED	4696	CUCAMONGA VALLEY WATER DISTRICT	\$	44.10
29304	03/11/2020	PRINTED	35791	DEL NEGRO, VINCENT	\$	255.41
29305	03/11/2020	PRINTED	16636	DELL MARKETING LP	\$	932.01
29306	03/11/2020	PRINTED	82651	ECONOLITE SYSTEMS	\$	8,025.89
29307	03/11/2020	PRINTED	97141	EUROFINS EATON ANALYTICAL INC	\$	5,866.00
29308	03/11/2020	PRINTED	2435	EVERSOFT	\$	1,588.66
29309	03/11/2020	PRINTED	10485	EXPERIAN	\$	77.00
29310	03/11/2020	PRINTED	44891	FARLEY, SANDRA	\$	2,526.60
29311	03/11/2020	PRINTED	78	FRONTIER	\$	60.56
29312	03/11/2020	PRINTED	78	FRONTIER	\$	120.71
29313	03/11/2020	PRINTED	78	FRONTIER	\$	120.71
29314	03/11/2020	PRINTED	78	FRONTIER	\$	558.67
29315	03/11/2020	PRINTED	78	FRONTIER	\$	1,220.00
29316	03/11/2020	PRINTED	78	FRONTIER	\$	1,425.81
29317	03/11/2020	PRINTED	113321	GLORY DAYS SERVICES, INC	\$	41.09
29318	03/11/2020	PRINTED	122151	GOSS, CAROLINA	\$	110.40
29319	03/11/2020	PRINTED	129521	GRAFIX SYSTEMS	\$	64.65
29320	03/11/2020	PRINTED	290	GRAINGER	\$	339.49
29321	03/11/2020	PRINTED	131101	HARRINGTON INDUSTRIAL PLASTICS	\$	92.49
29322	03/11/2020	PRINTED	329	HOLLIDAY ROCK CO INC	\$	1,385.93
29323	03/11/2020	PRINTED	629	HONEYCOTT, INC	\$	506.00
29324	03/11/2020	PRINTED	4495	HOSE-MAN INC	\$	65.90
29325	03/11/2020	PRINTED	16340	INFOSEND INC	\$	2,681.57
29326	03/11/2020	PRINTED	153	INLAND EMPIRE UTILITIES AGENCY	\$	58,254.18
29327	03/11/2020	PRINTED	4137	INLAND FAIR HOUSING MEDIATION BOARD/FHME	\$	3,330.79
29328	03/11/2020	PRINTED	785	INSTRUMENT & VALVE SERVICES COMPANY	\$	1,283.59
29329	03/11/2020	PRINTED	114501	INTERWEST CONSULTING GROUP	\$	15,180.00
29330	03/11/2020	PRINTED	9463	JB'S POOLS & PONDS, INC	\$	24.04
29331	03/11/2020	PRINTED	48371	JEEP CHRYSLER OF ONTARIO	\$	957.10
29332	03/11/2020	PRINTED	132291	JOHNSON, VALERIE	\$	438.90
29333	03/11/2020	PRINTED	25241	JAMES F WONSER	\$	2,193.75
29334	03/11/2020	PRINTED	56981	KENDALL, ANDREA	\$	1,846.80
29335	03/11/2020	PRINTED	937	TURNER, KIMBERLY	\$	125.00
29336	03/11/2020	PRINTED	26101	KONICA MINOLTA	\$	4,369.27
29337	03/11/2020	PRINTED	53241	KONICA MINOLTA BUSINESS SOLUTIONS	\$	4,668.68
29338	03/11/2020	PRINTED	29911	LASSETTER, SUELLEN	\$	875.10
29339	03/11/2020	PRINTED	410	LEININGER & SHORT	\$	60.00
29340	03/11/2020	PRINTED	40871	MACIAS, LUIS	\$	60.00
29341	03/11/2020	PRINTED	21341	MATT CHLOR INC	\$	3,798.42
29342	03/11/2020	PRINTED	801	MCLELLAN, MCROBBIE	\$	257.25
29343	03/11/2020	PRINTED	461	MJS ALARM	\$	36.00
29344	03/11/2020	PRINTED	345	MK SMITH CHEVROLET	\$	102,485.60
29345	03/11/2020	PRINTED	16233	MPOWER COMMUNICATIONS	\$	233.37

29346	03/11/2020	PRINTED	473	MUNICIPAL MAINTENANCE EQUIPMENT INC	\$	1,948.56
29347	03/11/2020	PRINTED	203	MV CHENG & ASSOCIATE	\$	812.50
29348	03/11/2020	PRINTED	808	NOVIKOV, ALEXANDER	\$	100.00
29349	03/11/2020	PRINTED	117121	NUCKLES OIL COMPANY INC	\$	26,772.74
29350	03/11/2020	PRINTED	14483	ONTARIO ICE SKATING CENTER	\$	707.00
29351	03/11/2020	PRINTED	379	OTERO, JORDAN	\$	332.50
29352	03/11/2020	PRINTED	739	PACIFIC YOUTH SPORTS	\$	668.85
29353	03/11/2020	PRINTED	4509	PARKHOUSE TIRE INC	\$	1,454.96
29354	03/11/2020	PRINTED	33021	PELLITTERI, CHRISTOPHER	\$	586.59
29355	03/11/2020	PRINTED	402	PFEILER & ASSOCIATES ENGINEERS, INC	\$	300.91
29356	03/11/2020	PRINTED	16032	PLUMBERS DEPOT INC	\$	1,689.37
29357	03/11/2020	PRINTED	657	QUAD COUNTRY PAINTING	\$	66,557.00
29358	03/11/2020	PRINTED	828	RICHDAI, INC	\$	288.75
29359	03/11/2020	PRINTED	67381	ROUTE 66 CAR WASH INC	\$	725.40
29360	03/11/2020	PRINTED	210	SALDANA DIAZ, NURYS E.	\$	98.16
29361	03/11/2020	PRINTED	601	SAN ANTONIO WATER CO	\$	212,058.60
29362	03/11/2020	PRINTED	845	SCARLETT DREAMS	\$	308.70
29363	03/11/2020	PRINTED	17582	SCHWARY, GARY	\$	100.00
29364	03/11/2020	PRINTED	407	SINGLETON, DENICE	\$	160.35
29365	03/11/2020	PRINTED	637	SMART & FINAL IRIS CO	\$	333.87
29366	03/11/2020	PRINTED	18062	SOFFA ELECTRIC INC	\$	1,170.00
29367	03/11/2020	PRINTED	3835	SOUTH COAST A Q M D	\$	725.60
29368	03/11/2020	PRINTED	16607	STAPLES BUSINESS ADVANTAGE	\$	550.72
29369	03/11/2020	PRINTED	10218	STATE OF CALIFORNIA DMV	\$	5,324.00
29370	03/11/2020	PRINTED	11583	THOMPSON PLUMBING SUPPLY	\$	520.58
29371	03/11/2020	PRINTED	21671	TIME WARNER CABLE	\$	92.29
29372	03/11/2020	PRINTED	21671	TIME WARNER CABLE	\$	119.98
29373	03/11/2020	PRINTED	21671	TIME WARNER CABLE	\$	129.98
29374	03/11/2020	PRINTED	21671	TIME WARNER CABLE	\$	151.52
29375	03/11/2020	PRINTED	21671	TIME WARNER CABLE	\$	151.52
29376	03/11/2020	PRINTED	21671	TIME WARNER CABLE	\$	697.34
29377	03/11/2020	PRINTED	39061	TOOLS-R-US INC	\$	147.54
29378	03/11/2020	PRINTED	116791	TOVAR, DONNA	\$	55.20
29379	03/11/2020	PRINTED	84081	TRENCH PLATE RENTAL CO	\$	46,557.76
29380	03/11/2020	PRINTED	863	TRUE NORTH RESEARCH	\$	26,280.00
29381	03/11/2020	PRINTED	125411	TYLER TECHNOLOGIES INC	\$	30,000.00
29382	03/11/2020	PRINTED	483	ULINE, INC	\$	349.11
29383	03/11/2020	PRINTED	3557	UNDERGROUND SERVICE ALERT	\$	518.33
29384	03/11/2020	PRINTED	17022	UPLAND MUSIC SCHOOL	\$	718.20
29385	03/11/2020	PRINTED	133941	VERIZON	\$	1,426.89
29386	03/11/2020	PRINTED	14735	VERIZON WIRELESS	\$	35.15
29387	03/11/2020	PRINTED	14735	VERIZON WIRELESS	\$	38.01
29388	03/11/2020	PRINTED	14735	VERIZON WIRELESS	\$	38.01
29389	03/11/2020	PRINTED	14735	VERIZON WIRELESS	\$	53.30
29390	03/11/2020	PRINTED	14735	VERIZON WIRELESS	\$	114.05
29391	03/11/2020	PRINTED	14735	VERIZON WIRELESS	\$	152.04
29392	03/11/2020	PRINTED	14735	VERIZON WIRELESS	\$	199.05

29393	03/11/2020	PRINTED	14735	VERIZON WIRELESS	\$	266.07
29394	03/11/2020	PRINTED	14735	VERIZON WIRELESS	\$	293.35
29395	03/11/2020	PRINTED	14735	VERIZON WIRELESS	\$	402.78
29396	03/11/2020	PRINTED	14735	VERIZON WIRELESS	\$	433.56
29397	03/11/2020	PRINTED	14735	VERIZON WIRELESS	\$	1,864.85
29398	03/11/2020	PRINTED	14735	VERIZON WIRELESS	\$	1,976.32
29399	03/11/2020	PRINTED	14735	VERIZON WIRELESS	\$	3,345.82
29400	03/11/2020	PRINTED	137	YVETTE WALKER	\$	100.00
29401	03/11/2020	PRINTED	1725	WEST COAST ARBORISTS INC	\$	32,415.00
29402	03/11/2020	PRINTED	728	WEST CONSULTANTS, INC	\$	671.00
29403	03/11/2020	PRINTED	50251	WESTERN AUDIO VISUAL CORP	\$	720.00
29404	03/11/2020	PRINTED	635	WESTERN EXTERMINATOR COMPANY	\$	716.00
29405	03/11/2020	PRINTED	826	YARDLEY ORGILL CO INC	\$	28,777.82
29406	03/11/2020	PRINTED	5193	ZAILO, ROBERT	\$	404.40
29407	03/11/2020	PRINTED	999999	KAREN AKEO	\$	125.00
29408	03/11/2020	PRINTED	999999	AMERICAL MANAGEMENT COMPANY, INC	\$	4,900.00
29409	03/11/2020	PRINTED	999999	ANDREA FISCHER	\$	24.94
29410	03/11/2020	PRINTED	999999	BRETT THOMAS	\$	78.00
29411	03/11/2020	PRINTED	999999	CATH VIGIL	\$	45.50
29412	03/11/2020	PRINTED	999999	CATHY LEECH	\$	45.50
29413	03/11/2020	PRINTED	999999	DEBORAH ALCORN	\$	60.00
29414	03/11/2020	PRINTED	999999	SANDRA LUCIDO	\$	45.50
29415	03/11/2020	PRINTED	999999	SUSAN BONFIGLIO	\$	7.00
29416	03/11/2020	PRINTED	999999	SUZIE KEEN	\$	91.00
29417	03/18/2020	PRINTED	125761	CITY EMPLOYEE ASSOCIATES	\$	276.00
29418	03/18/2020	PRINTED	99418	FRANCHISE TAX BOARD	\$	50.00
29419	03/18/2020	PRINTED	295	INLAND EMPIRE UNITED WAY	\$	26.00
29420	03/18/2020	PRINTED	736	UPLAND POLICE MANAGEMENT ASSN	\$	1,183.00
29421	03/18/2020	PRINTED	737	UPLAND POLICE OFFICERS ASSN	\$	5,061.00
29422	03/18/2020	PRINTED	358	ADVANCED AUTO, SMOG CHECK CENTER	\$	31.75
29423	03/18/2020	PRINTED	3	AIRGAS USA LLC	\$	6,918.58
29424	03/18/2020	PRINTED	119831	AXON ENTERPRISE INC	\$	46,347.17
29425	03/18/2020	PRINTED	291	CARQUEST AUTO PARTS	\$	300.61
29426	03/18/2020	PRINTED	4402	VARGAS, LUPE B	\$	120.00
29427	03/18/2020	PRINTED	96251	FORD OF UPLAND	\$	222.54
29428	03/18/2020	PRINTED	290	GRAINGER	\$	565.70
29429	03/18/2020	PRINTED	775	GRANICUS, LLC	\$	5,157.00
29430	03/18/2020	PRINTED	934	BODY ARMOR OUTLET, LLC	\$	10,507.04
29431	03/18/2020	PRINTED	329	HOLLIDAY ROCK CO INC	\$	331.88
29432	03/18/2020	PRINTED	629	HONEYCOTT, INC	\$	400.00
29433	03/18/2020	PRINTED	3430	INLAND EMPIRE STAGES, LTD	\$	3,917.39
29434	03/18/2020	PRINTED	80561	KEENAN & ASSOCIATES	\$	6,144.33
29435	03/18/2020	PRINTED	16385	MAIN STREET SIGNS	\$	602.43
29436	03/18/2020	PRINTED	4235	OMNITRANS	\$	5,236.80
29437	03/18/2020	PRINTED	6625	P F SERVICES INC	\$	125.00
29438	03/18/2020	PRINTED	1731	R E S ENVIRONMENTAL INC	\$	1,280.00
29439	03/18/2020	PRINTED	107	SITEONE LANDSCAPE SUPPLY HOLDING LLC	\$	244.91

29440	03/18/2020	PRINTED	77751	IDSC HOLDINGS LLC	\$	878.44
29441	03/18/2020	PRINTED	16607	STAPLES BUSINESS ADVANTAGE	\$	43.71
29442	03/18/2020	PRINTED	927	CATS COMMERCE, LLC	\$	3,675.00
29443	03/18/2020	PRINTED	11583	THOMPSON PLUMBING SUPPLY	\$	43.59
29444	03/18/2020	PRINTED	62321	U.S. TELEPACIFIC CORP	\$	2,825.56
29445	03/18/2020	PRINTED	98	TRITECH SOFTWARE SYSTEMS	\$	110,754.19
29446	03/18/2020	PRINTED	128751	URBAN GRAFFITI ENTERPRISES INC	\$	10,400.00
29447	03/18/2020	PRINTED	776	VISTA PAINT CORP	\$	164.25
29448	03/18/2020	PRINTED	760	WATER FACILITIES AUTHORITY	\$	205,142.56
29449	03/18/2020	PRINTED	728	WEST CONSULTANTS, INC	\$	5,829.50
29450	03/18/2020	PRINTED	97071	WEST VALLEY MRF	\$	7,425.42
29451	03/25/2020	PRINTED	15750	AFLAC PREMIUM HOLDING	\$	1,263.60
29452	03/25/2020	PRINTED	132551	AMERICAN FIDELITY ASSURANCE	\$	6,860.84
29453	03/25/2020	PRINTED	6109	AMERICAN HERITAGE LIFE INS CO	\$	229.50
29454	03/25/2020	PRINTED	16823	PRE PAID LEGAL SVC, INC	\$	112.60
29455	03/25/2020	PRINTED	889	PRUDENTIAL INSURANCE COMPANY OF AMERICA	\$	27.08
29456	03/25/2020	PRINTED	86261	ADORAMA	\$	304.95
29457	03/25/2020	PRINTED	358	ADVANCED AUTO, SMOG CHECK CENTER	\$	63.50
29458	03/25/2020	PRINTED	851	ADVANTAGE SEALING SYSTEMS, INC	\$	373.35
29459	03/25/2020	PRINTED	25	AGUILAR-RILEY, VIRGINIA	\$	550.48
29460	03/25/2020	PRINTED	4754	ALTEC INDUSTRIES INC	\$	44.51
29461	03/25/2020	PRINTED	289	ARROW TRAILER SUPPLIES INC	\$	157.86
29462	03/25/2020	PRINTED	6683	ATMAA INC	\$	1,520.00
29463	03/25/2020	PRINTED	862	BADGER METER INC	\$	100,638.50
29464	03/25/2020	PRINTED	819	BRINKS, INC	\$	666.80
29465	03/25/2020	PRINTED	83401	CARL WARREN & CO	\$	4,839.01
29466	03/25/2020	PRINTED	291	CARQUEST AUTO PARTS	\$	400.49
29467	03/25/2020	PRINTED	84141	CARTY, DIANE	\$	93.66
29468	03/25/2020	PRINTED	82791	CHEM PRO LABORATORY INC	\$	298.00
29469	03/25/2020	PRINTED	448	CINTAS CORPORATION	\$	1,749.02
29470	03/25/2020	PRINTED	104521	CONNEY SAFETY	\$	247.26
29471	03/25/2020	PRINTED	521	COUPLAND, DONNA	\$	153.90
29472	03/25/2020	PRINTED	124	DEPARTMENT OF JUSTICE	\$	1,026.00
29473	03/25/2020	PRINTED	44891	FARLEY, SANDRA	\$	1,438.80
29474	03/25/2020	PRINTED	4456	FEDERAL EXPRESS	\$	46.12
29475	03/25/2020	PRINTED	117361	FERREIRA, NORBERTO	\$	125.00
29476	03/25/2020	PRINTED	96251	FORD OF UPLAND	\$	181.66
29477	03/25/2020	PRINTED	78	FRONTIER	\$	45.83
29478	03/25/2020	PRINTED	78	FRONTIER	\$	120.71
29479	03/25/2020	PRINTED	111251	GNA BROOK FIRE PROTECTION INC	\$	856.06
29480	03/25/2020	PRINTED	122151	GOSS, CAROLINA	\$	41.40
29481	03/25/2020	PRINTED	16002	GRADY, MARSIE	\$	200.00
29482	03/25/2020	PRINTED	129521	GRAFIX SYSTEMS	\$	497.07
29483	03/25/2020	PRINTED	26601	GUTIERREZ, SUE	\$	54.64
29484	03/25/2020	PRINTED	158	HD SUPPLY FACILITIES MAINTENANCE LTD	\$	214.95
29485	03/25/2020	PRINTED	329	HOLLIDAY ROCK CO INC	\$	1,381.64
29486	03/25/2020	PRINTED	629	HONEYCOTT, INC	\$	285.00

29487	03/25/2020	PRINTED	4495	HOSE-MAN INC	\$	751.86
29488	03/25/2020	PRINTED	92791	HUSA, ZACHARY	\$	125.00
29489	03/25/2020	PRINTED	16340	INFOSEND INC	\$	19,420.64
29490	03/25/2020	PRINTED	36271	INLAND EMPIRE PRINTING	\$	328.64
29491	03/25/2020	PRINTED	195	INLAND VALLEY DAILY BULLETIN	\$	529.76
29492	03/25/2020	PRINTED	5403	INLAND VALLEY EMERGENCY PET	\$	174.00
29493	03/25/2020	PRINTED	106951	INTEGRATED TECHNOLOGY	\$	1,149.58
29494	03/25/2020	PRINTED	51311	IWORQ SYSTEMS INC	\$	4,554.00
29495	03/25/2020	PRINTED	32791	J J KELLER & ASSOCIATES INC	\$	589.00
29496	03/25/2020	PRINTED	48371	JEEP CHRYSLER OF ONTARIO	\$	1,705.51
29497	03/25/2020	PRINTED	545	JEFF JENKINS SERVICE TECHNICIAN	\$	787.00
29498	03/25/2020	PRINTED	132291	JOHNSON, VALERIE	\$	105.00
29499	03/25/2020	PRINTED	841	JOHNSTONE SUPPLY	\$	9.14
29500	03/25/2020	PRINTED	529	KAISER FOUNDATION HEALTH PLAN	\$	169,301.52
29501	03/25/2020	PRINTED	56981	KENDALL, ANDREA	\$	1,349.40
29502	03/25/2020	PRINTED	96231	LABASTIDA CONSTRUCTION	\$	29,055.00
29503	03/25/2020	PRINTED	940	LARNEY, GEORGE E	\$	9,916.23
29504	03/25/2020	PRINTED	29911	LASSETTER, SUELLEN	\$	361.08
29505	03/25/2020	PRINTED	53781	LEAD TECH ENVIRONMENTAL	\$	2,140.00
29506	03/25/2020	PRINTED	91491	LIBRARY SYSTEMS & SERVICES LLC	\$	10,968.38
29507	03/25/2020	PRINTED	414	LIEBERT CASSIDY WHITMORE	\$	120.00
29508	03/25/2020	PRINTED	945	LIFESIGNS NOW	\$	150.00
29509	03/25/2020	PRINTED	134	LINKO TECHNOLOGY INC	\$	1,560.00
29510	03/25/2020	PRINTED	901	MANAGEMENT PARTNERS	\$	5,914.50
29511	03/25/2020	PRINTED	461	MJS ALARM	\$	563.00
29512	03/25/2020	PRINTED	824	MK CONSULTING	\$	2,639.94
29513	03/25/2020	PRINTED	7816	MR T'S TOWING INC	\$	3,000.00
29514	03/25/2020	PRINTED	109391	MYERS TIRE SUPPLY	\$	205.99
29515	03/25/2020	PRINTED	683	NAKAMURA, ANDREW	\$	377.30
29516	03/25/2020	PRINTED	16877	NEXTDAY DELIVERY SERVICE, LLC	\$	159.49
29517	03/25/2020	PRINTED	42771	OCCU-MED LTD	\$	537.50
29518	03/25/2020	PRINTED	30971	OCCUPATIONAL HEALTH CENTERS	\$	727.50
29519	03/25/2020	PRINTED	379	OTERO, JORDAN	\$	250.80
29520	03/25/2020	PRINTED	488	PACIFIC AUTO SALES & LEASING	\$	35,748.47
29521	03/25/2020	PRINTED	64331	PACIFIC TELEMAGEMENT SERVICE	\$	60.00
29522	03/25/2020	PRINTED	515	PACIFIC WESTERN BANK	\$	90,159.33
29523	03/25/2020	PRINTED	4509	PARKHOUSE TIRE INC	\$	587.14
29524	03/25/2020	PRINTED	33021	PELLITTERI, CHRISTOPHER	\$	455.15
29525	03/25/2020	PRINTED	119	PRISTINE UNIFORMS LLC	\$	481.04
29526	03/25/2020	PRINTED	805	R3 CONSULTING GROUP	\$	1,312.50
29527	03/25/2020	PRINTED	10638	RICHARDS, WATSON & GERSHON	\$	49,072.94
29528	03/25/2020	PRINTED	764	RICHARDSON AUTO BODY	\$	2,305.42
29529	03/25/2020	PRINTED	11671	SAN BERNARDINO COUNTY	\$	14,107.44
29530	03/25/2020	PRINTED	5323	SAN BERNARDINO VALLEY COLLEGE	\$	3,400.00
29531	03/25/2020	PRINTED	131121	SHRED-IT USA JV LLC	\$	200.35
29532	03/25/2020	PRINTED	507	SILVER & WRIGHT LLP	\$	3,568.20
29533	03/25/2020	PRINTED	407	SINGLETON, DENICE	\$	51.75

29534	03/25/2020	PRINTED	77751	IDSC HOLDINGS LLC	\$	28.58
29535	03/25/2020	PRINTED	590	SOLUTIONS SIMPLIFIED	\$	2,345.00
29536	03/25/2020	PRINTED	99141	SONSRAY MACHINERY LLC	\$	721.66
29537	03/25/2020	PRINTED	3835	SOUTH COAST A Q M D	\$	2,229.68
29538	03/25/2020	PRINTED	16607	STAPLES BUSINESS ADVANTAGE	\$	1,431.33
29539	03/25/2020	PRINTED	70251	STEESE, MARION	\$	69.45
29540	03/25/2020	PRINTED	93351	STEVE'S FIVE STAR SERVICE INC	\$	180.00
29541	03/25/2020	PRINTED	16077	THERMAL COMBUSTION INNOVATORS, INC	\$	78.28
29542	03/25/2020	PRINTED	935	TERMINIX INTERNATIONAL	\$	127.00
29543	03/25/2020	PRINTED	126761	THE LINCOLN NATIONAL LIFE INS	\$	4,813.72
29544	03/25/2020	PRINTED	45851	THE PRINTERS	\$	316.79
29545	03/25/2020	PRINTED	11583	THOMPSON PLUMBING SUPPLY	\$	66.61
29546	03/25/2020	PRINTED	99981	THOMSON REUTERS - WEST PAYMENT CENTER	\$	1,221.17
29547	03/25/2020	PRINTED	116791	TOVAR, DONNA	\$	20.70
29548	03/25/2020	PRINTED	98	TRITECH SOFTWARE SYSTEMS	\$	6,075.82
29549	03/25/2020	PRINTED	9321	TSENG, JIM	\$	2,327.28
29550	03/25/2020	PRINTED	311	U S ARMOR CORPORATION	\$	1,741.72
29551	03/25/2020	PRINTED	38131	U C ADVANTAGE INC	\$	433.75
29552	03/25/2020	PRINTED	67311	UNDERCAR PLUS UPLAND	\$	18.07
29553	03/25/2020	PRINTED	596	UPLAND ARENA SPORTS LLC	\$	166.25
29554	03/25/2020	PRINTED	4481	V C A CENTRAL ANIMAL HOSPITAL	\$	194.26
29555	03/25/2020	PRINTED	133941	VERIZON	\$	345.94
29556	03/25/2020	PRINTED	725	VIDO SAMARZICH, INC	\$	139,393.95
29557	03/25/2020	PRINTED	392	WAXIE SANITARY SUPPLY	\$	2,640.95
29558	03/25/2020	PRINTED	1725	WEST COAST ARBORISTS INC	\$	6,239.00
29559	03/25/2020	PRINTED	929	WCMHI, INC	\$	9,000.00
29560	03/25/2020	PRINTED	766	WEST END CONSOLIDATED WATER CO	\$	17,560.70
29561	03/25/2020	PRINTED	635	WESTERN EXTERMINATOR COMPANY	\$	705.00
29562	03/25/2020	PRINTED	5193	ZAILO, ROBERT	\$	103.17
29563	03/25/2020	PRINTED	999999	DANY LANGUILLAT	\$	115.00
29564	03/25/2020	PRINTED	999999	GLORIA HOLCOMB	\$	25.50
29565	03/25/2020	PRINTED	999999	HELEN NICHOLS	\$	12.00
29566	03/25/2020	PRINTED	999999	JEANETTE ANTONIAK	\$	115.00
29567	03/25/2020	PRINTED	999999	LENNAR HOMES OF CA	\$	287.35
29568	03/25/2020	PRINTED	999999	NANCY MORGAN	\$	25.50
29569	03/25/2020	PRINTED	999999	PATSY SAPRA	\$	25.50
29570	03/25/2020	PRINTED	999999	TAYLOR MORRISON	\$	776.04
29571	03/25/2020	PRINTED	999999	TAYLOR MORRISON	\$	148.75
29572	03/25/2020	PRINTED	999999	TAYLOR MORRISON	\$	112.04
29573	03/25/2020	PRINTED	999999	TAYLOR MORRISON	\$	68.06
29574	03/25/2020	PRINTED	999999	VIVIAN MASON	\$	25.50
29575	03/25/2020	PRINTED	999999	AUSTIN BARKLEY	\$	34.67
29576	03/25/2020	PRINTED	999999	BARBARA RIPLEY	\$	18.00
29577	03/25/2020	PRINTED	999999	BENJAMIN PIMENTEL	\$	143.37
29578	03/25/2020	PRINTED	999999	CAROL HUANG	\$	176.73
29579	03/25/2020	PRINTED	999999	CATAMOUNT PROPERTIES 2018	\$	21.06
29580	03/25/2020	PRINTED	999999	CATHY DAVIDSON	\$	15.00

29581	03/25/2020	PRINTED	999999	CATHY LEECH	\$	57.50
29582	03/25/2020	PRINTED	999999	CHEN LI	\$	75.33
29583	03/25/2020	PRINTED	999999	CONNIE PANG	\$	141.88
29584	03/25/2020	PRINTED	999999	CSOA NEVADA TRUST	\$	289.74
29585	03/25/2020	PRINTED	999999	DANIEL BLODGETT	\$	66.88
29586	03/25/2020	PRINTED	999999	DEBBI BRENO	\$	6.00
29587	03/25/2020	PRINTED	999999	DEBORAH MINDRUM	\$	11.00
29588	03/25/2020	PRINTED	999999	DEBRA WILSON	\$	52.50
29589	03/25/2020	PRINTED	999999	ELAINE KARG	\$	61.64
29590	03/25/2020	PRINTED	999999	ERIK STENE	\$	190.00
29591	03/25/2020	PRINTED	999999	FRANCES BURMAN	\$	19.80
29592	03/25/2020	PRINTED	999999	GARY BLAYLOCK	\$	79.00
29593	03/25/2020	PRINTED	999999	GOLDENCOIN INVESTMENT INC	\$	89.59
29594	03/25/2020	PRINTED	999999	GREG MASTERS	\$	17.00
29595	03/25/2020	PRINTED	999999	H & K LLC	\$	117.22
29596	03/25/2020	PRINTED	999999	HAIDER RIZVI	\$	9.70
29597	03/25/2020	PRINTED	999999	HE HUANG	\$	114.12
29598	03/25/2020	PRINTED	999999	HOLIDAY CENTER	\$	986.50
29599	03/25/2020	PRINTED	999999	HOLLIDAY TRUCKING INC	\$	113.32
29600	03/25/2020	PRINTED	999999	HOSSEIN SHAYAN	\$	177.71
29601	03/25/2020	PRINTED	999999	ING LING CHEN	\$	102.70
29602	03/25/2020	PRINTED	999999	INTERNATIONAL LINE BUILDERS	\$	1,000.00
29603	03/25/2020	PRINTED	999999	JACKIE CRANDALL	\$	26.00
29604	03/25/2020	PRINTED	999999	JAMES RICHARDSON	\$	51.00
29605	03/25/2020	PRINTED	999999	JOAN F CHANG	\$	102.96
29606	03/25/2020	PRINTED	999999	JOHN LAMBROPOULOS	\$	42.58
29607	03/25/2020	PRINTED	999999	JOHN MCDONALD BEVERIDGE	\$	44.39
29608	03/25/2020	PRINTED	999999	JORDINE SOTO	\$	87.73
29609	03/25/2020	PRINTED	999999	JULIAN CHANG	\$	116.00
29610	03/25/2020	PRINTED	999999	KARL TRAUTWEIN	\$	5.71
29611	03/25/2020	PRINTED	999999	KATHERINE WALDRON	\$	86.00
29612	03/25/2020	PRINTED	999999	KENNETH BERG	\$	52.58
29613	03/25/2020	PRINTED	999999	LEONOR MATOS	\$	71.30
29614	03/25/2020	PRINTED	999999	LIANE ZEMEL	\$	18.00
29615	03/25/2020	PRINTED	999999	LINDA WHEELER	\$	15.00
29616	03/25/2020	PRINTED	999999	LORI KRASCH	\$	12.50
29617	03/25/2020	PRINTED	999999	LORRAINE SMITH	\$	57.50
29618	03/25/2020	PRINTED	999999	LUCIO HERRERA RAMIREZ	\$	91.17
29619	03/25/2020	PRINTED	999999	MAGDELENA MORENO	\$	14.00
29620	03/25/2020	PRINTED	999999	MARIA CHENG	\$	6.00
29621	03/25/2020	PRINTED	999999	MARTHA ALANIZ	\$	100.00
29622	03/25/2020	PRINTED	999999	MARY LOU LOREY	\$	7.50
29623	03/25/2020	PRINTED	999999	MICHAEL P ROGEL	\$	63.23
29624	03/25/2020	PRINTED	999999	MICHAEL ROCHE	\$	51.00
29625	03/25/2020	PRINTED	999999	MNRO HOLDINGS	\$	192.69
29626	03/25/2020	PRINTED	999999	NBL INVESTMENTS	\$	215.00
29627	03/25/2020	PRINTED	999999	OPENDOOR LABS INC	\$	83.80

29628	03/25/2020	PRINTED	999999	PAULA BLATZ	\$	52.50
29629	03/25/2020	PRINTED	999999	PEGI MARTENS	\$	6.00
29630	03/25/2020	PRINTED	999999	PINNACLE INTERNATIONAL PROPERTY SERVICE	\$	133.73
29631	03/25/2020	PRINTED	999999	POTRAIT CONSTRUCTION	\$	986.50
29632	03/25/2020	PRINTED	999999	RAYMOND KOLACH	\$	130.19
29633	03/25/2020	PRINTED	999999	RIA INKROTT	\$	19.80
29634	03/25/2020	PRINTED	999999	SANDY RUDDER	\$	18.00
29635	03/25/2020	PRINTED	999999	SUSAN BONFIGLO	\$	14.00
29636	03/25/2020	PRINTED	999999	TAEHEE CHOI	\$	27.00
29637	03/25/2020	PRINTED	999999	THOMAS B SESSIONS	\$	37.50
29638	03/25/2020	PRINTED	999999	UPLAND HILLS LAND LLC	\$	205.68
29639	03/25/2020	PRINTED	999999	UPLAND RENTAL LLC	\$	139.66
29640	03/25/2020	PRINTED	999999	VIDAL GONZALEZ	\$	26.77
29641	03/25/2020	PRINTED	999999	VINCENT LEE	\$	68.00
29642	03/25/2020	PRINTED	999999	WESTON MCKES	\$	95.80
3022000	03/02/2020	MANUAL	733	MASSACHUSETTS MUTUAL LIFE INSURANCE CO.	\$	42,584.53
3022000	03/02/2020	MANUAL	116231	NEOPOST USA INC	\$	5,000.00
3032000	03/03/2020	MANUAL	65181	CALPERS	\$	142,108.32
3032000	03/03/2020	MANUAL	543	SOUTHERN CALIF GAS COMPANY	\$	3,706.33
3032000	03/03/2020	MANUAL	32091	SOUTHERN CALIF EDISON CO	\$	78,108.14
3052000	03/05/2020	MANUAL	132551	AMERICAN FIDELITY ASSURANCE	\$	5,257.42
3062000	03/06/2020	MANUAL	43651	U S BANK NATIONAL ASSN	\$	23,691.45
3112000	03/11/2020	MANUAL	91491	LIBRARY SYSTEMS & SERVICES LLC	\$	103,518.00
3122000	03/12/2020	MANUAL	132551	AMERICAN FIDELITY ASSURANCE	\$	4,401.24
3122000	03/12/2020	MANUAL	618	ICMA-RC	\$	2,247.91
3122000	03/12/2020	MANUAL	621	KAREN LONG	\$	672.00
3122000	03/12/2020	MANUAL	441	MIDAMERICA ADMIN & RETIREMENT SOLUTIONS,	\$	2,175.68
3122000	03/12/2020	MANUAL	622	UPLAND CITY EMPLOYEE ASSOCIATION	\$	920.00
3132000	03/13/2020	MANUAL	624	DEPT OF THE TREASURY	\$	350.00
3132000	03/13/2020	MANUAL	733	MASSACHUSETTS MUTUAL LIFE INSURANCE CO.	\$	42,232.16
3172000	03/17/2020	MANUAL	32091	SOUTHERN CALIF EDISON CO	\$	73,910.91
3172000	03/17/2020	MANUAL	153	INLAND EMPIRE UTILITIES AGENCY	\$	545,445.20
3192000	03/19/2020	MANUAL	65181	CALPERS	\$	142,308.12
3192000	03/19/2020	MANUAL	11484	U S BANK	\$	171,925.00
3192000	03/19/2020	MANUAL	83401	CARL WARREN & CO	\$	33,546.45
3242000	03/24/2020	MANUAL	754	PUBLIC AGENCY COALITION ENTERPRISE	\$	96,673.80
3252000	03/25/2020	MANUAL	441	MIDAMERICA ADMIN & RETIREMENT SOLUTIONS,	\$	24,744.64
3262000	03/26/2020	MANUAL	441	MIDAMERICA ADMIN & RETIREMENT SOLUTIONS,	\$	1,895.29
3262000	03/26/2020	MANUAL	618	ICMA-RC	\$	2,316.66
3262000	03/26/2020	MANUAL	132551	AMERICAN FIDELITY ASSURANCE	\$	4,401.24
3262000	03/26/2020	MANUAL	621	KAREN LONG	\$	672.00
3262000	03/26/2020	MANUAL	622	UPLAND CITY EMPLOYEE ASSOCIATION	\$	920.00
3272000	03/27/2020	MANUAL	624	DEPT OF THE TREASURY	\$	350.00
3272000	03/27/2020	MANUAL	83401	CARL WARREN & CO	\$	48,836.20
3272000	03/27/2020	MANUAL	132551	AMERICAN FIDELITY ASSURANCE	\$	5,090.76
3312000	03/31/2020	MANUAL	733	MASSACHUSETTS MUTUAL LIFE INSURANCE CO.	\$	43,634.63
CHECK REPORT TOTAL					\$	3,888,125.34



STAFF REPORT

ITEM NO. 11.C.

DATE: April 27, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: STEPHEN PARKER CPA, ASSSITANT CITY MANAGER
LONDA BOCK-HELMS CPA, FINANCE OFFICER
SUBJECT: TREASURY REPORT MARCH 2020

RECOMMENDED ACTION

It is recommended that the City Council receive and file the March 2020 Treasury Report.

GOAL STATEMENT

The proposed action supports the City's goal to manage the City's resources in a fiscally responsible manner.

BACKGROUND

Per California Government Code Section 53646(b), the City's treasurer or fiscal officer shall render a treasury report to the City Council (at a minimum) on a quarterly basis. This report shall include the type of investment, issuer, date of maturity, par, and dollar amount invested on all securities, current market value as of the date of the report, investments and monies held by the local agency, and shall additionally include a description of any of the local agency's funds, investments, or programs, that are under the management of contracted parties, including lending programs. The report shall state compliance to the City's investment policy (approved June 10, 2019) and shall include a statement noting the City's ability to meet its expenditure requirements for the next six months.

ISSUES/ANALYSIS

The submission of the monthly Treasury Report is a compliance measure.

FISCAL IMPACTS

There is no fiscal impact associated with this action.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Treasury Report March 2020

TREASURY REPORT

City of Upland - Successor Agency - Public Financing Authority

For Period Ended
March 31, 2020

Investment Portfolio	Cost	Par Value	Market Value	% of Portfolio
State Local Agency Investment Fund	\$ 41,714,373	N/A	\$ 42,123,886	39.3%
Bank Accounts and Change Funds	4,211,441	N/A	4,211,441	3.9%
ABS-Corporate Paydown Securities	-	N/A	-	0.0%
Money Market Fund	1,229,097	N/A	1,229,097	1.1%
Government Agency Securities	44,904,079	43,905,000	45,173,264	42.2%
Corporate Bonds	14,094,062	12,578,000	14,283,759	13.3%
US Treasury	-	-	-	0.0%
Total Cash and Investments	\$ 106,153,051	\$ 56,483,000	\$107,021,447	100.0%

PARS Investment Portfolio	Cost	Market Value	% of Portfolio
115 Trust-OPEB Investment as of 03/31/20	1,051,601	1,051,601	13.8%
Pension Trust Investment as of 03/31/20	6,587,091	6,587,091	86.2%
Total Cash and Investments	\$ 7,638,692	\$ 7,638,692	100.0%

Weighted Average Days to Maturity	675.97
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Blended Yield:	1.990%
Benchmarks:	
LAIF	1.787%
2yr U.S. Treasury	0.230%
5yr U.S. Treasury	0.370%

Restricted Funds with Fiscal Agent	Book Value	Market Value
Water System Lease Revenue Refunding Bonds 2011	171,939	171,939
Colonies CFD Area #2 2015	2,213,019	2,213,019
Colonies CFD Area #1 2012	2,829,905	2,829,905
Upland 54 CFD 2004	246,689	246,689
Successor Agency TAN 2013 / TAN 2016- Merged Project	2,493,400	2,493,400
Harvest at Upland CFD 2016-1	2,458,991	2,458,991
Sycamore Hills CFD 2015-1	8,843,498	8,843,498
Total Restricted Funds	\$ 19,257,441	\$ 19,257,441

- I hereby certify that the investments are in compliance with the investment policy adopted by the City Council in June 2019.
- The City has the ability to meet its budgeted expenditures for the next six months.
- The market values for funds held in banking institutions do not change. The amounts listed as market values for these items are the same as their book values.
- The book value for the State Pool is the withdrawal value provided by the State Treasurer. The market value of funds held by the State Treasurer equates to the City's pro-rata share of the market value of the entire State Pool.
- Sources for current market valuation are Account Statements and the Wall Street Journal GNMA Mortgage rates on the last trading day of the month.
- This report meets the requirements of Government Code Section 53646.



Reviewed by Finance Officer



Date



City Manager



Date

TREASURY REPORT

City of Upland - Successor Agency - Public Financing Authority

State Local Agency Investment Fund

**For Period Ended
March 31, 2020**

<u>Fund or Account</u>		<u>Account Balance</u>	
City	95-36-642	41,714,373	
			Market Value
			(See Note 4)
	Totals	\$ 41,714,373	\$ 42,123,886
Yield for Period Ended	3/31/2020	1.787%	

TREASURY REPORT

City of Upland - Successor Agency - Public Financing Authority

Bank Accounts and Change Funds

**For Period Ended
March 31, 2020**

<u>Account Name</u>	<u>Institution</u>	<u>Insured Deposits</u>	<u>Collateralized Deposits</u>	<u>Total Deposits</u>
Petty Cash City of Upland	City of Upland	\$ -	\$ 11,916	\$ 11,916
City of Upland Payroll Zero Balance Account	Chase	-	-	-
City of Upland Checking Account	Chase	250,000	3,109,010	3,359,010
City of Upland Successor Agency	Chase	-	840,515	840,515
	Totals	\$ 250,000	\$ 3,961,441	\$ 4,211,441

TREASURY REPORT
City of Upland - Successor Agency - Public Financing Authority
For Period Ended
March 31, 2020

Investment	Purchased From	Cusip #	Cost	Market Value	Stated Rate	Maturity Date
FHLB	Wells Fargo Sec LLC	3130A7PU3	199,088	200,026	1.200%	4/6/2020
FFCB	Wells Fargo Sec LLC	3133ECPD0	204,100	205,330	1.420%	5/13/2020
FHLB	Federal Home Loan Bks	313382J53	1,508,501	1,510,875	1.750%	9/28/2020
FNMA	Deutsche Bank Sec Intl	3135G0RM7	1,499,295	1,509,360	1.630%	10/30/2020
FNMA	Deutsche Bank Sec Intl	3135G0F73	1,492,515	1,510,110	1.500%	11/30/2020
FNMA	Deutsche Bank Sec Intl	3135G0Q89	1,481,400	1,521,825	1.375%	10/7/2021
FFCB	Federal Farm Credit Bks	3133EFPT8	2,020,180	2,049,960	1.960%	11/19/2021
FHLB	Federal Home Loan Bks	3130AGCU7	1,500,000	1,502,955	2.550%	5/6/2022
FFCB	Federal Farm Credit Bks	3133EKMN3	1,000,000	1,003,120	2.430%	6/3/2022
FFCB	Federal Farm Credit Bks	3133ELUS1	1,000,000	1,000,670	1.000%	6/30/2022
FFCB	Federal Farm Credit Bks	3133EKVP8	3,000,000	3,013,080	2.110%	7/22/2022
FFCB	Federal Farm Credit Bks DEB	3133ELFS8	1,999,000	2,045,540	1.660%	12/27/2022
FHLMC	Federal Home LN Corp MTN	3134GUXE5	1,500,000	1,503,765	1.900%	12/18/2023
FHLMC	Morgan Stanley & Co	3134GTDW0	2,000,000	2,003,520	2.750%	4/30/2024
FHLMC	Federal Home LN Corp MTN	3134GUPX2	1,500,000	1,502,520	2.000%	5/15/2024
FHLB	Federal Home Loan Bks	3130AGKB0	2,500,000	2,507,825	2.550%	6/5/2024
FHLMC	Federal Home LN Corp	3134GTRK1	1,000,000	1,004,070	2.550%	6/17/2024
FHLMC	Federal Home LN Corp	3134GTP56	1,500,000	1,502,070	2.300%	7/30/2024
FHLMC	Federal Home LN Corp MTN	3134GU5Y2	2,000,000	2,006,920	1.800%	7/30/2024
FFCB	Federal Farm Credit Bks	3133EKZN9	1,500,000	1,505,685	2.060%	8/13/2024
FHLMC	Federal Home LN Corp	3134GUBY5	1,500,000	1,508,445	2.000%	9/18/2024
FHLB	Federal Home Loan Bks	3130AH7F4	1,250,000	1,256,075	2.000%	10/2/2024
FHLMC	Federal Home LN Corp MTN	3134GUPK0	1,500,000	1,502,355	2.000%	11/12/2024
FHLMC	Federal Home LN Corp MTN	3134GUTJ9	1,500,000	1,503,225	2.050%	11/25/2024
FHLB	Federal Home LN Bks DEB	3130AHN66	1,000,000	1,009,510	1.940%	12/16/2024
FHLB	Federal Home LN Bks DEB	3130AHZF3	2,000,000	2,006,980	1.875%	2/4/2025
FHLMC	Federal Home LN Corp MTN	3134GVAF5	1,500,000	1,501,875	1.750%	2/11/2025
FHLMC	Federal Home LN Corp MTN	3134GVAQ1	2,000,000	2,017,760	1.750%	2/12/2025
FHLMC	Federal Home LN Corp MTN	3134GVDM7	1,250,000	1,254,663	1.750%	2/25/2025
FHLMC	Federal Home LN Corp MTN	3134GVEF1	1,000,000	1,003,150	1.750%	2/28/2025
Government Securities Subtotal			44,904,079	45,173,264		
<u>Money Market Fund</u>						
City of Upland						
US Bank		31846V203	1,229,097	1,229,097	0.97%	N/A
Money Market Fund Subtotal			1,229,097	1,229,097		
<u>Corporate Bonds</u>						
Bank of OZK C D		06417NGZ0	250,000	250,087	2.350%	4/9/2020
United Bankers CD		909557HZ6	250,000	250,645	2.850%	5/19/2020
Brookline Bank CD		11373QFU7	250,000	250,797	2.900%	5/29/2020
First Financial CD		32021SFP6	250,000	251,145	2.900%	6/26/2020
Ally Bank Midvale Utah		02007GDM2	250,875	251,087	2.750%	6/29/2020
TCF National Bank CD		87227RCN2	250,000	251,025	2.600%	7/2/2020
Wells Fargo Bank CD		949763SP2	249,873	251,448	2.800%	7/27/2020
Bank Pontiac ILL C D		064455AM0	250,000	251,230	2.350%	8/14/2020
State Street Bank Note		857477AS2	103,593	100,162	2.550%	8/18/2020
Bank of Hope CD		062683BX4	250,000	251,995	2.800%	9/14/2020
Comenity CAP BK CD		20033AXY7	250,000	251,315	2.000%	10/23/2020
First Internet CD		32056GDD9	250,000	253,518	3.000%	12/28/2020
Live Oak CD		538036DX9	250,000	253,905	3.000%	2/9/2021
Beal BK CD		07370Y3N0	250,000	250,910	1.600%	3/3/2021
Eagle Bank CD		27002YDY9	250,000	253,817	2.800%	3/8/2021

TREASURY REPORT
City of Upland - Successor Agency - Public Financing Authority
For Period Ended
March 31, 2020

Investment	Purchased From	Cusip #	Cost	Market Value	Stated Rate	Maturity Date
CitiBank NA CD		17312QH93	250,000	253,830	2.750%	4/12/2021
Capital One NA CD		14042RFV8	246,218	251,885	2.250%	5/24/2021
Synovus Bank GA CD		87164DQV5	250,000	250,960	1.600%	5/27/2021
SB One BK CD		78414TBY7	250,000	250,985	1.600%	6/7/2021
B Bay LLC Promissory Notebal		05580ANK6	250,000	255,482	3.000%	7/13/2021
First National Bank C D		32117BDW5	250,000	251,378	1.700%	7/30/2021
Capital One Bank CD		14042TBG1	250,000	252,710	2.100%	8/2/2021
Cathay Bank CD		149159PL3	250,000	251,082	1.600%	8/30/2021
Abacus Federal CD		00257TBA3	250,000	255,640	2.900%	8/31/2021
First Fid Bank C D		32024FAB7	250,000	255,600	2.850%	9/14/2021
Wells Fargo Bank CD		949763LT1	250,000	253,885	2.250%	12/8/2021
Synchorony Bank CD		87164WYK8	250,000	256,495	2.700%	3/8/2022
Sterling Bank CD		85916VCW3	250,000	258,388	3.100%	3/9/2022
Morgan Stanley CD		61690UFC9	250,000	257,025	2.800%	3/14/2022
Amerant BK NATL CD		02357QAM9	250,000	248,520	1.050%	3/30/2022
CenterState BK CD		15201QCX3	250,000	250,248	1.400%	3/30/2022
Bank pf Santa CD		06424KBC3	250,000	248,767	1.100%	3/31/2022
American CD		02587DN38	249,675	250,612	2.400%	4/5/2022
First Northeast CD		33583FAB8	239,570	250,218	2.000%	4/19/2022
Old Missouri CD		68002LBL1	250,000	258,993	3.100%	5/5/2022
American Express CD		02587CFU9	250,000	255,100	2.400%	8/29/2022
Cross Riv Bank C D		227563BJ1	250,000	252,798	1.850%	11/7/2022
Flagstar Bank FSB CD		33847E2V8	250,000	252,485	1.800%	11/15/2022
Wells Fargo Natl C D		949495AF2	250,000	252,863	1.850%	12/30/2022
Apple Inc		037833DE7	494,750	513,725	2.400%	1/13/2023
Goldman Sachs CD		38148PYQ4	250,000	259,665	2.800%	2/28/2023
Sallie Mae Bank Salt Lke		795450P66	250,000	263,205	3.200%	5/9/2023
Discover Bank Greenwood Del CD		254673RF5	250,000	264,657	3.300%	7/11/2023
Nicolet NATL CD		654062JS8	250,000	248,090	1.100%	9/27/2023
Lakeside Bank CD		51210SSA6	250,000	248,935	1.350%	9/29/2023
Raymond James C D		75472RAT8	250,000	252,845	1.800%	12/29/2023
BMO Harris Bank C D		05581W4Y8	250,000	250,810	2.000%	1/30/2024
Bank Hapoalim BM C D		06251AW48	246,233	247,715	2.900%	3/25/2024
UBS Bank USA C D		90348JJQ4	260,650	263,603	2.900%	4/3/2024
Morgan Stanley C D		61760AZR3	250,000	262,303	2.750%	5/2/2024
Jonesboro St Bank C D		48040PFB6	250,000	250,113	2.050%	9/16/2024
State Bank of C D		856285RS2	252,625	255,788	2.050%	11/27/2024
Enerbank USA C D		29278TMR8	250,000	253,008	1.800%	1/29/2025
JP Morgan Chase C D		48128LE70	250,000	250,830	2.050%	1/31/2025
Merrick Bank C D		59013KFH4	250,000	252,422	1.750%	1/31/2025
Medallion BK CD		58404DGK1	250,000	247,010	1.100%	3/24/2025
Corporate Bonds Subtotal			14,094,062	14,283,759		
US Treasury						
US Treasury Subtotal			-	-		
Total Portfolio			\$ 60,227,238	\$ 60,686,119		

TREASURY REPORT

City of Upland - Successor Agency - Public Financing Authority

	Market Value	Availability 03/31/20 04/01/20	No. of days until maturity	weight	days to maturity weighted average	Total by maturity	
March 31, 2020							
Petty Cash	11,916	04/01/20	1	0.0%	0.00		
Checking Account	3,359,010	04/01/20	1	3.1%	0.03		
Successor Agency	840,515	04/01/20	1	0.8%	0.01	4,211,441	
Total Bank Accounts	4,211,441						
State Local Agency Investment Fund	42,123,886	04/01/20	1	39.4%	0.39	42,123,886	
US Bank	1,229,097	04/01/20	1	1.1%	0.01	1,229,097	
Total Money Market Accounts	1,229,097						
Wells Fargo Sec LLC	200,026	04/06/20	6	0.2%	0.01	200,026	
Government Securities	200,026						
Bank of OZK C D	250,087	04/09/20	9	0.2%	0.02	250,087	
Corporate Bonds	250,087						
						48,014,538	1 - 30 days
United Bankers CD	250,645	05/19/20	49	0.2%	0.11		
Brookline Bank CD	250,797	05/29/20	59	0.2%	0.14	501,442	31 - 60 days
Corporate Bonds	501,442						
Wells Fargo Sec LLC	205,330	05/13/20	43	0.2%	0.08	205,330	
Government Securities	205,330						
						706,772	31 - 60 days
Government Securities	-		-	0.0%	-		
First Financial CD	251,145	06/26/20	87	0.2%	0.20		
Ally Bank Midvale Utah	251,087	06/29/20	90	0.2%	0.21		
TCF National Bank CD	251,025	07/02/20	93	0.2%	0.22		
Wells Fargo Bank CD	251,448	07/27/20	118	0.2%	0.28	1,004,705	
Corporate Bonds	1,004,705						
						1,004,705	61 - 120 days
Bank Pontiac ILL C D	251,230	08/14/20	136	0.2%	0.32		
State Street Bank Note	100,162	08/18/20	140	0.1%	0.13		
Bank of Hope CD	251,995	09/14/20	167	0.2%	0.39	603,387	
Corporate Bonds	603,387						
						603,387	121 - 180 days
City Manager							
Federal Home Loan Bks	1,510,875	09/28/20	181	1.4%	2.56		
Deutsche Bank Sec Intl	1,509,360	10/30/20	213	1.4%	3.00		
Deutsche Bank Sec Intl	1,510,110	11/30/20	244	1.4%	3.44	4,530,345	
Government Securities	4,530,345						
Comenity CAP BK CD	251,315	10/23/20	206	0.2%	0.48		
First Internet CD	253,518	12/28/20	272	0.2%	0.64		
Live Oak CD	253,905	02/09/21	315	0.2%	0.75		
Beal BK CD	250,910	03/03/21	337	0.2%	0.79		
Eagle Bank CD	253,817	03/08/21	342	0.2%	0.81	1,263,465	
Corporate Bonds	1,263,465						
						5,793,810	181 - 1 year
Deutsche Bank Sec Intl	1,521,825	10/07/21	555	1.4%	7.89		
Federal Farm Credit Bks	2,049,960	11/19/21	598	1.9%	11.45	3,571,785	

TREASURY REPORT

City of Upland - Successor Agency - Public Financing Authority

	Market Value	Availability 03/31/20 04/01/20	No. of days until maturity	weight	days to maturity weighted average	Total by maturity	
March 31, 2020							
Government Securities	3,571,785						
CitiBank NA CD	253,830	04/12/21	377	0.2%	0.89		
Capital One NA CD	251,885	05/24/21	419	0.2%	0.99		
Synovus Bank GA CD	250,960	05/27/21	422	0.2%	0.99		
SB One BK CD	250,985	06/07/21	433	0.2%	1.02		
B Bay LLC Promissory Notebal	255,482	07/13/21	469	0.2%	1.12		
First National Bank C D	251,378	07/30/21	486	0.2%	1.14		
Capital One Bank CD	252,710	08/02/21	489	0.2%	1.15		
Cathay Bank CD	251,082	08/30/21	517	0.2%	1.21		
Abacus Federal CD	255,640	08/31/21	518	0.2%	1.24		
First Fid Bank C D	255,600	09/14/21	532	0.2%	1.27		
Wells Fargo Bank CD	253,885	12/08/21	617	0.2%	1.46		
Synchorony Bank CD	256,495	03/08/22	707	0.2%	1.69		
Sterling Bank CD	258,388	03/09/22	708	0.2%	1.71		
Morgan Stanley CD	257,025	03/14/22	713	0.2%	1.71		
Amerant BK NATL CD	248,520	03/30/22	729	0.2%	7.65		
CenterState BK CD	250,248	03/30/22	729	0.2%	10.21		
Bank pf Santa CD	248,767	03/31/22	730	0.2%	8.03	4302879.5	
Corporate Bonds	4,302,880						
						7,874,665	1- 2 years
Federal Home Loan Bks	1,502,955	05/06/22	766	1.4%	10.76		
Federal Farm Credit Bks	1,003,120	06/03/22	794	0.9%	7.44		
Federal Farm Credit Bks	1,000,670	06/30/22	821	1.0%	8.21		
Federal Farm Credit Bks	3,013,080	07/22/22	843	2.8%	23.73		
Federal Farm Credit Bks DEB	2,045,540	12/27/22	1,001	1.9%	19.13	8,565,365	
Government Securities	8,565,365						
American CD	250,612	04/05/22	735	0.2%	1.72		
First Northeast CD	250,218	04/19/22	749	0.2%	1.75		
Old Missouri CD	258,993	05/05/22	765	0.2%	1.85		
American Express CD	255,100	08/29/22	881	0.2%	2.10		
Cross Riv Bank C D	252,798	11/07/22	951	0.2%	2.25		
Flagstar Bank FSB CD	252,485	11/15/22	959	0.2%	2.26		
Wells Fargo Natl C D	252,863	12/30/22	1,004	0.2%	2.37		
Apple Inc	513,725	01/13/23	1,018	0.5%	4.89		
Goldman Sachs CD	259,665	02/28/23	1,064	0.2%	2.58	2,546,459	
Corporate Bonds	2,546,459						
						11,111,824	2- 3 years
Federal Home LN Corp MTN	1,503,765	12/18/23	1,357	1.4%	19.07	1,503,765	
Government Securities	1,503,765						
Sallie Mae Bank Salt Lke	263,205	05/09/23	1,134	0.2%	2.79		
Discover Bank Greenwood Del CD	264,657	07/11/23	1,197	0.2%	2.96		
Nicolet NATL CD	248,090	09/27/23	1,275	0.2%	14.03		
Lakeside Bank CD	248,935	09/29/23	1,277	0.2%	17.24		
Raymond James C D	252,845	12/29/23	1,368	0.2%	3.23		
BMO Harris Bank C D	250,810	01/30/24	1,400	0.2%	3.28		
Bank Hapoalim BM C D	247,715	03/25/24	1,455	0.2%	3.37	1,776,257	
Corporate Bonds	1,776,257						
						3,280,022	3- 4 years
Morgan Stanley & Co	2,003,520	04/30/24	1,491	1.9%	27.91		
Federal Home LN Corp MTN	1,502,520	05/15/24	1,506	1.4%	21.14		
Federal Home Loan Bks	2,507,825	06/05/24	1,527	2.3%	35.78		
Federal Home LN Corp	1,004,070	06/17/24	1,539	0.9%	14.44		
Federal Home LN Corp	1,502,070	07/30/24	1,582	1.4%	22.20		
Federal Home LN Corp MTN	2,006,920	07/30/24	1,582	1.9%	29.67		
Federal Farm Credit Bks	1,505,685	08/13/24	1,596	1.4%	22.45		
Federal Home LN Corp	1,508,445	09/18/24	1,632	1.4%	23.00		
Federal Home Loan Bks	1,256,075	10/02/24	1,646	1.2%	19.32		

TREASURY REPORT

City of Upland - Successor Agency - Public Financing Authority

March 31, 2020	Market Value	Availability 03/31/20 04/01/20	No. of days until maturity	weight	days to maturity weighted average	Total by maturity
Federal Home LN Corp MTN	1,502,355	11/12/24	1,687	1.4%	23.68	
Federal Home LN Corp MTN	1,503,225	11/25/24	1,700	1.4%	23.88	
Federal Home LN Bks DEB	1,009,510	12/16/24	1,721	0.9%	16.23	
Federal Home LN Bks DEB	2,006,980	02/04/25	1,771	1.9%	33.21	
Federal Home LN Corp MTN	1,501,875	02/11/25	1,778	1.4%	24.95	
Federal Home LN Corp MTN	2,017,760	02/12/25	1,779	1.9%	33.54	
Federal Home LN Corp MTN	1,254,663	02/25/25	1,792	1.2%	21.01	
Federal Home LN Corp MTN	1,003,150	02/28/25	1,795	0.9%	16.83	26,596,648
Government Securities	26,596,648					
UBS Bank USA C D	263,603	04/03/24	1,464	0.2%	3.61	
Morgan Stanley C D	262,303	05/02/24	1,493	0.2%	3.66	
Jonesboro St Bank C D	250,113	09/16/24	1,630	0.2%	3.81	
State Bank of C D	255,788	11/27/24	1,702	0.2%	4.07	
Enerbank USA C D	253,008	01/29/25	1,765	0.2%	4.17	
JP Morgan Chase C D	250,830	01/31/25	1,767	0.2%	4.14	
Merrick Bank C D	252,422	01/31/25	1,767	0.2%	4.17	
Medallion BK CD	247,010	03/24/25	1,819	0.2%	4.20	2035077
Corporate Bonds	2,035,077					
						28,631,725
						4- 5 years

Total Investments \$ 107,021,447 100.06% 675.97 \$ 107,021,447

Average Maturity in Days 675.97
 Average Maturity in Years: 1.852

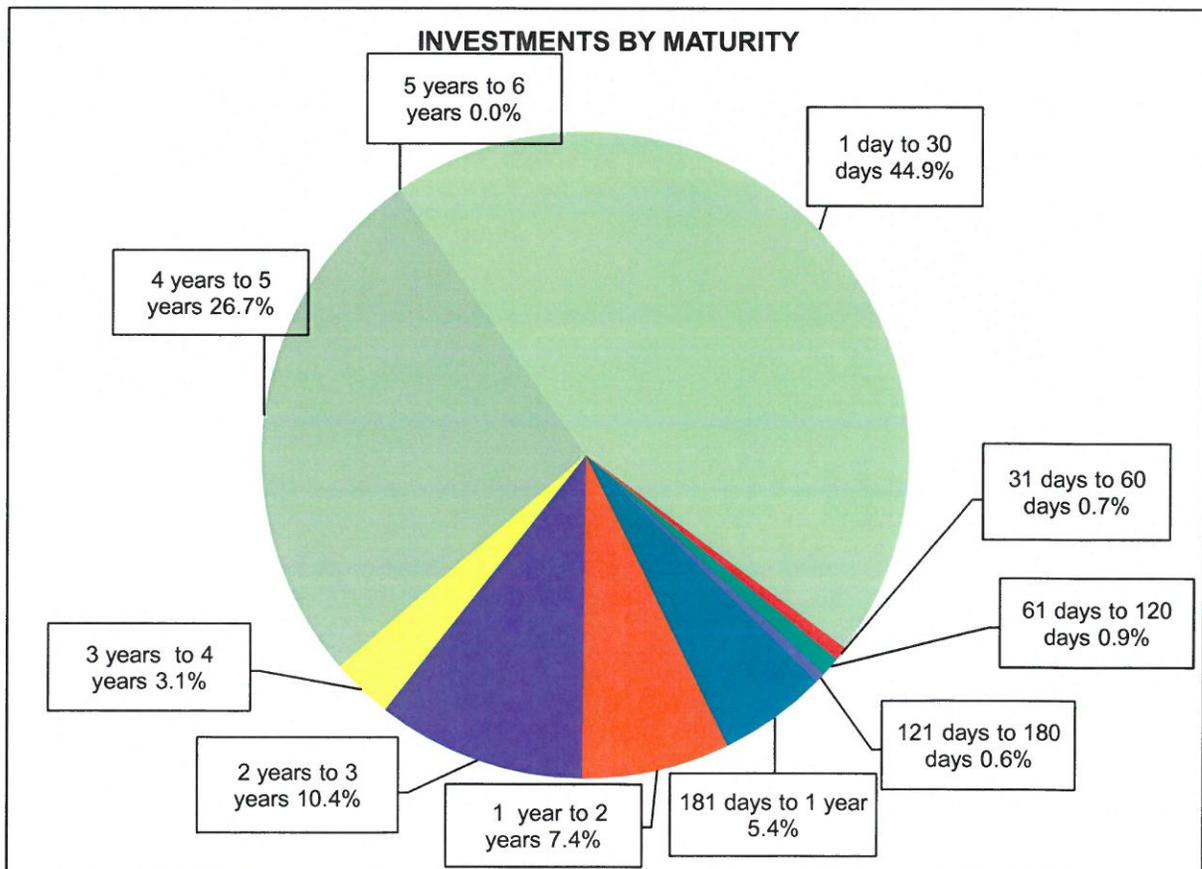
LAIF Amortized Cost \$ 98,299,616,913
 LAIF Fair Value \$ 99,264,631,732
 Check: 1.009817076

TREASURY REPORT
City of Upland - Successor Agency - Public Financing Authority

March 31, 2020

**Par Values Maturing by Date and Type
Maturities in Thousands of Dollars**

Investment Portfolio	1 day to 30 days	31 days to 60 days	61 days to 120 days	121 days to 180 days	181 days to 1 year	1 year to 2 years	2 years to 3 years	3 years to 4 years	4 years to 5 years	5 years to 6 years
State Local Agency Investment Fund	42,124	-	-	-	-	-	-	-	-	-
Bank Accounts and Change Funds	4,211	-	-	-	-	-	-	-	-	-
ABS	-	-	-	-	-	-	-	-	-	-
Government Securities	-	-	-	-	4,530	3,572	8,565	1,504	26,597	-
Money Market Fund	1,229	-	-	-	-	-	-	-	-	-
Corporate Bonds	250	501	1,005	603	1,263	4,303	2,546	1,776	2,035	-
US Treasury	200	205	-	-	-	-	-	-	-	-
Total Cash and Investments	48,015	708	1,005	603	5,794	7,875	11,112	3,280	28,631	-
Percentage	44.9%	0.7%	0.9%	0.6%	5.4%	7.4%	10.4%	3.1%	26.7%	0.0%





STAFF REPORT

ITEM NO. 11.D.

DATE: April 27, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: ROBERT D. DALQUEST, DEVELOPMENT SERVICES DIRECTOR
SUBJECT: 2ND READING OF ORDINANCE 1938 APPROVING A DEVELOPMENT AGREEMENT FOR THE BRIDGE POINT AT UPLAND PROJECT

RECOMMENDED ACTION

It is recommended that the City Council hold second reading by number and title only, waive further reading, and adopt Ordinance No. 1938 approving Development Agreement No. 20-0001 for the Bridge Point Upland Project which Bridge Development Partners, LLC has legal or equitable interest on approximately 50.25 acres intended to be developed as a 201,096 square foot warehouse/parcel delivery service building with an ancillary office/retail space, northeast of the intersection of Foothill Boulevard and Central Avenue, further described as Assessor's Parcel Numbers 1006-351-09, 1006-351-10, 1006-572-11, 1006-551-22, and 1006-574-10.

GOAL STATEMENT

The proposed action supports the City's economic development goals related to business attraction to increase the number of quality jobs in Upland in order to improve the balance of jobs and housing, and will result in the construction of a substantial amount of public improvements that will assist in revitalizing the western Foothill Boulevard Corridor.

BACKGROUND

On April 1, 2020, the City Council voted to introduce for first reading Ordinance No. 1938 approving a Development Agreement with Bridge Development Partners regarding the Bridge Point Upland Project, including several changes to the Development Agreement that were approved at the time.

ISSUES/ANALYSIS

Second Reading. Ordinance No. 1938 must be approved for second reading before final passage. The version prepared for second reading includes the changes to the Development Agreement approved by the Council at its last meeting, as well as a few clerical corrections. If passed, the Ordinance would go into effect in 30 days.

Operating Memorandum. Bridge Development has informed the City that the COVID-19 emergency, and state and local actions taken in response to it (like the extension of the statute of limitations for challenging the City's approval of their project), have introduced practical and legal uncertainty to their construction timeline that might prevent them from completing the project this year. Bridge is therefore asking to clarify the timing for their annual payments to the City for future road maintenance, which are scheduled to begin before the end of this year and will total \$9,270,000 over the entire term. Bridge would like to use an operating memorandum to clarify the timing to account for the possibility that it will not complete construction before the end of this year.

Section 35 of the Development Agreement contains a provision that allows the parties to use operating memoranda to clarify and memorialize their mutual understanding of how the agreement will be implemented. This is a standard provision in development agreements, particularly those with longer terms. In this case, the Development Agreement delegates the authority to approve operating memoranda to the City Manager.

An operating agreement (see attachment) has been prepared to address Bridge's concern about its construction schedule by clarifying that Bridge would not be required to make its first payment annual payment for road maintenance until it completes construction, provided that if this after December 31, 2020, its first payment would make the City whole by including payments for the previous years. So if, for example, Bridge completes construction in 2021, its first payment would include payments for 2020 and 2021. The operating memorandum also reinforces the fact that the City must be made whole by expressly stating the total payments cannot drop below \$9,270,000. Clarifying the timing in this way also brings the annual payments in line with the other payments Bridge would make to the City, which are already tied to completion of construction.

The operating memorandum has been reviewed by the City Attorney and approved as to form, and the City Manager is prepared to sign it once the Council approves final adoption of Ordinance 1938.

FISCAL IMPACTS

The proposed Development Agreement will result in \$14.5 Million to the City to cover current and long term street maintenance, significant road and infrastructure improvement, law enforcement, parks/youth sports, education, community/civic, and local commerce contributions.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

April 1, 2020 Staff Report regarding the Bridge Point Upland Project and Development Agreement
Ordinance 1938
Development Agreement

**Operating Memorandum for Bridge Point at Upland Project
Development Agreement with Track Changes**



SECOND READING AND ADOPTION
Ord No. 1938 Date 4/27/20 Item No. 11D

STAFF REPORT

ITEM NO. 2

DATE: April 1, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: ROBERT D. DALQUEST, DEVELOPMENT SERVICES DIRECTOR
MIKE POLAND, CONTRACT PLANNING MANAGER
SUBJECT: CONDUCT A PUBLIC HEARING FOR CONSIDERATION OF A MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING PROGRAM, SITE PLAN NO. 19-09, DESIGN REVIEW NO. 19-17, LOT LINE ADJUSTMENT NO. 19-17, AND DEVELOPMENT AGREEMENT NO. 20-0001 FOR THE PROPOSED DEVELOPMENT OF A 201,096 SQUARE FOOT WAREHOUSE/PARCEL DELIVERY SERVICE BUILDING WITH AN ANCILLARY OFFICE/RETAIL SPACE LOCATED NORTHEAST OF CENTRAL AVENUE AND FOOTHILL BOULEVARD (APNs 1006-351-09, 1006-351-10, 1006-572-11, 1006-551-12, 1006-551-22, AND 1006-574-10)

RECOMMENDED ACTION

The Planning Commission recommends that the City Council take the following actions:

1. Approve a Resolution of the City Council of the City of Upland adopting the Mitigated Negative Declaration and Mitigation Monitoring Program for Site Plan No. 19-09, Design Review No. 19-17, Lot Line Adjustment No. 19-17, and Development Agreement No. 20-0001 for the Bridge Point Upland Project, located northeast of Central Avenue and Foothill Boulevard, further described as Assessor's Parcel Numbers 1006-351-09, 1006-351-10, 1006-572-11, 1006-551-12, 1006-551-22, and 1006-574-10, and making the required environmental findings pursuant to the California Environmental Quality Act (CEQA) Guidelines.
2. Approve a Resolution of the City Council of the City of Upland approving Site Plan No. 19-09 and Design Review No. 19-17 for the Bridge Point Upland Project, located northeast of Central Avenue and Foothill Boulevard, further described as Assessor's Parcel Numbers 1006-351-09, 1006-351-10, 1006-572-11, 1006-551-12, 1006-551-22, and 1006-574-10, subject to the attached conditions of approval.

3. Approve a Resolution of the City Council of the City of Upland approving Lot Line Adjustment No. 19-17 for the Bridge Point Upland Project, located northeast of Central Avenue and Foothill Boulevard, further described as Assessor's Parcel Numbers 1006-351-09, 1006-351-10, 1006-572-11, 1006-551-12, 1006-551-22, and 1006-574-10, subject to the attached conditions of approval.
4. Hold first reading by title only, waive further reading, and introduce an Ordinance of the City Council of the City Of Upland approving Development Agreement No. 20-0001 for the Bridge Point Upland Project in which Bridge Development Partners, LLC has legal or equitable interest on approximately 50.25 acres, intended to be developed as a 201,096 square foot warehouse/parcel delivery service building with an ancillary office/retail space, located northeast of Central Avenue and Foothill Boulevard, further described as Assessor's Parcel Numbers 1006-351-09, 1006-351-10, 1006-572-11, 1006-551-12, 1006-551-22, and 1006-574-10.

GOAL STATEMENT

The proposed action supports the City's economic development goals related to business attraction to increase the number of quality jobs in Upland in order to improve the balance of jobs and housing, and will result in the construction of a substantial amount of public improvements that will assist in revitalizing the western Foothill Boulevard Corridor.

BACKGROUND

The Bridge Point Upland Project site encompasses a project area of approximately 50.25 acres in the western portion of the City. The project area is located northeast of Central Avenue and Foothill Boulevard. The project proposes to convert the undeveloped land to a warehouse/parcel delivery service use that will include a 201,096 square foot warehouse/parcel delivery service building, associated parking, landscape improvements, and required on-site and off-site access and circulation improvements.

The project applications submitted by the applicant, Bridge Development Partners, LLC, include: 1) Site Plan and Design Review to allow the development of the proposed project, 2) Lot Line Adjustment to realign/move three (3) lots lines to allow for adequate truck and emergency access into the site at the northern extent of Central Ave and to allow the proposed structure, truck court, and access points to 13th Street and Foothill Boulevard, 3) A Development Agreement for the proposed project, and 4) CEQA compliance through a Mitigated Negative Declaration and Mitigation Monitoring Program for the proposed project.

The Project site consists of both disturbed land on the western portion of the site and undeveloped land on the eastern portion of the site which has been disked from time to time for weed abatement. The disturbed portion of the land was previously used for outdoor dirt, sand, gravel and rock stockpiling, processing, and crushing. No structures are currently located on the Project site.

The applicant originally submitted their planning entitlement applications on April 25, 2019. Since then the City has held three joint workshops with the City Council, the Planning Commission, and the Airport Land Use Committee in order to receive presentations from staff, the applicant, and from the project's environmental consultant (Kimley-Horn and Associates) who prepared the environmental document for the project.

At the first joint workshop on June 27, 2019, the applicant's proposal was for a warehouse development consisting of three buildings that totaled approximately 977,246 square feet in size. Building 1 was one level with a mezzanine and would have encompassed approximately 361,540 square feet of warehouse uses and 10,000 square feet of office uses for a total of approximately 371,540 square feet. Building 2 was one level with a mezzanine and would

have encompassed approximately 320,751 square feet of warehouse uses and 10,000 square feet of office uses for a total of approximately 330,751 square feet. Building 3 would have encompassed approximately 264,955 square feet of warehouse uses and 10,000 square feet of office uses for a total of approximately 274,955 square feet.

After this workshop, staff met with the applicant and asked them to consider revising the project in order to address some of the main concerns that were expressed at the workshop which centered on truck traffic, air quality, and noise. On October 1, 2019, the applicant submitted revised plans for the project that consisted of a single building that was 276,825 square feet in size for a warehouse/parcel delivery use. A second joint workshop was held on the revised project on October 21, 2019. The applicant's proposal depicted a building running north and south in the center of the property, with twenty (20) dock high bays for trucks and eight-four (84) van loading doors with approximately 1,085 parking spaces for vans and employee vehicles. Subsequently, on November 25, 2019, the applicant made further refinements to the project and submitted revised plans as the project was modified by reducing the building's size to 201,096 square feet and reducing the dock high bays for trucks to fifteen (15) and the van loading doors to only sixteen (16). The building was re-oriented to an east-west design and the parking for vans and employee vehicles increased to 1,469 spaces.

A third joint workshop was held on January 9, 2020 for the project's environmental consultant to provide a presentation on the comprehensive Initial Study/Mitigated Negative Declaration that was prepared for the project and the potential environmental impacts and mitigation measures necessary to address these issues. As indicated, the project's current design entails a 201,096 square foot rectangular building that runs east and west in the center of the Project site.

The developer made further refinements to the project to improve the proposal by adding extensive sustainability features. Solar panels will be installed on the roof of the building such that the building is projected to operate at net-zero electricity consumption. EV-ready spaces, i.e. at a minimum, conduits for future plug-in of EV chargers, will be installed at all truck trailer parking stalls, all dock doors, all van parking stalls, and 50% of auto stalls. Providing EV-ready spaces allows installation of the latest technology chargers at the time that electric delivery vans and trucks become operational, rather than installing charging stations immediately that become obsolete at the time that electric vans and trucks become used. In addition, chargers servicing 30 parking spaces will be installed immediately with project construction. The project will use only electric forklifts and electric landscape equipment, and the site will include 1,000 trees and 11 acres of landscaping.

ISSUES/ANALYSIS

The following summarizes discretionary entitlement applications requested with the project, including a description, staff analysis, and Planning Commission recommendations with each:

Site Plan No. 19-09 and Design Review No. 19-17

Building Use/Location

The proposed building will be one level and 40 feet in height, running east and west in the center of the Project site, and will have a total square footage of approximately 201,096 square feet, of which approximately 191,096 square feet would be warehouse/parcel delivery uses and 10,000 square feet would be office/retail uses. The office/retail component would include an office area for employees, and a small area for visitors to pick up pre-ordered packages.

In addition to the development of the proposed 201,096 square foot warehouse/parcel delivery service building, site clearing, site preparation, appurtenant improvements, on-site

parking and loading areas, circulation, and landscaping and water quality management improvements will be completed. Off-site street improvements will include a traffic signal, water (including recycled water), sewer, storm drain, and drainage improvements will also be constructed.

In addition to the development of the proposed 201,096 square foot warehouse/parcel delivery service building, site clearing, site preparation, appurtenant improvements, on-site parking and loading areas, circulation, and landscaping and water quality management improvements will be completed. Off-site street and drainage improvements will also be constructed.

The land uses surrounding the Project site consist of a mix of uses including industrial, commercial, an airport and a major transportation corridor. Highway commercial uses are located immediately south of the site along Foothill Boulevard. Cable Airport is located directly north of the site and a portion of the airport, along with an industrial park development consisting of industrial, commercial and office uses are located west of the site. Commercial uses, including a Lowe’s Home Improvement Store and a commercial shopping center are located east of the site.

TABLE 1 - SITE AND SURROUNDING LAND USES AND ZONING

AREA	EXISTING LAND USE	LAND USE ZONING DISTRICT
SITE	Vacant and disturbed	Commercial/Industrial Mixed-Use (C/I M-U)
North	Cable Airport	Cable Airport (CA)
South	Commercial uses	Highway Commercial (HC)
East	132,473 square foot Lowes building	Commercial/Industrial Mixed-Use (C/I M-U)
West	Industrial Park with industrial, commercial, and office uses	Commercial/Industrial Mixed-Use (C/I M-U)

The Cable Business Park is located at 2126 Porterfield Way and features a total of 280,000 square feet of building area.

General Plan Consistency/Zoning Compliance

The Project site is located in the Commercial/Industrial Mixed-Use Zone (C/I-MU) and designated as Commercial/Industrial Mixed-Use (C/I-MU) in the General Plan. As stated in the General Plan:

“The Commercial/Industrial Mixed-Use designation is designed to accommodate a variety of industrial and regional retail uses and to support commercial activities to satisfy a range of shopping needs for residents of the community. It is also intended to encourage development of business in the City and to maximize the potential for job generation. Uses supported under this category include commercial and industrial. Typical industrial uses could include limited general industrial, manufacturing, assembly, warehousing, multi-tenant industrial, research and development, and airport-related uses.”

The C/I-MU Zone, which is intended to implement this General Plan Land Use category, accordingly allows warehousing as a permitted use.

Upland Municipal Code Section 17.51.010’s defines “Warehousing” as “the provision of facilities used primarily for the storage of commercial goods, including documents. Warehousing does not include mini-storage.” This is not different from the definition of “warehousing and distribution centers” found in The American Planning Association’s (APA) Planner’s Dictionary: “a use where goods are received and/or stored for delivery to the ultimate customer at remote locations.”

The City has previously applied this definition to other uses with operational characteristics similar those of the Project; including other warehouses that use delivery vans and receive truck deliveries. These include projects approved in the same C/I-MU Zone at the Cable Business Park, and in the General Industrial (GI) and Light Industrial (LI) zones at the west end of the City. Although none are as large as this Project, it is staff's opinion that the Project is otherwise sufficiently similar in size, design, shape and operational characteristics to warrant deeming it a warehouse use as well.

The proposed Project is also consistent with the relevant General Plan policies adopted to reduce potential impacts from new development as outlined in Exhibit M - Consistency with City of Upland General Plan Policies and Measures.

The Project satisfies all applicable standards of the Development Code for development in the Commercial/Industrial Mixed-Use (C/I M-U) Land Use District as illustrated in Exhibit N.

Architecture

The building's design includes 15 dock-high doors, for trucks, facing west and 8 van loading doors located on each of the northern and southern building frontages. The building architecture features a modern aesthetic including glazing with brow projections to focus attention on the entries and street frontages. The major building material is concrete which lends itself to a modern palette with reveals to enhance the building architecture. The building consists primarily of colored concrete panels in varying hues of gray along most of the building elevations, broken up at intervals with different gray tones and glass panels with blue reflective glazing. The southeast corner of the building includes concrete pop-outs and glass with blue reflective glazing bisected in either the form of squares or rectangles, with black anodized mullions. Decorative breaks in the concrete panels are of a metal finish, black in color to match the mullions in the glass. The building design makes use of straight lines, generous floor to ceiling heights, decorative corner building elements resulting in an attractive modern design. The building would have a maximum height of 40 feet with parapets and facade, which would provide depth and shadowing and points of visual interest for the architecture. This relief in the design also provides locations for accents in the landscape design.

Questions have risen on what constitutes building area and if the shade canopies over the loading areas along the south side of the building is considered and calculated as part of the building area. Per the 2018 International Building Code Handbook (IBCH), the term building area describes that portion of the building's floor area to be utilized in the determination of whether or not a structure complies with the provisions of the general building heights and areas regulations for allowable building size. It is not to be confused with the term floor area, which is the basis for occupant-load determination in the regulations for means of egress evaluation, nor the term fire area as used in the application of automatic sprinkler requirements for fire protection and life-safety systems.

The 2018 International Building Code Handbook (IBCH), defines building area as the area included within the surrounding exterior building walls of the building. The definition further states that the floor area of a building not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor area above. Parking calculations are based on the gross floor area measured between the building's exterior walls.

Access/Circulation

Vehicular access to the Project site would be provided via 13th Street, the north leg of Central Avenue/Foothill Boulevard, and one right-in/right-out driveway on Foothill Boulevard and one left in and right out on Foothill Boulevard. The driveway on 13th Street and two easterly driveways on Foothill Boulevard would provide access to automobiles and vans only; trucks

would only access the site via the driveway at the north leg of Central Avenue/Foothill Boulevard. Access to the existing businesses on Foothill Boulevard will be maintained with the completion of the project.

The driveways and interior drive aisles associated with the project have been approved by the San Bernardino County Fire for fire truck access and turnaround. The site has also been designed for adequate truck maneuvering and turnaround within the designated loading zones. The project as designed satisfies all parking requirements of the Upland Municipal Code.

Infrastructure Improvements

The Bridge Point Upland Project will require various infrastructure improvements. Local roadways and intersections necessitated by and/or impacted by project traffic will be constructed and/or improved. Conditions of Approval included in the Resolution for Site Plan No. 19-09 and Design Review No. 19-17, as well as the Mitigation Measures included in the Mitigation Monitoring Program, consistent with the findings of the traffic study, address the project responsibilities towards both local and regional transportation infrastructure.

In addition, the existing overhead utilities (including telephone, cable and SCE distribution lines) on the project side of Foothill Boulevard shall be undergrounded at project entrances.

Landscaping

The conceptual landscape plan provides 21% site coverage in drought-tolerant landscaping, with a variety of trees, groundcover and shrubs, in compliance with Development Code Section 17-12, Landscaping Requirements. The Development Code specifies at least eight percent of a parking lot area on a site shall be landscaped. The areas dedicated to parking and the ingress and egress of vehicles and pedestrians shall be used in determining the amount of required parking lot landscaping. The Project would include 1,000 new trees.

The Conceptual Landscape Plan provides a parking lot area of approximately 1,212,144 square feet. Therefore, a minimum of 96,972 square feet (8%) of the parking lot area on a site shall be landscaped. The applicant's Conceptual Landscape Plan notes that 96,972 square feet (8%) of the parking lot area on the site will be landscaped.

Recommendation

The Planning Commission recommends that the City Council approve Site Plan No. 19-09 and Design Review No. 19-17 for the Bridge Point Upland Project.

LOT LINE ADJUSTMENT

Lot line adjustments are allowed in the City of Upland where the land taken from one lawfully subdivided parcel is added to an adjacent lawfully subdivided parcel, and where a greater number of parcels than originally existed is not thereby created. Lot line adjustments may be used to make adjustments to the property lines between four (4) or fewer existing adjoining parcels or to merge four (4) or fewer existing adjoining parcels under common ownership. Lot line adjustments are authorized in Chapter 17.44.090 of the Upland Municipal Code.

This Lot Line Adjustment is necessary to realign/move three (3) lots lines to allow for adequate truck and emergency access into the site at the northern extent of Central Ave and to allow the proposed structure, truck court, and access points to 13th Street and Foothill Boulevard,

For this Lot Line Adjustment request the following needs to be accomplished:

- The lot lines between Lot A (portion SW ¼, SE ¼, section 2, T1S, R.8W, S.B.M) and Lot B (Lot 1 of Tract No. 2561, M.B. 36/76-77 of maps) need to be adjusted to allow for adequate truck and emergency access into the site at the northern extent of Central Ave.
- The westerly line of the Remainder Parcel (Parcel Map No. 15471 P.M.B. 190/24-26) which is the easterly line of Lot "A" mentioned above, are from Lot 1. This adjustment will allow the proposed structure, truck court, and access points to 13th Street and Foothill Boulevard to occur on a single lot.

Recommendation

The Planning Commission recommends that the City Council approve Lot Line Adjustment No. 19-17 for the Bridge Point Upland Project.

DEVELOPMENT AGREEMENT

The applicant has requested a Development Agreement (DA) as part of the Bridge Point Upland Project. The following are general considerations the Planning Commission should note with regard to a DA:

- A DA is a negotiation entitlement tool used to lock in ("vest"), for an extended/specified period of time, the underlying approved land use entitlements along with parameters for certain development regulations, fees, processing procedures, and policies, etc. that would be applied to subsequent development approvals in implementing the project and improvements which, in the absence of the DA, would be subject to periodic changes outside of the control of the parties.
- Authority/Approval – Per City Municipal Code Section 17.50 a DA requires review through the Planning Commission with final action by the City Council. The Development Agreement is not a requirement for the Bridge Point Upland Project, but in order to require and implement the sales tax in-lieu fee and significant off-site public infrastructure improvements, this had to be contained within a Development Agreement.
- In exchange for longer vested rights to the developer, through a DA the City seeks public benefits above and beyond any required developer obligations or exactions. The public benefits associated with the fees and improvements required of the developer are not subject to a nexus finding and do not have to be directly associated with any impacts of the development project.

The proposed Development Agreement was initially submitted by the applicant and has since been vetted through multiple negotiation sessions between the applicant's team and City negotiation team. The recommended Agreement represents the collective interests of both parties to provide for the future timely and efficient development of the project. As the applicant does not own the property, they have demonstrated a legal or equitable long term interest in the 50.25 acre project site. With a Development Agreement, the determination by the City Council, which is the approval authority for the DA, is whether or not the anticipated public benefits of the project coupled with the additional public benefits established in the DA are a fair exchange in allowing for the longer term vested development rights for the applicant. In negotiating the DA, it was noted that the Bridge Point Upland Project presents a unique opportunity to expand the City's property and sales tax, generate construction employment and new permanent employment opportunities for Upland residents, and thereby reduce the present jobs and housing imbalance that exists in the City.

The key provisions in the DA include the following:

- Term of the DA is twenty (20) years.
- The Applicant will contribute a Sales Tax In-Lieu Fee of \$14,500,000 as a community benefit to compensate the City for potential loss of sales tax revenue. The Sales Tax In-

Lieu Fee will be allocated in the following manner:

- \$1 Million lump sum paid prior to issuance of final certificate of occupancy for the tenant to fund future maintenance of roads;
- Annual financial contribution of \$450,000 per year for Years 1 through 10 of the DA, and \$477,000 annually for Years 11 through 20. The annual contribution will total \$9,270,000 and is to be used only to fund future maintenance of roads in the City.
- Financial contribution of \$2,500,000 will be provided to the Upland Police Department to fund: administrative services, community policing, homelessness, commercial enforcement, Impact Unit, Patrol, Records, Animal Control needs and the Training Room, as well as other obligations determined by the City. (It should be noted that staff just recently negotiated an additional 1 Million Dollars for Police Department services or obligations).
- A total financial contribution of \$1,730,000 to fund Parks, youth sports, education, community/civic needs and commerce. This amount would be divided as follows: (1) \$400,000 would go toward improvements to beautify, maintain and enhance Cabrillo Park, Citrus Park, Olivedale Park and Greenbelt Park, which includes improvements to youth sports fields and associated amenities; (2) \$400,000 to construct a new Tiny Tots School building in Memorial Park; (3) \$100,000 for improvements to the Upland Veterans Monument; (4) \$250,000 for improvements and maintenance for the Upland Library; (5) \$100,000 for public improvements in the Downtown Specific Plan Area; (6) \$50,000 paid to the Upland Chamber of Commerce to support the Shop Upland initiative; and, (7) The remaining amount to fund a portion of the School Crossing Guard program and other similar civic, education/youth sports, and community programs as determined by the City of Upland.

In addition to the above financial contributions, Section 11(B) of the DA requires the Applicant to complete a substantial amount of road and infrastructure enhancements as follows:

- Approximately 866 linear feet of ultimate half-width improvements along the north side of Foothill Boulevard including a landscaped, center roadway median, and 2,000 linear feet of repaving;
- Improvements to 13th Street at Benson Avenue, including installation of irrigation and landscaping within the existing center roadway median;
- Central Avenue Improvements at the intersections of Foothill Boulevard, Arrow Highway and 11th Street; and,
- Improvements to Benson Avenue and Baseline/16th Street intersections.

The DA also has an "enforcement" provision in the terms of the agreement. Section 11(D) provides that the Applicant will pay the City \$10,000 a year for the 20-Year term of the DA that will fund enforcement of the daily truck traffic generated from the facility to ensure the tenant is operating in accordance with their entitlement. A traffic consultant will be utilized to conduct enforcement to ensure the truck traffic does not exceed the permitted fifty (50) truck trips per day, nor exceed the Project's vans and vehicular average daily trips and/or AM/PM peak hour trips that was evaluated in the IS/MND's traffic study. The enforcement would be based on a 24-hour count over three different days in a two-week time period. If the daily truck traffic exceeds the permitted fifty (50) truck trips per day, or exceeds the Project's vans and vehicular average daily trips and/or AM/PM peak hour trips, a fine of 10 (ten) percent of the Annual Fee set forth in Section 11(A)(ii) will be due and payable to the City beginning with the first violation. In addition, the enforcement will also ensure that no off-site parking of vans occurs, as well as there is no queuing of vans within the public streets.

Under 17.50.080 of the Zoning Code, the DA requires that certain findings must be made to approve a Development Agreement, they include:

- A. The Development Agreement will provide clear and substantial benefits to the City and its residents.
- B. The Development Agreement complies with applicable policies and regulations set forth in the Zoning Ordinance, other City ordinances, the General Plan and any other applicable community or specific plan.
- C. The Development Agreement complies with the requirements of California Government Code Sections 65864 et seq.
- D. The Development Agreement will promote the public health, safety, and welfare, and will not be detrimental to or cause adverse effects to the residents, property, or improvements in the vicinity of the subject project.
- E. The Development Agreement will be compatible with the uses allowed in, and the regulations that apply to, the zone in which the subject property is located.
- F. The Development Agreement will not cause adverse effects to the orderly development of property or the preservation of property values in the City.
- G. The Development Agreement will further important Citywide goals and policies that have been officially recognized by the City Council.
- H. The Development Agreement will provide the City with important, tangible benefits beyond those that may be required by the City through project conditions of approval.

Staff has provided the justification for each of the findings to recommend approval of the DA, which is contained within the Ordinance for the DA (See Exhibit D).

Recommendation

The Planning Commission recommended that the City Council approve the Ordinance for Development Agreement 20-0001 for the Bridge Point Upland Project.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE

An Initial Study/Mitigated Negative Declaration (the "IS/MND") has been completed in compliance with the California Environmental Quality Act (CEQA). The Initial Study/Mitigated Negative Declaration includes an analysis of potential environmental effects associated with: aesthetics, agriculture and forestry resources, air quality, biological resources, cultural resources, energy, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, transportation/traffic, utilities and service systems, wildfires, and mandatory findings of significance.

Based on the analysis and findings contained in that Initial Study, City staff determined that with the imposition of mitigation measures related to Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Greenhouse Gas, Noise and Transportation, there is no substantial evidence that the project would have a significant effect on the environment. Based on that determination, a Mitigated Negative Declaration was prepared and posted on the City's website. The Draft Initial Study/Mitigated Negative Declaration was circulated for a 37-day public review and comment period starting on December 16, 2019 and closed on January 21, 2020. A Mitigation Monitoring Program (MMP) has also been prepared to ensure implementation of the mitigation measures for the project pursuant to Section 15074 of the CEQA Guidelines. The mitigation measures and MMP are included in the City Council resolution for the Mitigated Negative Declaration.

In response to comments received during the public review period, the Project and MMP have been modified in several respects to address the public's concerns.

- Several sustainability measures as project design features have been added to reduce the Project's GHG emissions even further than the AQMD threshold so that the project would be less than 3,000 metric tons CO₂e per year. These measures include solar

panels to be installed on the roof of the building such that the building is projected to operate at net-zero electricity consumption. EV-ready spaces, i.e. at a minimum, conduits for future plug-in of EV chargers, will be installed at all truck trailer parking stalls, all dock doors, all van parking stalls, and 50% of auto stalls. Providing EV-ready spaces allows installation of the latest technology chargers at the time that electric delivery vans and trucks become operational, rather than installing charging stations immediately that become obsolete at the time that electric vans and trucks become used. In addition, chargers servicing 30 parking spaces will be installed immediately with project construction.

Required pre-construction surveys by a qualified biologist for burrowing owls; and off-site preservation of scale broom scrub habitat to compensate for the previously disturbed habitat in the eastern area of the site.

These and other changes are reflected in the modified MMP, but none of the new or modified requirements in the MMP are necessary to mitigate any identified potentially significant avoidable impacts; nor will they result in any new significant impacts or render any changes the previously identified mitigation measures.

In addition, a Health Risk Assessment (HRA) was completed for this project even though the truck traffic generated by the project was under the threshold to require this assessment. The HRA estimated the health risks for surrounding sensitive receptors from Project-generated diesel particulate matter (DPM). The South Coast Air Quality Management District (SCAQMD) considers a sensitive receptor to be a location where a sensitive individual could remain for 24 hours, such as residences, hospitals, or convalescent facilities.

Additionally, project health risks are determined by examining the types and levels of air toxics generated and the associated impacts on factors that affect air quality. While the final determination of significance thresholds is within the purview of the lead agency pursuant to the State CEQA Guidelines, SCAQMD recommends that the following air pollution thresholds be used by local agencies in determining whether the Project's impact is significant. If the lead agency finds that the proposed Project has the potential to exceed the air pollution thresholds, the Project should be considered significant. The thresholds for air toxic emissions are as follows.

- Cancer Risk: Emit carcinogenic or toxic contaminants that exceed the maximum individual cancer risk of 10 in one million.
- Non-Cancer Risk: Emit toxic contaminants that exceed the maximum hazard quotient of 1 in one million.

The results of the HRA determined that the maximum incremental cancer risk (MICR) is 1.92 in one million during project operation, which is significantly below the SCAQMD's established health-protective threshold of 10 in one million; which is the adopted threshold used by lead agencies. For non-cancer risks, the SCAQMD threshold of significance is a non-cancer index of 1. The results of the HRA indicate the chronic hazard index (HIC) will be 0.0004 and the acute hazard index will be 0.002 during Project operation, again significantly well below the thresholds. The Project is not considered to be a substantial source of diesel particulate matter that has potential health risk impacts since daily truck trips to the Project Site would be limited to 50 truck trips per day. Heavy-duty diesel trucks are the primary generators of the diesel particulate matter analyzed in HRAs, and the Project's would be 98% automobiles and delivery vans. A vacant single family home is located approximately 1,400 feet southeast from the proposed building. This vacant dwelling unit is located behind Sensations Love Boutique at 1656 W. Foothill Boulevard. As the project site is more than 1,000 feet away from any sensitive receptors, and given the short-term construction schedule, there would be no health risk impacts from construction activities. The SCAQMD analyzes the health effects of Toxic Air Contaminants (TACs) based on continuous exposure over lifetime (e.g., 30 or 70 years). The duration of exposure would be short and exhaust from construction equipment

dissipates rapidly, given that there are no sensitive receptors adjacent to or near the construction activities. Therefore, no individual cancer risk is indicated during construction.

Noise Compatibility

Noise levels associated with truck and van loading generate a noise level of 68 dBA at a distance of 50 feet. The closest residences would be located approximately 1,400 feet southeast of the loading areas and would experience truck and van noise levels of approximately 42 dBA, which is below the 55 dBA exterior residential noise standard designated in the Municipal Code for the zone use. Noise levels at the closest industrial and commercial uses located approximately 150 feet away would be 59 dBA which is below the City's 75 dBA standard for these uses. This noise level would be further attenuated by intervening structures and topography. Noise levels associated with trucks, vans, and loading/unloading activities on-site would be less than significant.

In addition, a detailed noise technical analysis was prepared to analyze noise from all Project vehicles, including trucks, vans and employee cars on nearby roadways. This analysis used a 24-hour noise metric (Community Noise Equivalent Level) that accounts for noise sensitivity during evening and nighttime hours and determined that Project generated roadway noise would not create an audible difference in noise volumes compared to existing conditions.

Transportation

The City's Traffic Engineer has reviewed the Traffic Impact Analysis prepared for the project, as well as the recommended traffic impact mitigation measure below.

TRAF-1: Benson Avenue/Baseline Road: Re-stripe the northbound through lane to a through-left turn lane and convert the northbound and southbound left-turn phasing from protected to split-phase. This improvement is not included in the 2016 SBCTA Development Mitigation Nexus Study. Two receiving lanes exist on the west leg of the intersection. Therefore, this improvement can be achieved by striping and signal head modifications. The Project will contribute on a fair-share basis to this improvement.

After thorough review, the City's Traffic Engineer has recommended that a substitution mitigation measure be considered and approved to further minimize the Project's environmental impacts. Substitution mitigation measures other than those recommended are permissible to mitigate a project's significant effects and this promotes CEQA's goal of environmental protection and is not an impermissible deferral of mitigation or an abuse of discretion. It is simply a recognition that substitutions of recommended mitigation measures may be implemented to further minimize the project's environmental impacts.

Section 15074.1 of the California Environmental Quality Act (CEQA) Guidelines (Substitution of Mitigation Measures in a Proposed Mitigated Negative Declaration) states the following in regards to Substitution of Mitigation Measures:

a) As a result of the public review process for a proposed mitigated negative declaration, including any administrative decisions or public hearings conducted on the project prior to its approval, the lead agency may conclude that certain mitigation measures identified in the mitigated negative declaration are infeasible or otherwise undesirable. Prior to approving the project, the lead agency may, in accordance with this section, delete those mitigation measures and substitute for them other measures which the lead agency determines are equivalent or more effective.

b) Prior to deleting and substituting for a mitigation measure, the lead agency shall do both of the following:

1. Hold a public hearing on the matter. Where a public hearing is to be held in order to consider the project, the public hearing required by this section may be combined with that hearing. Where no public hearing would otherwise be held to consider the project, then a public hearing shall be required before a mitigation measure may be deleted and a new measure adopted in its place.
2. Adopt a written finding that the new measure is equivalent or more effective in mitigating or avoiding potential significant effects and that it in itself will not cause any potentially significant effect on the environment. (See Exhibit A).

c) No recirculation of the proposed mitigated negative declaration pursuant to Section 15072 is required where the new mitigation measures are made conditions of, or are otherwise incorporated into, project approval in accordance with this section.

d) "Equivalent or more effective" means that the new measure will avoid or reduce the significant effect to at least the same degree as, or to a greater degree than, the original measure and will create no more adverse effect of its own than would have the original measure.

Therefore, the City Engineer is recommending that the mitigation measure above be substituted with the following:

TRAF-1: Developer must complete the following traffic signal and street improvements at the intersection of Benson Avenue & 16th Street (Baseline Road), to the satisfaction of the Public Works Director, prior to occupancy:

- a. Replace battery back-up system, batteries only.
- b. Replace HPSV safety lights with new LED lights.
- c. Install count-down PED heads with audible chirpers.
- d. Verify Opticom receivers are functional and replace as necessary.
- e. Modify north and south bound lanes and turning movements to accommodate dual left turns north bound. This may require removal of curb and relocation traffic signal pole and street lights and appurtenance (pull boxes) to widen roadway to the west of existing curb line to approximately 500 feet south of intersection. Restripe road as required with thermoplastic channelizing lines and pavement legends. Upgrade the signal head system as needed to reflect dual left system.

Third Party Peer Review of the CEQA Document

Staff obtained the services of ECORP Consulting, Inc. (ECORP) to provide a "Third Party Peer Review" of the Initial Study/Mitigated Negative Declaration (the "IS/MND") and Related Technical Studies prepared by the project's environmental consultant, Kimley-Horn and Associates. Attached as Exhibit J are the results of the Third Party Peer Review by ECORP. The overall conclusion is that the IS/MND along with the Responses to Comments provide substantial evidence to support adoption of the MND for the project. The additions to the IS/MND do not appear to represent substantial revisions that would require recirculation of a Negative Declaration pursuant to CEQA 15073.5. The IS/MND and Responses to Comments indicate support of the conclusion that there are no significant effects on the environment which cannot be avoided. All impacts are thoroughly evaluated, and the IS/MND appears to be an appropriate environment document for the proposed Project. Attachments A through D of ECORP's Peer Review provides additional CEQA adequacy and technical study peer review on the project's Air Quality Assessment, Greenhouse Gas Assessment, Habitat Assessment, Noise Study and Traffic Impact Analysis.

Also attached for the City Council's information is Exhibit K which is a response from the Applicant on ECORP's Third Party Peer Review.

Recommendation

With all required mitigation measures included in the Mitigation Monitoring and Reporting Program, the Planning Commission recommends that the City Council adopt a Mitigated Negative Declaration for the Bridge Point Upland Project.

AIRPORT LAND USE COMPATIBILITY

According to the Cable Airport Land Use Compatibility Plan (CALUCP), the project is located within the airport planning area boundary, specifically located within Airport Compatibility Zones C1, C2 and C3.

The project is considered a Major Land Use Action because the project is consistent with Criterion 2.5.6 Types of Major Land Use Actions: of the CALUCP, in that the use is a discretionary development proposal for a project having a new building floor area of 20,000 square feet or greater. On February 12, 2020 the Airport Land Use Committee made a determination that the action is consistent with the Cable Airport compatibility criteria, relative to noise, safety, airspace protection and overflight compatibility.

Safety Compatibility

The Project site is located in the C1, C2 and C3 airport compatibility zones. Consistent with Table 3A of the CALUCP, the warehouse/parcel delivery service building is not located within the C1 zone. The warehouse/parcel delivery service building would be wholly located within the C2 and C3 zones, and would have a maximum height of approximately 40 feet. Therefore, the project would be considered conditionally compatible, as any buildings located within those areas must ensure that no airspace obstruction would occur. The warehouse/parcel delivery service building would not include any airspace obstructions, therefore the Project would be consistent. Warehouse uses are considered normally compatible in the C2 and C3 zones. The portion of the site in the C1 zone must meet intensity criteria for non-residential uses identified in the CALUCP. As the portion of the site within the C1 zone would not include a structure or outdoor uses noted in Table 3A of the CALUCP, no persons are expected to congregate within this portion of the site in the C1 zone. Accordingly, the portion of the site within the C1 zone would comply with the maximum site wide average intensity, which allows for 120 people per acre within the C1 zone, and the maximum single-acre intensity which allows for 300 people per acre within the C1 zone portion. The proposed Project would be consistent with the conditions in Chapter 3 of the CALUCP for the C1, C2 and C3 zones and therefore, would not create a safety hazard for people residing or working in the Project area.

Over-flight Compatibility

Over-flight compatibility noticing is only required for residential land uses. This project is an industrial land use, therefore, an over-flight notification is not required.

Recommendation

On February 12, 2020, the Airport Land Use Committee approved a Resolution setting forth findings and making a determination of land use compatibility with the Cable Airport Land Use Compatibility Plan (CALUCP), in connection with recommending City Council Approval of Site Plan No. 19-09, Design Review No. 19-17, Lot Line Adjustment No. 19-17, and Development Agreement No. 20-0001 for The Bridge Point Upland Project. A copy of the Resolution of the Airport Land Use Committee setting forth findings and making a determination of land use compatibility with the Cable Airport Land Use Compatibility Plan (CALUCP) is attached as Exhibit E. No further action by the City Council is required on this matter.

PUBLIC COMMENTS

In addition to public comments generated on the Initial Study/Mitigated Negative Declaration (IS/MND) and through other prior public outreach, the City received letters and/or e-mails from the general public since the release of the IS/MND on December 16, 2019. All correspondence received prior to February 12, 2020 was provided to the Planning Commission at their meeting on February 12, 2020. These comments, and all additional comments that have been received after the February 12th Planning Commission hearing are included with this report for City Council consideration. The written correspondences submitted are included in Exhibit I.

All comment letters were reviewed by City staff and the project's environmental consultant, Kimley-Horn and Associates. It is staff's understanding that most, if not all, of the correspondence received has also been reviewed by the applicant's team. Kimley-Horn and Associates provided information to staff for consideration that reflect the consideration and input of technical experts and environmental professionals who considered the various comments received. Kimley-Horn and Associates, where appropriate, the comments were grouped together to provide a consensus response to similar topics, comments and content reflected in the comment letters and e-mail correspondence.

The City has received acknowledgement from the Governor's Office of Planning and Research that the City has complied with the State Clearinghouse requirements for draft environmental documents, pursuant to CEQA.

As is also discussed below with respect to the Planning Commission consideration, it is noted that all of the new comments received have been considered carefully by staff, the environmental consultant, and are made available to the City Council for its consideration. However, Section 21092.5(c) of the CEQA guidelines specifically states:

"Nothing in this section requires the lead agency to respond to comments not received within the comment periods specified in this division, to reopen comment periods, or to delay acting on a negative declaration or environmental impact report."

Section 15204(a) further provides that:

"CEQA does not require a lead agency to conduct every test or perform all research, study, and experimentation recommended or demanded by commenters."

Notwithstanding the above, staff is continuing to consider the interests of the agencies and private parties we have met with and provided verbal updates and/or written recommendations if it was determined that modifications are needed.

Planning Commission Recommendation

The Planning Commission conducted a public hearing for the project on February 12, 2020. At the public hearing, the Planning Commission considered the detailed staff report, a comprehensive staff presentation, the presentation by the project applicant, public comments all covering the primary components of the project including the IS/MND, the Site Plan and Design Review Applications, the Lot Line Adjustment Application, and the proposed Ordinance and Development Agreement.

Those in support noted the quality of the project concept, the significant investment made by the developer, potential for employment and job growth, and positive economic benefits to the City.

Notwithstanding the above, the project's environmental consultant team, under staff's review and direction, during the course of the Planning Commission consideration performed analysis

and prepared responses to all of the comments received for further staff's consideration. Collective responses were prepared for those similar comments raised in letters and the various e-mails, and some individual responses to agency and interest group comments such as the City of Claremont, the City of Montclair, the South Coast Air Quality Management District (SCAQMD), and the State of California Department of Fish and Wildlife.

FISCAL IMPACTS

Entitlement processing costs for the project have been entirely borne by the project applicant through establishment of development deposit accounts. The proposed Development Agreement will result in \$14.5 Million dollars to the City to cover current and long term street maintenance, significant road and infrastructure improvement, law enforcement, parks/youth sports, education, community/civic, and local commerce contributions. The City will maintain all public utilities, and the applicant/tenant will maintain all landscaping and site features including but not limited to the on-site stormwater management facilities. At the construction stage, the project is expected to have positive impacts on the local economy due to construction jobs and associated positive economic multiplier effects. In addition, following completion the project is expected to continue having positive impacts on the local economy because the building's tenant will provide a substantial number of jobs. The project will also generate property tax, and local purchases by the future employees and visitors to the facility which will generate indirect sales tax revenue.

ALTERNATIVES

1. Adopt a Mitigated Negative Declaration and Mitigation Monitoring Program and approve the Bridge Point Upland Project including a Site Plan and Design Review, a Lot Line Adjustment, and Development Agreement.
2. Deny the Bridge Point Upland Project.
3. Approve the Project's entitlements and adopt a Mitigated Negative Declaration and Mitigation Monitoring Program with any modifications specified by the City Council.

ORDINANCE NO. 1938

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UPLAND, CALIFORNIA, APPROVING DEVELOPMENT AGREEMENT NO. 20-0001 FOR THE BRIDGE POINT UPLAND PROJECT WHICH BRIDGE DEVELOPMENT PARTNERS, LLC HAS LEGAL OR EQUITABLE INTEREST ON APPROXIMATELY 50.25 ACRES, INTENDED TO BE DEVELOPED AS A 201,096 SQUARE FOOT WAREHOUSE/PARCEL DELIVERY SERVICE BUILDING WITH AN ANCILLARY OFFICE/RETAIL SPACE, NORTHEAST OF THE INTERSECTION OF FOOTHILL BOULEVARD AND CENTRAL AVENUE, FURTHER DESCRIBED AS ASSESSOR'S PARCEL NUMBERS 1006-351-09, 1006-351-10, 1006-572-11, 1006-551-12, 1006-551-22, AND 1006-574-10.

The City Council of the City of Upland does ordain as follows:

SECTION 1: RECITALS

1.1 Pursuant to the provisions of law, public hearings were held before the City of Upland Planning Commission on February 12, 2020 and the City Council on April 1, 2020.

1.2 The matter was fully discussed and the public and other agencies presented testimony and documentation.

1.3 The development agreement is attached hereto and incorporated herein as Exhibit A.

SECTION 2: FINDINGS

2.1 Based upon substantial evidence presented to this City Council during the above-referenced meeting on April 1, 2020, including written and oral staff reports, and the record from the public hearing, this City Council hereby specifically finds as follows:

A. The Development Agreement will provide clear and substantial benefits to the City and its residents.

Fact: Through the Development Agreement, the Applicant will contribute a Sales Tax In-Lieu Fee and other funding that totals \$14,500,000 as a community benefit to compensate the City for potential loss of sales tax revenue and other services. The financial contribution will provide a significant revenue stream of \$9.27 Million over 20 years to go toward future street repair and maintenance, fund \$2.5 Million dollars toward services, equipment and other obligations for the Upland Police Department, and fund \$1.73 Million for parks/youth sports, community/civic, education and commerce improvements.

- B. The Development Agreement complies with applicable policies and regulations set forth in the Zoning Ordinance, other City ordinances, the General Plan and any other applicable community or specific plan.

Fact: The Development Agreement concerns the development of the Bridge Point Upland Project which concerns a 201,096 square foot warehouse/parcel delivery service building with an ancillary office/retail space on approximately 50.25 acres. The project is consistent with the General Plan and zoning of the site. The project site is designated in the General Plan and Zoning Map as Commercial/Industrial Mixed-Use. These land use designations are intended to accommodate a variety of industrial and regional retail uses and to support commercial activities to satisfy a range of shopping needs for residents of the community. It is also intended to encourage development of business in the City and to maximize the potential for job generation. Uses supported under this category include commercial and industrial. Typical industrial uses could include limited general industrial, manufacturing, assembly, warehousing, multi-tenant industrial, research and development, and airport-related uses.

- C. The Development Agreement complies with the requirements of California Government Code Sections 65864 et seq.

Fact: All provisions contained in the Development Agreement comply with the State Planning and Zoning Law requirements.

- D. The Development Agreement will promote the public health, safety, and welfare, and will not be detrimental to or cause adverse effects to the residents, property, or improvements in the vicinity of the subject project.

Fact: A Mitigated Negative Declaration (MND) has been prepared for the project pursuant to the California Environmental Quality Act. Based on the Initial Study/Mitigated Negative Declaration completed, the project would not have a significant effect on the environment. The MND includes a Mitigation Monitoring Program, which will ensure the completion of required mitigation measures for the project.

- E. The Development Agreement will be compatible with the uses allowed in, and the regulations that apply to, the zone in which the subject property is located.

Fact: The project site is within the Commercial/Industrial Mixed-Use District and is a permitted use and is consistent with all of the applicable development standards which apply to the zoning of the property.

F. The Development Agreement will not cause adverse effects to the orderly development of property or the preservation of property values in the City.

Fact: The Development Agreement for the project would not adversely affect development or preservation of property values for the subject project site. The proposed development will allow a future warehouse/parcel delivery service building with an ancillary office/retail space and provide orderly development for the project vicinity. The proposed land use is consistent with the General Plan and will have the potential to provide for over 300 jobs, and assist in revitalizing the western corridor of Foothill Boulevard which is a blighted area containing underutilized properties and vacant land.

G. The Development Agreement will further important Citywide goals and policies that have been officially recognized by the City Council.

Fact: The development agreement is consistent with the General Plan, and its goals, objectives, policies and programs.

H. The Development Agreement will provide the City with important, tangible benefits beyond those that may be required by the City through project conditions of approval.

Fact: In addition to providing a Sales Tax In-Lieu Fee and other funding in the amount of \$14,500,000 as a community benefit, the Development Agreement requires the Applicant to construct a significant amount of community road and infrastructure enhancement, which include: (1) Approximately 866 linear feet of ultimate half-width improvements along the north side of Foothill Boulevard including a landscaped, center roadway median, and 2,000 linear feet of repaving; (2) Improvements to 13th Street at Benson Avenue, including installation of irrigation and landscaping within the existing center roadway median; (3) Central Avenue Improvements along the intersections with Foothill Boulevard, Arrow Highway and 11th Street; and, (4) Improvements to Benson Avenue and Baseline/16th Street intersection.

SECTION 3: ADOPTION

Based on the foregoing recitals and findings, the City Council of the City of Upland does hereby adopt and approve the Development Agreement attached hereto as Exhibit A, and does hereby authorize the Mayor to sign the development agreement on behalf of the City.

SECTION 4: EFFECT OF ENACTMENT:

Except as specifically provided herein, nothing contained in this ordinance shall be deemed to modify or supersede any prior enactment of the City Council which addresses the same subject addressed herein.

SECTION 5: NOTICE OF ADOPTION:

Within fifteen days after the date of adoption hereof, the City Clerk shall certify to the adoption of this ordinance and cause it to be posted in three public places within the city.

SECTION 6: EFFECTIVE DATE:

This ordinance shall take effect thirty days after the date of its adoption.

PASSED, APPROVED, AND ADOPTED this 27th day of April, 2020.

Debbie Stone, Mayor

I, Keri Johnson, City Clerk of the City of Upland, California, do hereby certify that the foregoing Ordinance was introduced at a special meeting of the City Council of the City of Upland held on the 1st day of April, 2020, and was adopted at a regular meeting of the City Council of the City of Upland on the 27th day of April, 2020, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

ATTEST:

Keri Johnson, City Clerk

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

**CITY OF UPLAND
460 N. EUCLID AVENUE
UPLAND, CALIFORNIA 91786
ATTN: CITY CLERK**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

EXEMPT FROM RECORDING FEE PER GOVERNMENT CODE SECTION 6103

**DEVELOPMENT AGREEMENT NO. 20-0001
REGARDING DEVELOPMENT OF THE BRIDGE POINT UPLAND PROJECT,
UPLAND, CALIFORNIA**

This Development Agreement (“Agreement” or “Development Agreement”) is made and entered into as of the “Effective Date” set forth herein, by and among Bridge Acquisition, LLC, a Delaware limited liability company as the master lessor and equitable interest holder of the property owned by Bongiovanni Construction Co. a Limited Liability Company (collectively, “Property Owner”) and the City of Upland, a California municipal corporation (“City”).

RECITALS

1. On April 1, 2020, the City Council of the City of Upland (“Council”) adopted Resolution 6533, approving Site Plan No. 19-09 and Design Review No. 19-17, Resolution 6532, approving Lot Line Adjustment No. 19-17, and Resolution 6531, approving the associated Mitigated Negative Declaration and Mitigation Monitoring Program pursuant to the California Environmental Quality Act (CEQA), collectively the entitlements for the Bridge Point Upland Project. Resolutions 6531, 6532, and 6533, and all attachments and exhibits thereto are hereby incorporated by this reference. For purposes of this Agreement, the proposed development as approved and defined by Resolution 6533 is referred to herein as the “Project,” and Resolutions 6531, 6532, and 6533 are referred to as the “Project Approvals.”
2. California Government Code Section 65864, *et seq.* (the “Development Agreement Statute”) authorizes cities to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property.
3. City and Property Owner mutually desire to enter into this Development Agreement pursuant to the Development Agreement Statute in order to implement the Project.
4. On April 27, 2020, City adopted its Ordinance No. 1938 (the “Ordinance”), thereby approving this Development Agreement among the City and Property Owner, which is effective as of May 27, 2020. All of the requirements of the California Environmental Quality Act have been met with respect to the Project, Project Approvals, and this Agreement, and this Agreement is consistent with the City’s General Plan.

AGREEMENT

NOW, THEREFORE, the parties hereto agree as follows:

Section 1. Definitions. In this Agreement, unless the context otherwise requires, the following terms shall have the following meaning:

“City” means the City of Upland.

“Property Owner” means Bridge Acquisition, LLC, a Delaware limited liability company as the master lessor and equitable interest holder of the property owned by Bongiovanni Construction Co. a Limited Liability Company, and subsequent assignees of Bride Acquisition, LLC and/or Bongiovanni Construction Co., LLC.

“Effective Date” shall mean the date that the Ordinance becomes effective.

“Municipal Code” means the Upland Municipal Code, as amended from time to time.

“Ordinance” means Ordinance No. 1938, which approved this Agreement.

“Project” means the proposed development of the Subject Property as defined in the Recitals to this Agreement by reference to Resolution 6533.

“Project Approvals” means Resolutions 6531, 6532, and 6533, which are also referenced in the Recitals to this Agreement.

“Subject Property” means the real property that is the subject of the Project Approvals and as legally described in Exhibit A to this Agreement.

“Term” shall have the meaning ascribed to it in Section 6 below.

Section 2. Recitals. The recitals are part of this Agreement and shall be enforceable as any other provision of this Agreement.

Section 3. Interest of Property Owner. Property Owner warrants and represents that, as of the Effective Date, it has or will have legal title to or an equitable interest in all of the Subject Property; that it has full legal right to enter into this Agreement; and that the persons executing this Agreement on behalf of each Property Owner have been duly authorized to do so.

Section 4. Binding Effect of Agreement. Property Owner hereby subject the Project and the Subject Property to the covenants, reservations, and restrictions as set forth in this Agreement. The City and the Property Owner hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon each Property Owner’s successors and assigns in title or interest to the Subject Property. Each and every contract, deed or other instrument hereinafter executed, covering or conveying the Subject Property or any portion thereof shall conclusively be held to have been executed, delivered, and accepted subject to the covenants, reservations and

restrictions expressed in this Agreement, regardless of whether such covenants, reservations, and restrictions are set forth in such contract, deed or other instrument.

The City and Property Owner hereby further declare their understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Subject Property by Property Owner and the future occupants of the Subject Property, the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the public purposes for which this Agreement is adopted.

Section 5. Relationship of Parties. It is understood that the contractual relationship between City and Property Owner is such that City and each Property Owner are each an independent party and neither is the agent or partner of the other for any purpose whatsoever and neither shall be considered to be the agent or partner of the other for any purpose whatsoever.

Section 6. Term of Agreement. The initial term of this Agreement (the “Term”) shall commence on the Effective Date and shall expire twenty (20) years thereafter.

Section 7. Timing of Development. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that failure of the parties to provide for the timing of development resulting in a later adopted initiative restricting the timing of development to prevail over such parties’ agreement, it is the City’s and Property Owner’ intent here to cure that deficiency by acknowledging and providing that Property Owner shall have the right (without obligation), subject to the provisions of this Development Agreement, to complete the Project in such order and at such rate and at such times as Property Owner deems appropriate within the exercise of their subjective business judgment.

Section 8. Transfer of Subject Property. If Property Owner should sell, mortgage, hypothecate, assign, or transfer (collectively “transfer” in this Section) the Subject Property or any portion thereof to any person or entity at any time during the Term of this Agreement, such transfer shall be deemed to include an assignment of all rights, duties and obligations created by this Development Agreement with respect to all or any portion of the Subject Property so transferred. Following not less than thirty (30) days prior, written notice to the City, the written assumption by the assignee of all of the obligations of Property Owner under this Agreement pursuant to any such transfer shall relieve Property Owner, without any act or concurrence by the City, of its legal duty to perform under this Agreement except to the extent that Property Owner is in default (subject to applicable notice and cure periods) with respect to any such obligations that accrued prior to the proposed transfer.

Section 9. General Rights, Standards and Restrictions Pertaining to Development of the Project. The following specific rights and restrictions shall apply to the use of the Subject Property pursuant to this Development Agreement:

A. Property Owner shall have the right to develop the Project on the Subject Property in accordance with the terms and conditions of the Project Approvals and this Agreement, and City shall have the right to control development of the Subject Property in accordance with the provisions of the Project Approvals and this Agreement.

B. The type, density, intensity, configuration of uses allowed, size, and location of buildings and other improvements and provisions for the reservation or dedication of land for public purposes, location of public improvements, including, but not limited to landscaping, irrigation, sidewalk, and drive approaches, together with other terms and conditions of development applicable to the Project, shall be as set forth in the Project Approvals and this Agreement.

Section 10. Effect of City Regulations on Development of Project. Except as expressly provided in this Agreement, all substantive and procedural requirements and provisions contained in City's ordinances, specific plans, rules and regulations, including, but not limited to, the Upland Municipal Code, in effect as of the Effective Date of this Development Agreement, shall apply to the construction and development of the Project and Subject Property.

A. The provisions of this Section shall not preclude the application to the development of the Project and the Subject Property of those changes in City ordinances, regulations, plans, or specifications that are (i) specifically mandated and required by changes in state or federal laws or regulations as provided in California Government Code Section 65869.5 or any successor provision or provisions, (ii) required to ensure public safety and are made applicable throughout the City, or (iii) are required to ensure access under the Americans with Disabilities Act. In the event such changes prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended or performance thereof delayed, as may be necessary to comply with such changes in the law.

B. Except as provided below, the payment of fees associated with the construction of the Project, including land use approvals, development fees, building permits, etc., shall be in the amounts in effect at the time application is made for such approvals or permits and such amounts may increase over time.

C. City may apply to the Project any and all new health and safety regulations (e.g., fire, building, and seismic, plumbing, and electric codes) that become applicable to the City as a whole after the Effective Date.

Section 11. Property Owner's Obligations. In consideration of the rights and benefits Property Owner is granted under this Agreement, Property Owner agrees to provide each and every one of the community benefits set forth in this Section.

A. Sales Tax In-Lieu Fee. While the Subject Property is zoned to permit the Project's proposed use, City and Property Owner nevertheless agree that due to the fact that the Project is unlikely to generate direct sales tax revenue to the City vis-à-vis point of sale generation at the Subject Property, Property Owner shall contribute a Sales Tax In-Lieu Fee ("Sales Tax Fee") as a community benefit to compensate the City for potential lost sales tax revenue. The Sales Tax Fee shall be equal to the potential sales tax revenue that would have been generated should the Subject Property have been developed into a top ten retail/sales tax generating use for the City. Thus, the Sales Tax Fee is to be calculated by taking the average annual retail sales tax revenue per square foot generated by the six Big Box Retailers that are in the top ten sales tax producers in the City. This equates to a three dollar and twenty-five cent (\$3.25) per square foot fee. The Project is expected to be 201,096 square feet. Based on the 201,096 square foot proposed building, the

Sales Tax Fee would be \$653,562 per year of this Agreement, or \$13,071,240 in total. Nonetheless, Property Owner agrees to pay a total of \$13,500,000 as the total Sales Tax Fee to offset any unforeseen and unpredictable increases in average sales tax during the term of the agreement beyond what is captured in the adjusted increase below. The final square footage of the building as shown in the project's building permit shall be used as the final calculation of the total Sales Tax In-Lieu Fee to be paid to the City, however, in no instance shall the minimum amount be less than \$13,500,000. The Sales Tax Fee shall be allocated in the following manner:

i. Property Owner shall pay a one-time lump sum financial contribution in the amount of \$1,000,000 to the City prior to issuance of the Final Certificate of Occupancy for the tenant, which City shall use only to fund future maintenance of roads in the City.

ii. Property Owner shall pay an annual financial contribution in the amount of \$450,000 per year beginning on or before December 31, 2020 and thereafter for Years 1-10 of this Agreement. Starting at Year 11, the payment shall increase by 6% for an annual adjusted amount of \$477,000 for the remaining term of the Agreement (for a total of \$9,270,000, inclusive of the annual payments for Years 1-10), which City shall use only to fund future maintenance of roads in the City.

iii. Property Owner shall pay a total financial contribution in the amount of \$1,500,000 to the Upland Police Foundation for exclusive use by the Upland Police Department. This contribution shall be paid in two \$750,000 payments. The first payment shall be made prior to issuance of the Final Certificate of Occupancy for the building shell. The second contribution shall be paid prior to the issuance of the Final Certificate of Occupancy for the tenant. These funds shall be used to fund the following categories of items as determined by the Upland Police Department: Administrative Services including Community Policing and services to address homelessness within the City; Commercial Enforcement; Impact; Patrol; Records; Training Room; and Animal Control needs.

iv. Parks/Youth Sports, Education, Community/Civic, and Local Commerce Contribution. Property Owner shall pay prior to issuance of the Final Certificate of Occupancy for the tenant a one-time lump sum financial contribution in the amount of \$1,730,000 to help support parks/youth sports, education, community/civic improvements, and local business, as follows:

1. Park improvement programs to beautify, maintain, and enhance each of Cabrillo Park, Citrus Park, Olivedale Park and Greenbelt Park, including improvements to youth sports fields and associated amenities. The financial contribution shall be in the amount of \$400,000 paid to the City of Upland, with the programs to be mutually agreed upon by the City and Property Owner, and neither party shall unreasonably withhold approval.

2. Capital improvements for the Tiny Tots School, in the amount of \$400,000 paid to the Upland Community Foundation.

3. Improvements to the Upland Veterans Monument, in the amount of \$100,000 paid to the Upland Community Foundation.

4. Capital improvements and maintenance for the Upland Library, in the amount of \$250,000 paid to the Upland Community Foundation.

5. Public improvements in the Downtown Specific Plan Area, in the amount of \$100,000 paid to the City of Upland.

6. Support of the Shop Upland initiative, in the amount of \$50,000 paid to the Upland Chamber of Commerce.

7. Funding a portion of the City's share of the School Crossing Guard Program, in an amount to be determined, paid to the City of Upland.

8. Other similar civic, education/youth sports, and community programs as determined by the City of Upland. The contribution amounts and programs to the Upland Community Foundation specified above may also be adjusted by the mutual consent of the Upland Community Foundation and City.

B. Community Road and Infrastructure Enhancement. In addition to the financial commitments outlined above, Property Owner shall commit to the following restrictions and complete the following street improvements prior to issuance of a Final Certificate of Occupancy for the tenant:

i. With respect to delivery vans that leave the site to traverse through Upland for destination points beyond the City's boundaries, the routes utilized shall be the major and minor arterial street network and freeways, as shown on Figure CIR-1 (Roadway System) in the Circulation Element of the General Plan. Delivery vans shall not utilize the designated local street network unless for direct local deliveries.

ii. Foothill Boulevard Improvements: Ultimate half-width street improvements along Foothill Boulevard from the west property line (At Central Ave.) and east to APN: 1006-573-11 (Approx. 756 linear feet); and the Foothill Boulevard frontage of APN's 1006-551-12 & 22, and 1006-572-11 (Approx. 110 linear feet). Improvements shall include, but are not limited to, pavement construction and striping, curb & gutter, ADA upgrades, Traffic Signal facility infrastructure and intersection improvements at Foothill Boulevard & Central Avenue and Foothill Boulevard & Benson Avenue, full landscape center roadway median between Central Ave and the east project property line, approximately 2,000 linear feet (annexation to Landscape Maintenance CFD or equivalent), undergrounding utilities at the project entrances, storm drain, sewer and water main pipeline and facility extensions, as typically required. The north half of Foothill Blvd shall have grind and overlay on those areas not previously designated above such that all pavement on the north half of Foothill Blvd shall have rehabilitation between Central Avenue and the east property line of the project (approximately 2,000 linear feet) and thermoplastic striping as required.

iii. 13th Street Improvements: Along 13th Street from the westerly end of 13th Street to Benson Avenue improvements shall include the following subject to final design plans: full street width pavement rehabilitation and striping, Benson Avenue & 13th Street Traffic Signal

facility infrastructure improvements, south side sidewalk improvements, street lighting (as reasonably necessary), ADA Ramp Upgrade at the intersection of 13th St and Benson Avenue, full landscaped center roadway median (annexation to Landscape Maintenance CFD or equivalent), Entry Monument for Cable Airport and the proposed development.

iv. Central Ave. Improvement: Along Central Avenue from Foothill Boulevard to the City limits, improvements shall include the following subject to final design plans: Traffic Signal facility infrastructure improvements at Central Avenue & Foothill Boulevard, Central Avenue & Arrow Highway and Central Avenue & 11th Street and pavement rehabilitation and striping (2.5" Grind intersection and north and southbound intersection approaches a minimum of 200 feet and repave with minimum 3/4" Aggregate AC).

v. Benson Avenue and Baseline/16th Street: Traffic Signal facility infrastructure improvements and road improvements to provide for dual north bound left to Baseline and intersection approach striping improvements. Street widening on the west side of Benson from Baseline/16th Street to approximately 500 feet south of the intersection may be required to accommodate dual north bound left to Baseline, including traffic signal pole and street light pole relocations and other appurtenances. Restriping north and south lanes to conform to lane and turning movement configuration. Under no circumstances shall Property Owner be required to obtain right of way from a third party to facilitate the street widening specified above.

vi. Benson Avenue Improvement: Along Benson Avenue, Traffic Signal facility infrastructure improvements shall be made at Benson Avenue & 15th Street and Benson Avenue & Fire Station N. 163.

vii. Property Owner and City staff shall work together to determine the extent of bike lane striping to be implemented by Property Owner on Foothill Boulevard and Benson Avenue adjacent to the Project site which provides connectivity to existing striped bike lanes.

viii. The Property Owner shall work with City staff on the installation of energy-saving security lighting for the Project site, as well as other potential energy-saving measures.

C. Notwithstanding any of the items above, Property Owner shall pay a financial contribution in the amount of \$1,000,000 to the City to fund additional police services and/or obligations, as determined by the City, prior to issuance of the Final Certificate of Occupancy for the building shell.

D. Agreement Enforcement Costs. Notwithstanding any of the items above, Property Owner shall pay an annual financial contribution in the amount of \$20,000 per year for the first 5 years, and \$10,000 per year thereafter for the term of this Agreement (for a total of \$250,000), which City shall use to fund traffic enforcement and any other requisite enforcement measures, as deemed appropriate by the City, for the purposes of enforcing any and all mitigation measures connected to the Project. Should additional funds be required for additional monitoring and enforcement by the City, at that time the tenant and City staff shall work together in good faith to determine the amount of additional funding that is reasonably required. If based on 24-hour counts over three different days in a two-week time period, the average daily truck traffic (with trucks defined as vehicles with more than two axles) exceeds the permitted fifty (50) truck trips per day

then a fine of 10 (ten) percent of the Annual Fee set forth in Section 11.A.ii shall be due and payable to the City.

In addition, the Property Owner agrees to the following traffic conditions which shall be included in the traffic enforcement requirement and subject to the fine specified above: (1) there shall be no off-site parking of passenger vehicles and vans associated with the tenant; (2) there shall be no queuing of vans within the public street and any queuing must be contained on-site; and, (3) the AM Peak Hour (187 trips) and PM Peak Hour (171 trips) passenger vehicle and van trips specified in Table A (Project Trip Generation) of the traffic study prepared by Translutions, dated November 15, 2019, shall not be exceeded. Monitoring of the traffic conditions specified in Section 11.D of the Development Agreement shall be conducted by visual inspection of Project trips. In the event that there are repeated violations of such traffic conditions, the City may elect to use alternative means to monitor project trips, which may include counters or other technology developed in the future so long as such technology is deemed to be as accurate as visual counts.

E. Apprenticeship Program. The Property Owner and/or his successor shall implement its best efforts to develop and maintain an Apprentice/Intern Program with Upland Unified School District to assist high school students who may desire a career in business to learn job skills and earn at the same time.

F. Energy Saving Measures. The developer shall work with City staff on the installation of energy-saving security lighting for the Project Site, as well as other potential energy-saving measures.

Section 12. Timing of Property Owner's Obligations. Unless otherwise stated herein, any and all sums outlined in Section 11 shall become due and payable within 30 days of receipt of the Project's Certificate of Occupancy. Notwithstanding the above, Property Owner shall have the right to pay any and all sums outlined in Section 11 prior to the date they become due without any penalty to Property Owner.

Section 13. City's Obligations. The City shall expedite review of all plans and issuance of all permits associated with the project, including the improvements specified in Section 11.B. For plans submitted prior to January 30, 2020, the City and Property Owner shall work together in good faith to issue permits for those plans within 48 hours of City Council issuing the Project Approvals. For all other plans and permits submitted after January 30 2020, for the project or offsite improvements required by this Agreement, the City shall conduct an expedited review process with initial review of all permit sets and issuance of any comments to the Property Owner within 8 days (2 working weeks) of submittal. The City shall issue subsequent review comments within 4 days (1 working week) of resubmittal.

Section 14. Annual Review. During the term of this Development Agreement, City shall annually review the extent of good faith compliance by Property Owner with the terms of this Agreement. Property Owner shall file an annual report with the City indicating information regarding compliance with the terms of this Agreement no later than January 7 for the previous calendar year, commencing January 7, 2021. Such report shall include documentation of any daily truck trip counts and peak hour counts of delivery vans and passenger vehicles conducted pursuant to Section 11.D.

Section 15. Indemnification and Legal Challenge. To the maximum extent permitted by law, Property Owner must defend, indemnify, and hold City and its elected officials, officers, contractors serving as City officials, agents, and employees (“Indemnitees”) harmless from liability for damage and/or claims for damage for personal injuries, including death, and claims for property damage, and with respect to all other actions and liabilities for damages caused or alleged to have been caused by reason of the Property Owner’s activities in connection with the development and/or construction of the Project on the Project site, and which may arise from the direct or indirect operations of the Property Owner or those of the Property Owner’s contractors, agents, tenants, employees or any other persons acting on Property Owner’s behalf, which relate to the development and/or construction of the Project. This indemnity provision applies to all damages and claims for damage, as described above, regardless of whether or not the City prepared, supplied, or approved the plans, specifications, or other documents for the Project.

In the event of any legal action challenging the validity, applicability, or interpretation of any provision of this Agreement, any of the entitlement documents pertaining to the Project including, without limitation, the City’s General Plan, Zoning Ordinance, or any other supporting document relating to the Project, the applicable Property Owner must indemnify, defend and hold harmless the Indemnitees, and each of them, with respect to all liability, costs and expenses incurred by, and/or awarded against, the City or any of the Indemnitees in relation to such action. The City shall have the right to select counsel of its choice that the Property Owner reasonably approves. The parties hereby agree to cooperate in defending such action. The City will not voluntarily assist in any such third-party challenge or take any position adverse to the Property Owner in connection with such third-party challenge. In the event of any litigation challenging the effectiveness of this Agreement, or any portion hereof, this Agreement shall remain in full force and effect while such litigation, including any appellate review, is pending, unless otherwise ordered by the court. Absent issuance of an injunction, the Property Owner may elect to continue development under this Agreement pending completion of the litigation but it shall do so at its sole risk, and the City shall not be liable for any loss suffered as a result thereof. This Section shall survive the expiration or earlier termination of this Agreement.

Section 16. Amendments. This Agreement may be amended or canceled, in whole or in part, only by mutual written consent of the parties and then in the manner provided for in California Government Code § 65868, *et seq.*, or successor provisions thereto.

Section 17. Enforcement. In the event of a default under the provisions of this Agreement by a Property Owner, City shall give written notice to the Property Owner (or its successor) by registered or certified mail addressed at the address stated in this Agreement, and if such violation is not corrected to the reasonable satisfaction of City within sixty (60) days after such notice is served on the Property Owner, or if not corrected within such reasonable time as may be required to cure the breach or default if said breach or default cannot be cured within said sixty (60) days (provided that acts to cure the breach or default must be commenced within said sixty (60) days and must thereafter be diligently pursued by Property Owner), then City may, without further notice, declare a default under this Agreement and, upon any such declaration of default, City may bring any action necessary to specifically enforce the obligations of the Property Owner growing out of the operation of this Development Agreement, apply to any court, state or federal, for injunctive relief against any violation by the Property Owner of any provision of this Agreement, or apply for such other relief as may be appropriate.

Section 18. Event of Default. A Property Owner is in default under this Agreement upon the happening of one or more of the following events or conditions:

A. If a material warranty, representation or statement made or furnished by the Property Owner to City set forth herein or in any document incorporated by reference herein is false or proved to have been false in any material respect when it was made;

B. If a finding and determination is made by City following an annual review pursuant to this Agreement, upon the basis of substantial evidence, that the Property Owner has not complied in good faith with any material terms and conditions of this Agreement, after notice and opportunity to cure as provided by this Agreement; or

C. A breach by the Property Owner of any of the provisions or terms of this Agreement, after notice and opportunity to cure as provided in this Agreement.

Section 19. No Waiver of Remedies. City does not waive any claim of defect in performance by a Property Owner if on periodic review City does not enforce this Agreement. Nonperformance by a Property Owner shall not be excused because performance by the Property Owner of the obligations herein contained would be unprofitable, difficult, or expensive, or because of a failure of any third party or entity, other than City. Subject to the provisions of Section 19, all other remedies at law or in equity which are not otherwise provided for in this Agreement are available to each party to pursue in the event that there is a breach of this Development Agreement by the other party (subject to applicable notice and cure periods). No waiver by City or Property Owner of any breach or default under this Development Agreement by the other party shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.

Section 20. City Not Liable For Damages. It is acknowledged by the parties that the City would not have entered into this Agreement if it could be held liable in damages under or with respect to this Agreement or the application thereof. Consequently, and except for the payment of attorney's fees in accordance with this Agreement, the City shall not be liable in damages to the Property Owner, or to any assignee, transferee, or any other person, and the Property Owner covenants on behalf of itself and its successors in interest not to sue for or claim any damages:

A. For any breach of this Agreement;

B. For the taking, impairment or restriction of any right or interest conveyed or provided hereunder or pursuant hereto;

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

D. For any injury to or interference with the rights of the property owner, allegedly or actually arising out of, or incurred in connection with, the parties entering this Agreement, or their exercise of any rights under this Agreement.

The parties hereby warrant that each enters into this Agreement with the understanding that if the City defaults on its obligations under this Agreement due to an action taken by the electorate of the City in the exercise of the reserved powers of initiative and referendum, this Agreement shall

be modified or suspended to the extent required by Government Code Section 65869.5 and Property Owner's right to seek specific performance, a writ of mandate, or other mandatory relief shall be limited by such force as the action taken by the electorate may have in light of state law as determined by any court of competent jurisdiction, in which case the Property Owner' principal remedy shall lie in reformation of this Agreement

Section 21. Rights of Lenders Under this Agreement. Should a Property Owner place or cause to be placed any encumbrance or lien on the Project, or any part thereof, the beneficiary ("Lender") of said encumbrance or lien shall have the right at any time during the term of this Agreement and the existence of said encumbrance or lien to:

A. Do any act or thing required of the Property Owner under this Agreement, or cure any default of the Property Owner under this Agreement within the time limits set forth in this Agreement, and any such act or thing done or performed by Lender or cure shall be as effective as if done by Property Owner;

B. Realize on the security afforded by the encumbrance or lien by exercising foreclosure proceedings or power of sale or other remedy afforded in law or in equity or by the security document evidencing the encumbrance or lien (hereinafter referred to as "a trust deed");

C. Transfer, convey or assign the title of the Property Owner to the Subject Property to any purchaser at any foreclosure sale, whether the foreclosure sale be conducted pursuant to court order or pursuant to a power of sale contained in a trust deed; and

D. Acquire and succeed to the interest of the Property Owner by virtue of any foreclosure sale, whether the foreclosure sale is conducted pursuant to a court order or pursuant to a power of sale contained in a trust deed.

Should any Lender require or request an amendment of this Agreement in respect of the rights and remedies granted to a Lender, City hereby agrees to consider such an amendment in good faith and in accordance with state and local law so long as the proposed amendment does not materially and adversely affect the rights, powers, and remedies of the City in respect of a default by the Property Owner hereunder.

Section 22. Notice to Lender. City shall give written notice of any default or breach under this Agreement by Property Owner to Lender (if known by City) simultaneously with such notice of default City gives to Property Owner and afford Lender the opportunity after receipt of service of the notice to:

A. Cure the breach or default within thirty (30) days after service of said notice, where the default can be cured by the payment of money;

B. Cure the breach or default within thirty (30) days after service of said notice where the breach or default can be cured by something other than the payment of money and can be cured within that time; or

C. Cure the breach or default in such reasonable time as may be required where something other than payment of money is required to cure the breach or default and cannot be

performed within thirty (30) days after said notice, provided that acts to cure the breach or default are commenced within a thirty (30) day period after service of said notice of default on Lender by City and are thereafter diligently continued by Lender.

Section 23. Action by Lender. Notwithstanding any other provision of this Agreement, a Lender may forestall any action by City for a breach or default under the terms of this Agreement by a Property Owner by commencing proceedings to foreclose its encumbrance or lien on the Subject Property. The proceedings so commenced may be for foreclosure of the encumbrance by order of court or for foreclosure of the encumbrance under a power of sale contained in the instrument creating the encumbrance or lien. The proceedings shall not, however, forestall any such action by the City for the default or breach by the Property Owner unless:

A. They are commenced within thirty (30) days after service on Property Owner (and on Lender if Lender’s address is provided by notice to the City pursuant this Agreement) of the notice described hereinabove;

B. They are, after having been commenced, diligently pursued in the manner required by law to completion; and

C. Lender keeps and performs all of the terms, covenants, and conditions of this Agreement requiring the payment or expenditure of money by the Property Owner until the foreclosure proceedings are complete or are discharged by redemption, satisfaction, or payment.

Section 24. Notice. Any notice required to be given by the terms of this Agreement shall be provided by certified mail, return receipt requested, at the address of the respective parties as specified below or at any other such address as may be later specified by the parties hereto.

To Property Owner: Bridge Acquisition, LLC, a Delaware limited liability company
1600 East Franklin Avenue, Suite D
El Segundo, CA 90245
Attention: Brian Wilson, Partner

To City: City of Upland
460 N. Euclid Avenue
Upland, CA 91786
Attention: City Manager

Section 25. Attorneys’ Fees. In any proceedings arising from the enforcement of this Development Agreement or because of an alleged breach or default hereunder, the prevailing party shall be entitled to recover its costs and reasonable attorneys’ fees and experts’ fees incurred during the proceeding (including appeals) as may be fixed within the discretion of the court.

Section 26. Binding Effect. This Agreement shall bind, and the benefits and burdens hereof shall inure to, the respective parties hereto and their legal representatives, executors, administrators, successors and assigns, wherever the context requires or admits.

Section 27. Applicable Law and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of California. Venue for any action or litigation brought for breach or to enforce any provision of this Agreement shall be the County of San Bernardino, California.

Section 28. Partial Invalidity. If any provisions of this Agreement shall be deemed to be invalid, illegal, or unenforceable, the validity, legality, or enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

Section 29. Recordation. The City Clerk shall record this Agreement in the Official Records of the County Recorder of the County of San Bernardino within ten (10) business days following the Effective Date. Upon the expiration of the terms of this Agreement and the request of the Property Owner, the City will execute and deliver, in recordable form, an instrument confirming that this Agreement is terminated and of no further force or effect.

Section 30. Force Majeure. In the event that any party hereto shall be delayed or hindered or prevented from performance of any act required hereunder by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials, riots, insurrection, terrorism, war or other reason of similar nature not the fault of the party delayed in performing the work or doing the acts required under the terms of this Agreement, then the performance of such act shall be excused for the period of the delay caused by the foregoing. Financial inability shall not be deemed an excuse for delay under this Section 30.

Section 31. Integrated Agreement. This Development Agreement consists of this Agreement together with all Exhibits attached hereto, and all of the same are hereby incorporated by reference. The provisions of this Agreement shall govern over any inconsistent or conflicting provisions set forth in the Exhibits. No representation or promise, verbal or written, not expressly set forth herein shall be binding or have any force or effect.

Section 32. Time of Essence. Time is of the essence in every provision hereof in which time is a factor.

Section 33. Headings. Headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

Section 34. No Third Party Rights. No third party shall be deemed to have any rights hereunder against either party as a result of this Agreement.

Section 35. Operating Memoranda. The provisions of this Agreement require a close degree of cooperation between the City and Property Owner. The anticipated refinements to the Project may demonstrate that clarifications to this Agreement and the Project Approvals are appropriate with respect to the implementation of this Agreement and the Project Approvals. If, when, and as it becomes necessary or appropriate to take implementing actions or make such changes, adjustments or clarifications, the Parties may effectuate such actions, changes, adjustments or clarifications through an operating memorandum (“Operating Memorandum”) approved by the parties in writing which references this Section. Such Operating Memorandum shall not require public notices and hearings or an amendment to this Agreement unless it is required by Section 16 above. The City Manager shall be authorized, after consultation with and approval of Property

Owner, to determine whether a requested adjustment, clarification or implementing action (i) may be effectuated pursuant to this Section 35 and is consistent with the intent and purpose of this Agreement and the Project Approvals or (ii) is of the type that would constitute an amendment to this Agreement and thus would require compliance with the provisions of Section 16 above. The authority to enter into such Operating Memorandum is hereby delegated to the City Manager, and the City Manager is hereby authorized to execute any Operating Memorandum hereunder without further City Council action.

[Signature Page Follows]

IN WITNESS WHEREOF, this Agreement has been executed by the parties and shall be effective on the Effective Date set forth hereinabove.

CITY OF UPLAND,
a Municipal Corporation

Bridge Acquisition, LLC, a Delaware limited liability company

Dated: _____

Dated: _____

Debbie Stone
Mayor

By: _____

Name: _____

Title: _____

ATTEST:

Keri Johnson
City Clerk

Approved as to form:

Steven L. Flower
Interim City Attorney

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

State of California)
County of San Bernardino)

On _____, before me, _____,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

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

State of California)
County of San Bernardino)

On _____, before me, _____,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

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

State of California)
County of San Bernardino)

On _____, before me, _____,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

LEGAL DESCRIPTION OF SUBJECT PROPERTY

The Premises constitute that real property depicted on the San Bernardino County Assessor's Parcel Map and having the following Assessor Parcel Numbers: 1006-351-09, 1006-351-10, 1006-551-12, 1006-551-22, 1006-572-11 and 1006-574-10.

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

**CITY OF UPLAND
460 N. EUCLID AVENUE
UPLAND, CALIFORNIA 91786
ATTN: CITY CLERK**

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

OPERATING MEMORANDUM

**Development Agreement No. 20-0001
Regarding Development of the Bridge Point Upland Project, Upland, California**

This Operating Memorandum (this “Memorandum”), is made and entered into as of the Effective Date, by and among Bridge Acquisition, LLC, a Delaware limited liability company, as the master lessor and equitable interest holder of the property legally described in Exhibit A attached to this Memorandum (the “**Property**”) as (“**Property Owner**”), and the City of Upland, a California municipal corporation (“**City**”). All capitalized terms not defined herein shall have the meaning set forth in the Development Agreement

RECITALS

- A. WHEREAS, City and Property Owner have entered into that certain Development Agreement No. 20-001 Regarding Development of the Bridge Point Upland Project, Upland, California as of the Effective Date (the “Development Agreement”); and
- B. WHEREAS, due to the COVID-19 emergency and related local, state and federal emergency orders that have been issued and continue to be amended that cause practical and legal uncertainty as to the timing of construction and development for the Bridge Point Upland Project;
- C. WHEREAS, pursuant to Section 35 of the Development Agreement, City and Property Owner have agreed to clarify the Development Agreement on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants contained in the Development Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

- 1. Purpose; Relationship to Development Agreement. Pursuant to Section 35 of the Development Agreement, and due to the COVID-19 emergency, the parties agree that it is necessary and appropriate to clarify Property’s Owner’s obligations under Section 11.A(ii) of the Development Agreement as provided in this Memorandum and that such clarification is consistent

with the intent and purpose of the Development Agreement and the Project Approvals. The Development Agreement, as clarified by this Memorandum, shall remain unmodified and in full force and effect, and is hereby confirmed in all respects. To the extent there is any material conflict between the terms of this Memorandum and the Development Agreement, the terms of this Memorandum shall govern.

2. Annual Contribution for Sales Tax Fee. In light of the COVID-19 emergency, Property Owner shall not be obligated to make the annual payments described in Section 11.A(ii) of the Development Agreement until prior to the final Certificate of Occupancy for the building shell, provided if issuance of the final Certificate of Occupancy for the building shell occurs after December 31, 2020, then the first annual financial contribution under Section 11.A(ii) of the Development Agreement amount shall be the sum of the annual financial contribution allocated to that year plus the annual financial contribution amount allocated to each preceding year of the Term. For example, if the first annual payment comes due in 2022, then the first annual financial contribution amount payable by Property Owner would be \$1,350,000 (*i.e.*, the sum of \$450,000 for years 2020, 2021, and 2022). In no event shall the total payments to the City under Section 11.A(ii) of the Development Agreement during the Term be less than \$9,270,000.

3. Recordation. City shall cause, and Property Owner shall use all reasonable efforts to assist, the City Clerk to record this Memorandum in the Official Records of the County Recorder of the County of San Bernardino concurrently with the recordation of the Development Agreement. The parties agree that Property Owner's obligations under Section 11.A(ii) of the Development Agreement shall not arise unless this Memorandum is recorded.

4. Governing Law. THIS MEMORANDUM SHALL BE GOVERNED BY, INTERPRETED UNDER, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF CALIFORNIA.

(Signatures on the following pages)

IN WITNESS WHEREOF, the parties have executed this Memorandum and shall be effective on the Effective Date.

CITY OF UPLAND,
a Municipal Corporation

BRIDGE ACQUISITION, LLC, a Delaware
limited liability company

Rosemary Hoerning
City Manager

By: _____
Name: _____
Title: _____

ATTEST:

Keri Johnson
City Clerk

Approved as to form:

Steven L. Flower
Interim City Attorney

ACKNOWLEDGMENT BY NOTARY PUBLIC

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

STATE OF _____)
) ss.:
COUNTY OF _____)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)
My Commission Expires _____

ACKNOWLEDGMENT BY NOTARY PUBLIC

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

STATE OF _____)
) ss.:
COUNTY OF _____)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)
My Commission Expires _____

EXHIBIT A
TO MEMORANDUM

LEGAL DESCRIPTION OF PROPERTY

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

**CITY OF UPLAND
460 N. EUCLID AVENUE
UPLAND, CALIFORNIA 91786
ATTN: CITY CLERK**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

EXEMPT FROM RECORDING FEE PER GOVERNMENT CODE SECTION 6103

**DEVELOPMENT AGREEMENT NO. 20-0001_
REGARDING DEVELOPMENT OF THE BRIDGE POINT UPLAND PROJECT,
UPLAND, CALIFORNIA**

This Development Agreement (“Agreement” or “Development Agreement”) is made and entered into as of the “Effective Date” set forth herein, by and among Bridge Acquisition, LLC, a Delaware limited liability company as the master lessor and equitable interest holder of the property owned by Bongiovanni Construction Co. a Limited Liability Company (collectively, “Property Owner”) and the City of Upland, a California municipal corporation (“City”).

RECITALS

1. On ~~April~~^{March} 123, 2020, the City Council of the City of Upland (“Council”) adopted Resolution 6533, approving Site Plan No. 19-09 and Design Review No. 19-17, Resolution 6532, approving Lot Line Adjustment No. 19-17, and Resolution 6531, approving the associated Mitigated Negative Declaration and Mitigation Monitoring Program pursuant to the California Environmental Quality Act (CEQA), collectively the entitlements for the Bridge Point Upland Project. Resolutions 6531, 6532 and 6533 and all attachments and exhibits thereto are hereby incorporated by this reference. For purposes of this Agreement, the proposed development as approved and defined by Resolution 6533 is referred to herein as the “Project,” and Resolutions 6531, 6532 and 6533 ~~is~~^{are} referred to as the “Project Approvals.”
2. California Government Code Section 65864, *et seq.* (the “Development Agreement Statute”) authorizes cities to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property.
3. City and Property Owner mutually desire to enter into this Development Agreement pursuant to the Development Agreement Statute in order to implement the Project.
4. On April 27, 2020, City adopted its Ordinance No. 1938 (the “Ordinance”), thereby approving this Development Agreement among the City and Property Owner, which is effective as of May 27, 2020. All of the requirements of the California Environmental Quality Act have been met with respect to the Project, Project Approvals, and this Agreement, and this Agreement is consistent with the City’s General Plan.

AGREEMENT

NOW, THEREFORE, the parties hereto agree as follows:

Section 1. Definitions. In this Agreement, unless the context otherwise requires, the following terms shall have the following meaning:

“City” means the City of Upland.

“Property Owner” means Bridge Acquisition, LLC, a Delaware limited liability company as the master lessor and equitable interest holder of the property owned by Bongiovanni Construction Co. a Limited Liability Company, and subsequent assignees of Bride Acquisition, LLC and/or Bongiovanni Construction Co., LLC.

“Effective Date” shall mean the date that the Ordinance becomes effective.

“Municipal Code” means the Upland Municipal Code, as amended from time to time.

“Ordinance” means Ordinance No. [1938](#), which approved this Agreement.

“Project” means the proposed development of the Subject Property as defined in the Recitals to this Agreement by reference to Resolution [6533](#).

“Project Approvals” means Resolutions [6531](#), [6532](#) and [6533](#), which are also referenced in the Recitals to this Agreement.

“Subject Property” means the real property that is the subject of the Project Approvals and as legally described in Exhibit A to this Agreement.

“Term” shall have the meaning ascribed to it in Section 6 below.

Section 2. Recitals. The recitals are part of this Agreement and shall be enforceable as any other provision of this Agreement.

Section 3. Interest of Property Owner. Property Owner warrants and represents that, as of the Effective Date, it has or will have legal title to or an equitable interest in all of the Subject Property; that it has full legal right to enter into this Agreement; and that the persons executing this Agreement on behalf of each Property Owner have been duly authorized to do so.

Section 4. Binding Effect of Agreement. Property Owner hereby subject the Project and the Subject Property to the covenants, reservations, and restrictions as set forth in this Agreement. The City and the Property Owner hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon each Property Owner’s successors and assigns in title or interest to the Subject Property. Each and every contract, deed or other instrument hereinafter executed, covering or conveying the Subject Property or any portion thereof shall conclusively be held to have been executed, delivered, and accepted subject to the covenants, reservations and

restrictions expressed in this Agreement, regardless of whether such covenants, reservations, and restrictions are set forth in such contract, deed or other instrument.

The City and Property Owner hereby further declare their understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Subject Property by Property Owner and the future occupants of the Subject Property, the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the public purposes for which this Agreement is adopted.

Section 5. Relationship of Parties. It is understood that the contractual relationship between City and Property Owner is such that City and each Property Owner are each an independent party and neither is the agent or partner of the other for any purpose whatsoever and neither shall be considered to be the agent or partner of the other for any purpose whatsoever.

Section 6. Term of Agreement. The initial term of this Agreement (the “Term”) shall commence on the Effective Date and shall expire twenty (20) years thereafter.

Section 7. Timing of Development. Because the California Supreme Court held in *Pardee Construction Co. v. City of Camarillo*, 37 Cal.3d 465 (1984), that failure of the parties to provide for the timing of development resulting in a later adopted initiative restricting the timing of development to prevail over such parties’ agreement, it is the City’s and Property Owner’ intent here to cure that deficiency by acknowledging and providing that Property Owner shall have the right (without obligation), subject to the provisions of this Development Agreement, to complete the Project in such order and at such rate and at such times as Property Owner deems appropriate within the exercise of their subjective business judgment.

Section 8. Transfer of Subject Property. If Property Owner should sell, mortgage, hypothecate, assign, or transfer (collectively “transfer” in this Section) the Subject Property or any portion thereof to any person or entity at any time during the Term of this Agreement, such transfer shall be deemed to include an assignment of all rights, duties and obligations created by this Development Agreement with respect to all or any portion of the Subject Property so transferred. Following not less than thirty (30) days prior, written notice to the City, the written assumption by the assignee of all of the obligations of Property Owner under this Agreement pursuant to any such transfer shall relieve Property Owner, without any act or concurrence by the City, of its legal duty to perform under this Agreement except to the extent that Property Owner is in default (subject to applicable notice and cure periods) with respect to any such obligations that accrued prior to the proposed transfer.

Section 9. General Rights, Standards and Restrictions Pertaining to Development of the Project. The following specific rights and restrictions shall apply to the use of the Subject Property pursuant to this Development Agreement:

A. Property Owner shall have the right to develop the Project on the Subject Property in accordance with the terms and conditions of the Project Approvals and this Agreement, and City shall have the right to control development of the Subject Property in accordance with the provisions of the Project Approvals and this Agreement.

B. The type, density, intensity, configuration of uses allowed, size, and location of buildings and other improvements and provisions for the reservation or dedication of land for public purposes, location of public improvements, including, but not limited to landscaping, irrigation, sidewalk, and drive approaches, together with other terms and conditions of development applicable to the Project, shall be as set forth in the Project Approvals and this Agreement.

Section 10. Effect of City Regulations on Development of Project. Except as expressly provided in this Agreement, all substantive and procedural requirements and provisions contained in City’s ordinances, specific plans, rules and regulations, including, but not limited to, the Upland Municipal Code, in effect as of the Effective Date of this Development Agreement, shall apply to the construction and development of the Project and Subject Property.

A. The provisions of this Section shall not preclude the application to the development of the Project and the Subject Property of those changes in City ordinances, regulations, plans, or specifications that are (i) specifically mandated and required by changes in state or federal laws or regulations as provided in California Government Code Section 65869.5 or any successor provision or provisions, (ii) required to ensure public safety and are made applicable throughout the City, or (iii) are required to ensure access under the Americans with Disabilities Act. In the event such changes prevent or preclude compliance with one or more of the provisions of this Agreement, such provisions of this Agreement shall be modified or suspended or performance thereof delayed, as may be necessary to comply with such changes in the law.

B. Except as provided below, the payment of fees associated with the construction of the Project, including land use approvals, development fees, building permits, etc., shall be in the amounts in effect at the time application is made for such approvals or permits and such amounts may increase over time.

C. City may apply to the Project any and all new health and safety regulations (e.g., fire, building, and seismic, plumbing, and electric codes) that become applicable to the City as a whole after the Effective Date.

Section 11. Property Owner’s Obligations. In consideration of the rights and benefits Property Owner is granted under this Agreement, Property Owner agrees to provide each and every one of the community benefits set forth in this Section.

A. Sales Tax In-Lieu Fee. While the Subject Property is zoned to permit the Project’s proposed use, City and Property Owner nevertheless agree that due to the fact that the Project is unlikely to generate direct sales tax revenue to the City vis-à-vis point of sale generation at the Subject Property, Property Owner shall contribute a Sales Tax In-Lieu Fee (“Sales Tax Fee”) as a community benefit to compensate the City for potential lost sales tax revenue. The Sales Tax Fee shall be equal to the potential sales tax revenue that would have been generated should the Subject Property have been developed into a top ten retail/sales tax generating use for the City. Thus, the Sales Tax Fee is to be calculated by taking the average annual retail sales tax revenue per square foot generated by the six Big Box Retailers that are in the top ten sales tax producers in the City. This equates to a three dollar and twenty-five cent (\$3.25) per square foot fee. The Project is expected to be 201,096 square feet. Based on the 201,096 square foot proposed building, the

Sales Tax Fee would be \$653,562 per year of this Agreement, or \$13,071,240 in total. Nonetheless, Property Owner agrees to pay a total of \$13,500,000 as the total Sales Tax Fee to offset any unforeseen and unpredictable increases in average sales tax during the term of the agreement beyond what is captured in the adjusted increase below. The final square footage of the building as shown in the project's building permit shall be used as the final calculation of the total Sales Tax In-Lieu Fee to be paid to the City, however, in no instance shall the minimum amount be less than \$13,500,000. The Sales Tax Fee shall be allocated in the following manner:

i. Property Owner shall pay a one-time lump sum financial contribution in the amount of \$1,000,000 to the City prior to issuance of the Final Certificate of Occupancy for the tenant, which City shall use only to fund future maintenance of roads in the City.

ii. Property Owner shall pay an annual financial contribution in the amount of \$450,000 per year beginning on or before December 31, 2020 and thereafter for Years 1-10 of this Agreement. Starting at Year 11, the payment shall increase by 6% for an annual adjusted amount of \$477,000 for the remaining term of the Agreement (for a total of \$9,270,000, inclusive of the annual payments for Years 1-10), which City shall use only to fund future maintenance of roads in the City.

iii. Property Owner shall pay a total financial contribution in the amount of \$1,500,000 to the Upland Police Foundation for exclusive use by the Upland Police Department. This contribution shall be paid in two \$750,000 payments. The first payment shall be made prior to issuance of the Final Certificate of Occupancy for the building shell. The second contribution shall be paid prior to the issuance of the Final Certificate of Occupancy for the tenant. These funds shall be used to fund the following categories of items as determined by the Upland Police Department: Administrative Services including Community Policing and services to address homelessness within the City; Commercial Enforcement; Impact; Patrol; Records; Training Room; and Animal Control needs.

iv. Parks/Youth Sports, Education, Community/Civic, and Local Commerce Contribution. Property Owner shall pay prior to issuance of the Final Certificate of Occupancy for the tenant a one-time lump sum financial contribution in the amount of \$1,730,000 to help support parks/youth sports, education, community/civic improvements, and local business, as follows:

1. Park improvement programs to beautify, maintain, and enhance each of Cabrillo Park, Citrus Park, Olivedale Park and Greenbelt Park, including improvements to youth sports fields and associated amenities. The financial contribution shall be in the amount of \$400,000 paid to the City of Upland, with the programs to be mutually agreed upon by the City and Property Owner, and neither party shall unreasonably withhold approval.

2. Capital improvements for the Tiny Tots School, in the amount of \$400,000 paid to the Upland Community Foundation.

3. Improvements to the Upland Veterans Monument, in the amount of \$100,000 paid to the Upland Community Foundation.

4. Capital improvements and maintenance for the Upland Library, in the amount of \$250,000 paid to the Upland Community Foundation.

5. Public improvements in the Downtown Specific Plan Area, in the amount of \$100,000 paid to the City of Upland.

6. Support of the Shop Upland initiative, in the amount of \$50,000 paid to the Upland Chamber of Commerce.

7. Funding a portion of the City's share of the School Crossing Guard Program, in an amount to be determined, paid to the City of Upland.

8. Other similar civic, education/youth sports, and community programs as determined by the City of Upland. The contribution amounts and programs to the Upland Community Foundation specified above may also be adjusted by the mutual consent of the Upland Community Foundation and City.

B. Community Road and Infrastructure Enhancement. In addition to the financial commitments outlined above, Property Owner shall [commit to the following restrictions and](#) complete the following street improvements prior to issuance of a Final Certificate of Occupancy for the tenant:

i. [With respect to delivery vans that leave the site to traverse through Upland for destination points beyond the City's boundaries, the routes utilized shall be the major and minor arterial street network and freeways, as shown on Figure CIR-1 \(Roadway System\) in the Circulation Element of the General Plan. Delivery vans shall not utilize the designated local street network unless for direct local deliveries.](#)

ii. Foothill Boulevard Improvements: Ultimate half-width street improvements along Foothill Boulevard from the west property line (At Central Ave.) and east to APN: 1006-573-11 (Approx. 756 linear feet); and the Foothill Boulevard frontage of APN's 1006-551-12 & 22, and 1006-572-11 (Approx. 110 linear feet). Improvements shall include, but are not limited to, pavement construction and striping, curb & gutter, ADA upgrades, Traffic Signal facility infrastructure and intersection improvements at Foothill Boulevard & Central Avenue and Foothill Boulevard & Benson Avenue, full landscape center roadway median between Central Ave and the east project property line, approximately 2,000 linear feet (annexation to Landscape Maintenance CFD or equivalent), undergrounding utilities at the project entrances, storm drain, sewer and water main pipeline and facility extensions, as typically required. The north half of Foothill Blvd shall have grind and overlay on those areas not previously designated above such that all pavement on the north half of Foothill Blvd shall have rehabilitation between Central Avenue and the east property line of the project (approximately 2,000 linear feet) and thermoplastic striping as required.

iii. 13th Street Improvements: Along 13th Street from the westerly end of 13th Street to Benson Avenue improvements shall include the following subject to final design plans: full street width pavement rehabilitation and striping, Benson Avenue & 13th Street Traffic Signal

facility infrastructure improvements, south side sidewalk improvements, street lighting (as reasonably necessary), ADA Ramp Upgrade at the intersection of 13th St and Benson Avenue, full landscaped center roadway median (annexation to Landscape Maintenance CFD or equivalent), Entry Monument for Cable Airport and the proposed development.

iv. Central Ave. Improvement: Along Central Avenue from Foothill Boulevard to the City limits, improvements shall include the following subject to final design plans: Traffic Signal facility infrastructure improvements at Central Avenue & Foothill Boulevard, Central Avenue & Arrow Highway and Central Avenue & 11th Street and pavement rehabilitation and striping (2.5" Grind intersection and north and southbound intersection approaches a minimum of 200 feet and repave with minimum 3/4" Aggregate AC).

iv. Benson Avenue and Baseline/16th Street: Traffic Signal facility infrastructure improvements and road improvements to provide for dual north bound left to Baseline and intersection approach striping improvements. Street widening on the west side of Benson from Baseline/16th Street to approximately 500 feet south of the intersection may be required to accommodate dual north bound left to Baseline, including traffic signal pole and street light pole relocations and other appurtenances. Restriping north and south lanes to conform to lane and turning movement configuration. Under no circumstances shall Property Owner be required to obtain right of way from a third party to facilitate the street widening specified above.

vi. Benson Avenue Improvement: Along Benson Avenue, Traffic Signal facility infrastructure improvements shall be made at Benson Avenue & 15th Street and Benson Avenue & Fire Station N. 163.

vii. Property Owner and City staff shall work together to determine the extent of bike lane striping to be implemented by Property Owner on Foothill Boulevard and Benson Avenue adjacent to the Project site which provides connectivity to existing striped bike lanes.

viii. The Property Owner shall work with City staff on the installation of energy-saving security lighting for the Project site, as well as other potential energy-saving measures.

C. Notwithstanding any of the items above, Property Owner shall pay a financial contribution in the amount of \$1,000,000 to the City to fund additional police services and/or obligations, as determined by the City, prior to issuance of the Final Certificate of Occupancy for the building shell.

D. Agreement Enforcement Costs. Notwithstanding any of the items above, Property Owner shall pay an annual financial contribution in the amount of \$20,000 per year for the first 5 years, and \$10,000 per year thereafter for the term of this Agreement (for a total of \$250,000), which City shall use to fund traffic enforcement and any other requisite enforcement measures, as deemed appropriate by the City, for the purposes of enforcing any and all mitigation measures connected to the Project. Should additional funds be required for additional monitoring and enforcement by the City, at that time the tenant and City staff shall work together in good faith to determine the amount of additional funding that is reasonably required. If based on 24-hour counts over three different days in a two-week time period, the average daily truck traffic (with trucks defined as vehicles with more than two axles) exceeds the permitted fifty (50) truck trips per day

then a fine of 10 (ten) percent of the Annual Fee set forth in Section 11.A.ii shall be due and payable to the City.

In addition, the Property Owner agrees to the following traffic conditions which shall be included in the traffic enforcement requirement and subject to the fine specified above: (1) there shall be no off-site parking of passenger vehicles and vans associated with the tenant; (2) there shall be no queuing of vans within the public street and any queuing must be contained on-site; and, (3) the AM Peak Hour (187 trips) and PM Peak Hour (171 trips) passenger vehicle and van trips specified in Table A (Project Trip Generation) of the traffic study prepared by Translutions, dated November 15, 2019, shall not be exceeded. Monitoring of the traffic conditions specified in Section 11.D of the Development Agreement shall be conducted by visual inspection of Project trips. In the event that there are repeated violations of such traffic conditions, the City may elect to use alternative means to monitor project trips, which may include counters or other technology developed in the future so long as such technology is deemed to be as accurate as visual counts.

E. Apprenticeship Program. The Property Owner and/or his successor shall implement its best efforts to develop and maintain an Apprentice/Intern Program with Upland Unified School District to assist high school students who may desire a career in business to learn job skills and earn at the same time.

F. Energy Saving Measures. The developer shall work with City staff on the installation of energy-saving security lighting for the Project Site, as well as other potential energy-saving measures.

Section 12. Timing of Property Owner's Obligations. Unless otherwise stated herein, any and all sums outlined in Section 11 shall become due and payable within 30 days of receipt of the Project's Certificate of Occupancy. Notwithstanding the above, Property Owner shall have the right to pay any and all sums outlined in Section 11 prior to the date they become due without any penalty to Property Owner.

Section 13. City's Obligations. The City shall expedite review of all plans and issuance of all permits associated with the project, including the improvements specified in Section 11.B. For plans submitted prior to January 30, 2020, the City and Property Owner shall work together in good faith to issue permits for those plans within 48 hours of City Council issuing the Project Approvals. For all other plans and permits submitted after January 30 2020, for the project or offsite improvements required by this Agreement, the City shall conduct an expedited review process with initial review of all permit sets and issuance of any comments to the Property Owner within 8 days (2 working weeks) of submittal. The City shall issue subsequent review comments within 4 days (1 working week) of resubmittal.

Section 14. Annual Review. During the term of this Development Agreement, City shall annually review the extent of good faith compliance by Property Owner with the terms of this Agreement. Property Owner shall file an annual report with the City indicating information regarding compliance with the terms of this Agreement no later than January 7 for the previous calendar year, commencing January 7, 2021. Such report shall include documentation of any daily truck trip counts and peak hour counts of delivery vans and passenger vehicles conducted pursuant to Section 11.D. ~~Should it be determined through the Annual Review process, or any other study~~

~~or enforcement activity, that the Project is generating truck traffic in excess of 20% more than what was studied in the environmental documentation for the project, then, at Property Owner's sole cost, Property Owner shall submit an updated Traffic Study to the City for the City's approval.~~

Section 15. Indemnification and Legal Challenge. To the maximum extent permitted by law, Property Owner must defend, indemnify, and hold City and its elected officials, officers, contractors serving as City officials, agents, and employees (“Indemnitees”) harmless from liability for damage and/or claims for damage for personal injuries, including death, and claims for property damage, and with respect to all other actions and liabilities for damages caused or alleged to have been caused by reason of the Property Owner’s activities in connection with the development and/or construction of the Project on the Project site, and which may arise from the direct or indirect operations of the Property Owner or those of the Property Owner’s contractors, agents, tenants, employees or any other persons acting on Property Owner’s behalf, which relate to the development and/or construction of the Project. This indemnity provision applies to all damages and claims for damage, as described above, regardless of whether or not the City prepared, supplied, or approved the plans, specifications, or other documents for the Project.

In the event of any legal action challenging the validity, applicability, or interpretation of any provision of this Agreement, any of the entitlement documents pertaining to the Project including, without limitation, the City’s General Plan, Zoning Ordinance, or any other supporting document relating to the Project, the applicable Property Owner must indemnify, defend and hold harmless the Indemnitees, and each of them, with respect to all liability, costs and expenses incurred by, and/or awarded against, the City or any of the Indemnitees in relation to such action. The City shall have the right to select counsel of its choice that the Property Owner reasonably approves. The parties hereby agree to cooperate in defending such action. The City will not voluntarily assist in any such third-party challenge or take any position adverse to the Property Owner in connection with such third-party challenge. In the event of any litigation challenging the effectiveness of this Agreement, or any portion hereof, this Agreement shall remain in full force and effect while such litigation, including any appellate review, is pending, unless otherwise ordered by the court. Absent issuance of an injunction, the Property Owner may elect to continue development under this Agreement pending completion of the litigation but it shall do so at its sole risk, and the City shall not be liable for any loss suffered as a result thereof. This Section shall survive the expiration or earlier termination of this Agreement.

Section 16. Amendments. This Agreement may be amended or canceled, in whole or in part, only by mutual written consent of the parties and then in the manner provided for in California Government Code § 65868, *et seq.*, or successor provisions thereto.

Section 17. Enforcement. In the event of a default under the provisions of this Agreement by a Property Owner, City shall give written notice to the Property Owner (or its successor) by registered or certified mail addressed at the address stated in this Agreement, and if such violation is not corrected to the reasonable satisfaction of City within sixty (60) days after such notice is served on the Property Owner, or if not corrected within such reasonable time as may be required to cure the breach or default if said breach or default cannot be cured within said sixty (60) days (provided that acts to cure the breach or default must be commenced within said sixty (60) days and must thereafter be diligently pursued by Property Owner), then City may, without further notice, declare a default under this Agreement and, upon any such declaration of default, City may

bring any action necessary to specifically enforce the obligations of the Property Owner growing out of the operation of this Development Agreement, apply to any court, state or federal, for injunctive relief against any violation by the Property Owner of any provision of this Agreement, or apply for such other relief as may be appropriate.

Section 18. Event of Default. A Property Owner is in default under this Agreement upon the happening of one or more of the following events or conditions:

A. If a material warranty, representation or statement made or furnished by the Property Owner to City set forth herein or in any document incorporated by reference herein is false or proved to have been false in any material respect when it was made;

B. If a finding and determination is made by City following an annual review pursuant to this Agreement, upon the basis of substantial evidence, that the Property Owner has not complied in good faith with any material terms and conditions of this Agreement, after notice and opportunity to cure as provided by this Agreement; or

C. A breach by the Property Owner of any of the provisions or terms of this Agreement, after notice and opportunity to cure as provided in this Agreement.

Section 19. No Waiver of Remedies. City does not waive any claim of defect in performance by a Property Owner if on periodic review City does not enforce this Agreement. Nonperformance by a Property Owner shall not be excused because performance by the Property Owner of the obligations herein contained would be unprofitable, difficult, or expensive, or because of a failure of any third party or entity, other than City. Subject to the provisions of Section 19, all other remedies at law or in equity which are not otherwise provided for in this Agreement are available to each party to pursue in the event that there is a breach of this Development Agreement by the other party (subject to applicable notice and cure periods). No waiver by City or Property Owner of any breach or default under this Development Agreement by the other party shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.

Section 20. City Not Liable For Damages. It is acknowledged by the parties that the City would not have entered into this Agreement if it could be held liable in damages under or with respect to this Agreement or the application thereof. Consequently, and except for the payment of attorney's fees in accordance with this Agreement, the City shall not be liable in damages to the Property Owner, or to any assignee, transferee, or any other person, and the Property Owner covenants on behalf of itself and its successors in interest not to sue for or claim any damages:

A. For any breach of this Agreement;

B. For the taking, impairment or restriction of any right or interest conveyed or provided hereunder or pursuant hereto;

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

D. For any injury to or interference with the rights of the property owner, allegedly or actually arising out of, or incurred in connection with, the parties entering this Agreement, or their exercise of any rights under this Agreement.

The parties hereby warrant that each enters into this Agreement with the understanding that if the City defaults on its obligations under this Agreement due to an action taken by the electorate of the City in the exercise of the reserved powers of initiative and referendum, this Agreement shall be modified or suspended to the extent required by Government Code Section 65869.5 and Property Owner's right to seek specific performance, a writ of mandate, or other mandatory relief shall be limited by such force as the action taken by the electorate may have in light of state law as determined by any court of competent jurisdiction, in which case the Property Owner's principal remedy shall lie in reformation of this Agreement

Section 21. Rights of Lenders Under this Agreement. Should a Property Owner place or cause to be placed any encumbrance or lien on the Project, or any part thereof, the beneficiary ("Lender") of said encumbrance or lien shall have the right at any time during the term of this Agreement and the existence of said encumbrance or lien to:

A. Do any act or thing required of the Property Owner under this Agreement, or cure any default of the Property Owner under this Agreement within the time limits set forth in this Agreement, and any such act or thing done or performed by Lender or cure shall be as effective as if done by Property Owner;

B. Realize on the security afforded by the encumbrance or lien by exercising foreclosure proceedings or power of sale or other remedy afforded in law or in equity or by the security document evidencing the encumbrance or lien (hereinafter referred to as "a trust deed");

C. Transfer, convey or assign the title of the Property Owner to the Subject Property to any purchaser at any foreclosure sale, whether the foreclosure sale be conducted pursuant to court order or pursuant to a power of sale contained in a trust deed; and

D. Acquire and succeed to the interest of the Property Owner by virtue of any foreclosure sale, whether the foreclosure sale is conducted pursuant to a court order or pursuant to a power of sale contained in a trust deed.

Should any Lender require or request an amendment of this Agreement in respect of the rights and remedies granted to a Lender, City hereby agrees to consider such an amendment in good faith and in accordance with state and local law so long as the proposed amendment does not materially and adversely affect the rights, powers, and remedies of the City in respect of a default by the Property Owner hereunder.

Section 22. Notice to Lender. City shall give written notice of any default or breach under this Agreement by Property Owner to Lender (if known by City) simultaneously with such notice of default City gives to Property Owner and afford Lender the opportunity after receipt of service of the notice to:

A. Cure the breach or default within thirty (30) days after service of said notice, where the default can be cured by the payment of money;

B. Cure the breach or default within thirty (30) days after service of said notice where the breach or default can be cured by something other than the payment of money and can be cured within that time; or

C. Cure the breach or default in such reasonable time as may be required where something other than payment of money is required to cure the breach or default and cannot be performed within thirty (30) days after said notice, provided that acts to cure the breach or default are commenced within a thirty (30) day period after service of said notice of default on Lender by City and are thereafter diligently continued by Lender.

Section 23. Action by Lender. Notwithstanding any other provision of this Agreement, a Lender may forestall any action by City for a breach or default under the terms of this Agreement by a Property Owner by commencing proceedings to foreclose its encumbrance or lien on the Subject Property. The proceedings so commenced may be for foreclosure of the encumbrance by order of court or for foreclosure of the encumbrance under a power of sale contained in the instrument creating the encumbrance or lien. The proceedings shall not, however, forestall any such action by the City for the default or breach by the Property Owner unless:

A. They are commenced within thirty (30) days after service on Property Owner (and on Lender if Lender's address is provided by notice to the City pursuant this Agreement) of the notice described hereinabove;

B. They are, after having been commenced, diligently pursued in the manner required by law to completion; and

C. Lender keeps and performs all of the terms, covenants, and conditions of this Agreement requiring the payment or expenditure of money by the Property Owner until the foreclosure proceedings are complete or are discharged by redemption, satisfaction, or payment.

Section 24. Notice. Any notice required to be given by the terms of this Agreement shall be provided by certified mail, return receipt requested, at the address of the respective parties as specified below or at any other such address as may be later specified by the parties hereto.

To Property Owner: Bridge Acquisition, LLC, a Delaware limited liability company
1600 East Franklin Avenue, Suite D
El Segundo, CA 90245
Attention: Brian Wilson, Partner

To City: City of Upland
460 N. Euclid Avenue
Upland, CA 91786
Attention: City Manager

Section 25. Attorneys' Fees. In any proceedings arising from the enforcement of this Development Agreement or because of an alleged breach or default hereunder, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees and experts' fees incurred during the proceeding (including appeals) as may be fixed within the discretion of the court.

Section 26. Binding Effect. This Agreement shall bind, and the benefits and burdens hereof shall inure to, the respective parties hereto and their legal representatives, executors, administrators, successors and assigns, wherever the context requires or admits.

Section 27. Applicable Law and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of California. Venue for any action or litigation brought for breach or to enforce any provision of this Agreement shall be the County of San Bernardino, California.

Section 28. Partial Invalidity. If any provisions of this Agreement shall be deemed to be invalid, illegal, or unenforceable, the validity, legality, or enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

Section 29. Recordation. The City Clerk shall record this Agreement in the Official Records of the County Recorder of the County of San Bernardino within ten (10) business days following the Effective Date. Upon the expiration of the terms of this Agreement and the request of the Property Owner, the City will execute and deliver, in recordable form, an instrument confirming that this Agreement is terminated and of no further force or effect.

Section 30. Force Majeure. In the event that any party hereto shall be delayed or hindered or prevented from performance of any act required hereunder by reason of acts of God, strikes, lockouts, labor troubles, inability to procure materials, riots, insurrection, terrorism, war or other reason of similar nature not the fault of the party delayed in performing the work or doing the acts required under the terms of this Agreement, then the performance of such act shall be excused for the period of the delay caused by the foregoing. Financial inability shall not be deemed an excuse for delay under this Section 30.

Section 31. Integrated Agreement. This Development Agreement consists of this Agreement together with all Exhibits attached hereto, and all of the same are hereby incorporated by reference. The provisions of this Agreement shall govern over any inconsistent or conflicting provisions set forth in the Exhibits. No representation or promise, verbal or written, not expressly set forth herein shall be binding or have any force or effect.

Section 32. Time of Essence. Time is of the essence in every provision hereof in which time is a factor.

Section 33. Headings. Headings used in this Agreement are for reference purposes only and shall not be deemed a part of this Agreement.

Section 34. No Third Party Rights. No third party shall be deemed to have any rights hereunder against either party as a result of this Agreement.

Section 35. Operating Memoranda. The provisions of this Agreement require a close degree of cooperation between the City and Property Owner. The anticipated refinements to the Project may demonstrate that clarifications to this Agreement and the Project Approvals are appropriate with respect to the implementation of this Agreement and the Project Approvals. If, when, and as it becomes necessary or appropriate to take implementing actions or make such changes, adjustments or clarifications, the Parties may effectuate such actions, changes, adjustments or

clarifications through an operating memorandum (“Operating Memorandum”) approved by the parties in writing which references this Section. Such Operating Memorandum shall not require public notices and hearings or an amendment to this Agreement unless it is required by Section 16 above. The City Manager shall be authorized, after consultation with and approval of Property Owner, to determine whether a requested adjustment, clarification or implementing action (i) may be effectuated pursuant to this Section 353 and is consistent with the intent and purpose of this Agreement and the Project Approvals or (ii) is of the type that would constitute an amendment to this Agreement and thus would require compliance with the provisions of Section 16 above. The authority to enter into such Operating Memorandum is hereby delegated to the City Manager, and the City Manager is hereby authorized to execute any Operating Memorandum hereunder without further City Council action.

[Signature Page Follows]

IN WITNESS WHEREOF, this Agreement has been executed by the parties and shall be effective on the Effective Date set forth hereinabove.

CITY OF UPLAND,
a Municipal Corporation

Bridge Acquisition, LLC, a Delaware limited liability company

Dated: _____

Dated: _____

Debbie Stone
Mayor

By: _____

Name: _____

Title: _____

ATTEST:

Keri Johnson
City Clerk

Approved as to form:

Steven L. Flower
Interim City Attorney

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

State of California)
County of San Bernardino)

On _____, before me, _____,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

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

State of California)
County of San Bernardino)

On _____, before me, _____,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

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

State of California)
County of San Bernardino)

On _____, before me, _____,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

LEGAL DESCRIPTION OF SUBJECT PROPERTY

The Premises constitute that real property depicted on the San Bernardino County Assessor's Parcel Map and having the following Assessor Parcel Numbers: 1006-351-09, 1006-351-10, 1006-551-12, 1006-551-22, 1006-572-11 and 1006-574-10.



STAFF REPORT

ITEM NO. 11.E.

DATE: April 27, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: STEVEN NIX, INTERIM PUBLIC WORKS DIRECTOR
BOB CRITCHFIELD, ENGINEERING MANAGER
SUBJECT: ACCEPTANCE OF WORK FOR PROJECT NO. 7072 & 7081,
CITYWIDE SLURRY SEALS

RECOMMENDED ACTION

It is recommended that the City Council accept the work; record the Notice of Completion; and, reduce the Faithful Performance Bond to 10% for Warrantee for a period of twelve months for Project 7072 & 7081, Citywide Slurry Seals.

GOAL STATEMENT

The proposed action supports the City's goal to continue to maintain and improve the City's public roadway facilities.

BACKGROUND

On September 9, 2019, the City Council awarded the Slurry Seal project to Doug Martin Contracting Company, Inc. in the amount of \$545,000.00 (including contingencies). The project work consisted of crack sealing and pavement reconstruction in localized failure areas, followed by the application of a slurry seal and replacement of traffic striping.

ISSUES/ANALYSIS

The contractor has since satisfactorily completed the required improvements. The City can now accept the work, file the Notice of Completion, and reduce the Faithful Performance Bond to 10% Warrantee for a period of twelve months. The City will retain the Labor Materials Bond for six (6) months and release it thereafter, provided no liens or stop notices are filed against the project.

FISCAL IMPACTS

The final construction cost of \$519,952.92 is within the original authorized appropriation amount of \$545,000.00 therefore, no additional appropriation is necessary.

ALTERNATIVES

1. Do not accept the work.
2. Provide alternative direction to staff.

ATTACHMENTS:

NOC for Proj 7072 & 7081

Recording requested by
and when recorded mail to:

City of Upland, City Clerk's Office
460 N. Euclid Avenue
Upland, CA 91786

(Space above this line for Recorder's use)

This document is exempt from the payment of a recording
fee pursuant to Government Code Section 27383

Notice of Completion

Pursuant to Civil Code Section 3093, **NOTICE** is hereby given that:

The undersigned is the owner of the interest or estate stated below in the property hereinafter described. The full name and address of owner is City of Upland, 460 North Euclid Avenue, Upland, California 91786.

Assessors Parcel Numbers N/A, in and to the hereinafter described property.

The work was completed on that certain work known as **Project 7072 & 7081, Citywide Slurry Seals (Bid No. 2019-02)** for the undersigned City of Upland, a Municipal Corporation, on the 24th day of February, 2020.

The City accepted the job on the 27th day of April, 2020.

The Contractor on said job was **Doug Martin Contracting Company, Inc.** of La Habra, California.

The improvement(s) consisted of **crack sealing and asphalt pavement reconstruction in localized failure areas, followed by the application of a slurry seal and replacement of traffic striping**; and the location of the improvements occurred on various public streets, in Upland, California.

The surety was **Liberty Mutual Insurance Company**.

All communications relating to the contract should bear the number above mentioned.

I hereby certify under penalty of perjury that the foregoing is true and correct.

Executed this 27th day of April, 2020 at Upland, California.

City of Upland, a Municipal Corporation

Rosemary Hoerning, City Manager



STAFF REPORT

ITEM NO. 11.F.

DATE: April 27, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: STEVEN NIX, INTERIM PUBLIC WORKS DIRECTOR
BOB CRITCHFIELD, ENGINEERING MANAGER
SUBJECT: ACCEPTANCE OF WORK FOR PROJECT No. 7073, CITYWIDE STRIPING REPLACEMENT

RECOMMENDED ACTION

It is recommended that the City Council accept the work; record the Notice of Completion; and, reduce the Faithful Performance Bond to 10% for Warrantee for a period of twelve months for Project No. 7073, Citywide Striping Replacement.

GOAL STATEMENT

The proposed action supports the City's goal to maintain and improve the City's public roadway facilities.

BACKGROUND

On September 23, 2019, the City Council awarded Project No. 7073 to Superior Pavement Markings, Inc., and authorized a total expenditure of \$180,000 (including contingencies). Project No. 7073 consisted of the replacement of obliterated traffic striping and pavement markings at various locations throughout the City (8th St., 11th St., 13th St., "A" St., Arrow Hwy., Campus Ave., San Antonio Ave., and San Bernardino Road). The project scope of work consisted of restriping pedestrian crosswalks, lane lines, channelizing lines, and various legends.

ISSUES/ANALYSIS

The contractor has since satisfactorily completed the required improvements. The City can now accept the work, file the Notice of Completion, and reduce the Faithful Performance Bond to 10% Warrantee for a period of twelve months. The City will retain the Labor Materials Bond

for six (6) months and release it thereafter, provided no liens or stop notices are filed against the project.

FISCAL IMPACTS

The final construction cost of \$154,616.15 is within the original authorized expenditure amount of \$180,000.00 therefore, no additional appropriation is necessary.

ALTERNATIVES

1. Do not accept the work.
2. Provide alternative direction to staff.

ATTACHMENTS:

NOC for Proj 7073

Recording requested by
and when recorded mail to:

City of Upland, City Clerk's Office
460 N. Euclid Avenue
Upland, CA 91786

(Space above this line for Recorder's use)

This document is exempt from the payment of a recording
fee pursuant to Government Code Section 27383

Notice of Completion

Pursuant to Civil Code Section 3093, **NOTICE** is hereby given that:

The undersigned is the owner of the interest or estate stated below in the property hereinafter described. The full name and address of owner is City of Upland, 460 North Euclid Avenue, Upland, California 91786.

Assessors Parcel Numbers N/A, in and to the hereinafter described property.

The work was completed on that certain work known as **Project 7073, Citywide Striping Replacement** for the undersigned City of Upland, a Municipal Corporation, on the **24th** day of **March, 2020**.

The City accepted the job on the **27th** day of **April, 2020**.

The Contractor on said job was **Superior Pavement Markings, Inc.** of **Cypress**, California.

The improvement(s) consisted of **restriping of pedestrian crosswalks, lane lines, channelizing lines, and legends**; and the location of the improvements occurred at various locations along 8th St., 11th St., 13th St., "A" St., Arrow Hwy., Campus Ave., San Antonio Ave., and San Bernardino Rd., in Upland, California.

The surety was **Old Republic Surety Company**.

All communications relating to the contract should bear the number above mentioned.

I hereby certify under penalty of perjury that the foregoing is true and correct.

Executed this **27th** day of **April, 2020** at Upland, California.

City of Upland, a Municipal Corporation

Rosemary Hoerning, City Manager



STAFF REPORT

ITEM NO. 11.G.

DATE: April 27, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: STEVEN NIX, INTERIM PUBLIC WORKS DIRECTOR
JESUS SANCHEZ, ASSISTANT ENGINEER
SUBJECT: ACCEPTANCE OF PUBLIC IMPROVEMENTS FOR TRACT MAP 18697
LOCATED ON THE NORTHEAST CORNER OF SULTANA AVENUE
AND 8TH STREET BY TAYLOR MORRISON

RECOMMENDED ACTION

It is recommended that the City Council accept the public improvements constructed by Taylor Morrison, formerly known as William Lyons Homes, generally located on the northeast corner of Sultana and 8th Street; and approve the reduction of the faithful performance bond to ten percent (10%).

GOAL STATEMENT

The proposed action supports the City's goal to adhere to a review schedule for the processing of development proposals in an efficient, professionally responsive, and courteous manner.

BACKGROUND

On May 11, 2015 the City Council approved and authorized recordation of Final Tract Map 18697 with 203 residential attached townhomes and condominium units. The Council also accepted the Subdivision Improvement Agreement, a performance bond in the amount of \$2,841,000 and a Labor and Materials Bond in the amount of \$1,421,000.

The project is generally located on the northeast corner of Sultana Avenue and 8th Street and was conditioned to construct improvements in the public right-of-way, including, streets, sewer, water, storm drain, paving, curbs and gutters, curb ramps and sidewalks.

ISSUES/ANALYSIS

Taylor Morrison has completed construction of both the private and public improvements required for the development. The City has inspected the completed improvements and found them to be in compliance with the approved plans.

The City can now accept the improvements and reduce the Faithful Performance Bond to 10%. The remaining 10% will serve as a guarantee of the work for one year. The Faithful Performance Bond will be released thereafter, should there be no material defects.

Similarly, the Labor and Materials Bond will be released six months after this action is approved, if there are no claims (e.g. by vendors, subcontractors, etc.) filed against the project.

FISCAL IMPACTS

There are no fiscal impact associated with this action.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

LOCATION MAP

TM 18697 Subdivision Agreement

TM 18697 Bonds

LOCATION MAP



1" = 143 ft	TM 18697	03/30/2020	
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This map may represents a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.

SUBDIVISION AGREEMENT

Tract Map Number 18697

THIS AGREEMENT is entered into as of this 11th day of May 20__ by and between William Lyons Homes, Inc (hereinafter referred to as "Subdivider") and the CITY OF UPLAND, a municipal corporation (hereinafter referred to as the "City").

A. Recitals

- (i) The City approved a Tentative Tract Map pursuant to the California Subdivision Map Act as set forth in California Government Code Section 66410 et. seq. ("Map Act") identified as Tentative Tract Number 18697 in the City of Upland, State of California; and
- (ii) Subdivider seeks approval of a Final Map under the Map Act identified as Final Map Number 18697

B. Agreement

It is agreed by and between the parties hereto as follows:

1. In consideration of the City's approval of and filing Tentative Subdivision Tract Map Number 18697 and Final Tract Number 18697, Subdivider undertakes and agrees that it will, at Subdivider's sole cost and expense, design, construct and install all the improvements in accordance with the plans, specifications on file with the City, incorporated herein and made a part hereof, and including all conditions of approval required by the Planning Commission and City Council of the City of Upland.
2. Subdivider also undertakes and agrees upon the same consideration to design, construct and install all improvements in accordance with the ordinances and regulations of the City, and to do all other and further acts required of it pursuant to this Agreement.
3. Subdivider agrees in connection therewith to pay or cause to be paid all amounts becoming due to contractors, subcontractors, and persons renting equipment or furnishing labor or materials to the foregoing Final Tract with respect to such improvements.
4. Subdivider agrees that all such improvements shall be constructed and completed in accordance with the city standards required by the City Engineer. In case of dispute, the good faith judgment of the City Engineer shall be final and binding upon the parties.
5. Subdivider undertakes and agrees that all of the work of improvement shall be completed within three hundred sixty five (365) days from the date of execution of this Agreement.
6. Should Subdivider fail to comply with any of the terms or provisions of this Agreement, Subdivider shall be liable to the City for the reasonable value of any work or improvements not completed or improperly done or performed. In the event of any such failure, the City shall give to Subdivider written notice thereof. Unless the work or improvements covered by said notice, including defective work and improvements, are commenced by Subdivider within fifteen (15) days of the date of said notice and diligently prosecuted to completion, the City may at its option:

a) Collect from Subdivider the reasonable value of the work and improvements not so done and performed by Subdivider, to be measured by the anticipated costs and expenses of completing the same; or

b) The City may complete said work and improvements not so completed by Subdivider and collect its costs and expenses in completing the same; or

c) The City may, as to some of such work and improvements, proceed under remedy (a) above, and as to the remainder, under remedy (b) above.

The City may change any election prior to trial of any lawsuit, and prior thereto no election of remedies shall be binding upon the City. In either event, there shall be included in said "costs and expenses," the reasonable overhead expenses of the City. In addition to the foregoing, Subdivider shall be liable to the City for reasonable attorneys' fees and court costs incurred by the City in enforcing the obligations of Subdivider under this Agreement.

7. All slope banks over three (3) feet in vertical height within said Tract Map shall be landscaped with landscaping approved by the City Engineer. Sprinklers shall be installed on all slopes over three (3) feet in vertical height along arterial streets and shall be of a type and according to a sprinkler plan approved by the City Engineer, with sprinkler turn-ons at the tops of the slopes, and connected with the remainder of the water systems of the lots of which such slopes are a part.

8. Subdivider shall, at its sole cost and expense, secure and furnish to the City, bonds in a form approved by the City, executed by a corporation authorized to transact surety business within the State of California, for the following amounts and purposes:

(a) A bond in the amount of \$ 2,841,000.00 guaranteeing full performance of all the terms of this Agreement, see Performance Bond No. PB03010401782 ;

(b) A bond in the amount of \$ 1,421,000.00 securing payment to the contractor, his subcontractor and to persons renting equipment or furnishing labor or materials to them with respect to said public improvements, see Labor and Materials Bond No. PB03010401782 ;

(c) A cash deposit in the amount of \$ 5,600.00 securing the setting of monuments.

9. Acceptance of any work or improvements by the City shall not constitute an acknowledgment by the City that the same are properly done or performed, except as to any items or matters readily apparent from an inspection thereof. Except as to such matters so readily apparent, Subdivider shall repair any defects which occur in the work of improvements within a one (1) year period thereof following acceptance by the City.

10. As a condition precedent to the acceptance of the improvements hereunder as being complete and prior to the release of any bonds required under paragraph 8, hereof, securing the faithful performance of Subdivider's obligations hereunder, Subdivider shall give a bond with a corporate bonding company or similar instrument, satisfactory to the City in the amount of \$ 284,100.00 as guarantee and warranty of the work for a one (1) year period following the completion and acceptance thereof against any defective work or labor done, or defective materials furnished.

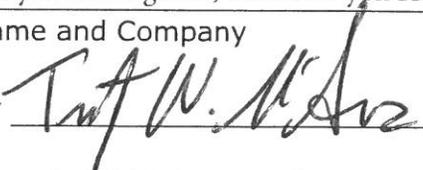
11. Except as to the sole and exclusive negligence of City, its elected officials, officers agents and employees, Subdivider hereby agrees to indemnify, defend and hold harmless, the City, its elected officials, officers, agents and employees from and against any and all claims, demands, suits, actions or proceedings of any kind or nature, including, but not by way of limitation, all civil claims, workers' compensation claims, costs, expenses or damages to property or injuries to or death of any person or persons, including attorneys fees and all other claims, whether groundless or not, arising out of or related to the acts, errors or omissions of Subdivider, its officers, agents, employees, consultants, subcontractors or other persons, companies or other entities using roadways/streets of the subdivision, performing labor, transporting and/or supplying material, designing, constructing or installing the improvements contemplated in this Subdivision Agreement. Where the Subdivider divides the project in phases and or allows construction vehicles or construction traffic use the same roadways/streets used by residents of the subdivision causing accidents, the Subdivider shall indemnify the City, its officers, its employees and its agents from any and all liability, claims, damages, or injuries to any person or property arising from the Subdivider's actions or actions of his employees, agents, and contractors.

12. All notices to Subdivider may be sent to 1265 Corona Pointe Court,
Suite 105, Corona, California, 92879
or at such other address of which the City shall actually receive notice in writing specifically calling attention to this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first above written.

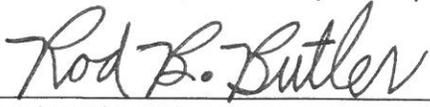
BY  _____

Bryan A. Bergeron, William Lyon Homes, Inc.
Name and Company

BY  _____

Timothy W. McSunas, William Lyon Homes, Inc.
Name and Company

CITY OF UPLAND, a municipal Corporation

BY  _____
Rod Butler, City Manager

BY  _____
Stephanie Mendenhall, City Clerk

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

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

STATE OF CALIFORNIA)
) SS.
COUNTY OF RIVERSIDE)

On May 7, 2015 before me, Marilyn Rainwater, Notary Public, personally appeared, Bryan A. Bergeron and Timothy W. McSunas ----- who proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

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

WITNESS my hand and official Seal.



Signature Marilyn Rainwater
Marilyn Rainwater, Notary Public

(Seal)



PHILADELPHIA INSURANCE COMPANIES

A Member of the Tokio Marine Group

Subdivision Bond
Faithful Performance

Bond No. PB03010401852
Premium \$14,205.00 / Annually

SUBDIVISION BOND

KNOW ALL MEN BY THESE PRESENTS: That William Lyon Homes, Inc. as Principal, and Philadelphia Indemnity Insurance Company, a corporation organized and existing under the laws of the State of Pennsylvania and authorized to transact surety business in the State of California, as Surety are held and firmly bound unto City of Upland in the sum of Two Million Eight Hundred Forty One Thousand and No/100 Dollars. (\$2,841,000.00), for the payment whereof, well and truly to be made, said Principal and Surety bind themselves, their heirs, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH THAT:

WHEREAS the above Named Principal has entered into an agreement, dated 1/19, 2015, with the City of Upland to do and perform the following work, to wit:

Improvements for Orchards Tract 18697

NOW, THEREFORE, if the above-bounden Principal shall well and truly perform the work referred to in such agreement, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, the seal and signature of said Principal is hereto affixed and the corporate seal and the name of the said Surety is hereto affixed and attested by its duly authorized Attorney in Fact at Irvine, California this 16th day of January, 2015.

William Lyon Homes, Inc.
(Principal) (Seal)

By: 

Bryan A. Bergeron
Project Manager
Philadelphia Indemnity Insurance Company
(Surety) (Seal)

By: 
_____ Michelle Haase, Attorney-In-Fact

ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

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

State of California }

County of Orange }

On JAN 16 2015 before me, M. Barreras,
(Here insert name and title of the officer)

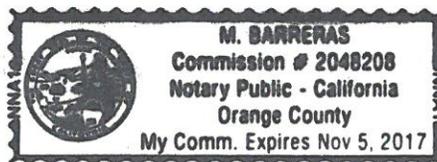
personally appeared Michelle Haase
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that ~~he~~/~~she~~/~~they~~ executed the same in ~~his~~/~~her~~/~~their~~ authorized capacity(~~ies~~) and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

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

WITNESS my hand and official seal.

M. Barreras
Notary Public Signature

(Notary Public Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
- Corporate Officer
- _____ (Title)
- Partner(s)
- Attorney-in-Fact
- Trustee(s)
- Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/~~she~~/~~they~~ - is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

PHILADELPHIA INDEMNITY INSURANCE COMPANY

231 St. Asaph's Rd., Suite 100
Bala Cynwyd, PA 19004-0950

Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS: that PHILADELPHIA INDEMNITY INSURANCE COMPANY (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint: JANINA MONROE, THOMAS G. MCCALL, TIMOTHY J. NOONAN AND MICHELLE HAASE OF LOCKTON COMPANIES, LLC

Its true and lawful Attorney(s) in fact with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed \$25,000,000.00

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PHILADELPHIA INDEMNITY INSURANCE COMPANY at a meeting duly called the 1st day of July, 2011.

RESOLVED: That the Board of Directors hereby authorizes the President or any Vice President of the Company to: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

FURTHER RESOLVED: That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with the respect to any bond or undertaking to which it is attached.

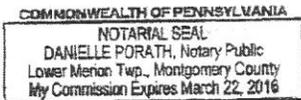
IN TESTIMONY WHEREOF, PHILADELPHIA INDEMNITY INSURANCE COMPANY HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 7TH DAY OF FEBRUARY 2013.



(Seal)

Robert D. O'Leary Jr., President & CEO
Philadelphia Indemnity Insurance Company

On this 7th day of February 2013, before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the PHILADELPHIA INDEMNITY INSURANCE COMPANY; that the seal affixed to said instrument is the Corporate seal of said Company; that the said Corporate Seal and his signature were duly affixed.



Notary Public:

residing at: Bala Cynwyd, PA

(Notary Seal)

My commission expires: March 22, 2016

I, Craig P. Keller, Executive Vice President, Chief Financial Officer and Secretary of PHILADELPHIA INDEMNITY INSURANCE COMPANY, do hereby certify that the foregoing resolution of the Board of Directors and this Power of Attorney issued pursuant thereto are true and correct and are still in full force and effect. I do further certify that Robert D. O'Leary Jr., who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of PHILADELPHIA INDEMNITY INSURANCE COMPANY.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this JAN 16 2015 day of 20



Craig P. Keller, Executive Vice President, Chief Financial Officer & Secretary
PHILADELPHIA INDEMNITY INSURANCE COMPANY



Subdivision Bond
Labor & Material

Bond No. PB03010401852
Premium included in Performance Bond

SUBDIVISION BOND

KNOW ALL MEN BY THESE PRESENTS: That William Lyon Homes, Inc., as Principal, and Philadelphia Indemnity Insurance Company, a corporation organized and existing under the laws of the State of Pennsylvania and authorized to transact surety business in the State of California, as Surety are held and firmly bound unto City of Upland in the sum of One Million Four Hundred Twenty One Thousand and no 00/100 Dollars (\$1,421,000.00), for the payment whereof, well and truly to be made, said Principal and Surety bind themselves, their heirs, administrators, successors and assigns, jointly and severally, firmly by these presents.

The condition of the foregoing obligation is such that, whereas the above-bounden Principal has entered into a contract, dated 1/19, 2015, with the City of Upland to do and perform the following work, to wit:

Improvements for Orchards Tract 18697

NOW, THEREFORE, if the above-bounden Principal shall pay all contractors, subcontractors, laborers, materialmen and other persons employed in the performance of the aforesaid contract, then this obligation shall be void; otherwise to remain in full force and effect.

SIGNED, SEALED, DATED: January 16, 2015

William Lyon Homes, Inc.
(Principal) (Seal)

By: 
Bryan A. Bergeron
Project Manager

Philadelphia Indemnity Insurance Company
(Surety) (Seal)

By: 
Michelle Haase, Attorney-In-Fact

ALL- PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

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

State of California }

County of Orange }

On JAN 16 2015 before me, M. Barreras
(Here insert name and title of the officer)

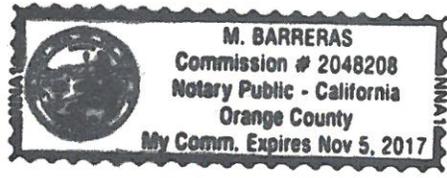
personally appeared Michelle Haase
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that ~~he~~/she/~~they~~ executed the same in ~~his~~/her/~~their~~ authorized capacity(~~ies~~), and that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

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

WITNESS my hand and official seal.

M. Barreras
Notary Public Signature

(Notary Public Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
- Corporate Officer
- _____ (Title)
- Partner(s)
- Attorney-in-Fact
- Trustee(s)
- Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they~~ - is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

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

STATE OF CALIFORNIA)
) SS.
COUNTY OF RIVERSIDE)

On January 19, 2015 before me, Marilyn Rainwater, Notary Public, personally appeared, Bryan A. Bergeron ----- who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official Seal.



Signature Marilyn Rainwater
Marilyn Rainwater, Notary Public

(Seal)

PHILADELPHIA INDEMNITY INSURANCE COMPANY

231 St. Asaph's Rd., Suite 100
Bala Cynwyd, PA 19004-0950

Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS: that PHILADELPHIA INDEMNITY INSURANCE COMPANY (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint: JANINA MONROE, THOMAS G. MCCALL, TIMOTHY J. NOONAN AND MICHELLE HAASE OF LOCKTON COMPANIES, LLC

Its true and lawful Attorney(s) in fact with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed \$25,000,000.00

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PHILADELPHIA INDEMNITY INSURANCE COMPANY at a meeting duly called the 1st day of July, 2011.

RESOLVED: That the Board of Directors hereby authorizes the President or any Vice President of the Company to: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

FURTHER RESOLVED: That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with the respect to any bond or undertaking to which it is attached.

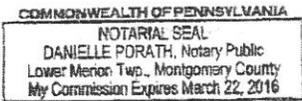
IN TESTIMONY WHEREOF, PHILADELPHIA INDEMNITY INSURANCE COMPANY HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 7TH DAY OF FEBRUARY 2013.



(Seal)

Robert D. O'Leary Jr., President & CEO
Philadelphia Indemnity Insurance Company

On this 7th day of February 2013, before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the PHILADELPHIA INDEMNITY INSURANCE COMPANY; that the seal affixed to said instrument is the Corporate seal of said Company; that the said Corporate Seal and his signature were duly affixed.



Notary Public:

residing at:

Bala Cynwyd, PA

(Notary Seal)

My commission expires:

March 22, 2016

I, Craig P. Keller, Executive Vice President, Chief Financial Officer and Secretary of PHILADELPHIA INDEMNITY INSURANCE COMPANY, do hereby certify that the foregoing resolution of the Board of Directors and this Power of Attorney issued pursuant thereto are true and correct and are still in full force and effect. I do further certify that Robert D. O'Leary Jr., who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of PHILADELPHIA INDEMNITY INSURANCE COMPANY.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this JAN 16 2013 day of 20



Craig P. Keller, Executive Vice President, Chief Financial Officer & Secretary
PHILADELPHIA INDEMNITY INSURANCE COMPANY



STAFF REPORT

ITEM NO. 11.H.

DATE: April 27, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: STEVEN NIX, INTERIM PUBLIC WORKS DIRECTOR
JESUS SANCHEZ, ASSISTANT ENGINEER
SUBJECT: ACCEPTANCE OF PUBLIC AND PRIVATE IMPROVEMENTS FOR TRACT MAP 18249 LOCATED ON THE NORTHEAST CORNER OF MONTE VISTA AVENUE AND 11TH STREET BY KB HOMES

RECOMMENDED ACTION

It is recommended that the City Council accept the public and private improvements for Tract Map 18249 generally located at the northeast corner of Monte Vista Avenue and 11th Street and approve reduction of the Faithful Performance Bond to ten (10%) percent.

GOAL STATEMENT

The proposed action supports the City's goal to adhere to a review schedule for the processing of development proposals in an efficient, professionally responsive and courteous manner.

BACKGROUND

On October 10, 2016, the City Council approved a Final Parcel Map consisting of 125 lots for the development of detached residential single family units. The development is generally located on the northeast corner of Monte Vista Avenue and 11th Street. Council also accepted the Subdivision Improvement Agreement, a Faithful Performance Bond in the amount of \$2,127,000 and a Labor and Materials Bond in the amount of \$1,064,000 for the public improvements, a Faithful Performance Bond in the amount of \$1,552,000 and a Labor and Materials Bond in the amount of \$776,000 for the private improvements, and \$191,800 for survey monument security.

On January 23, 2017, the City Council authorized the City Manager to accept a bond replacement from Lewis Homes to KB Homes for the project due to a change in ownership.

On July 9, 2018, The City Council approved a reduction of the Faithful Performance Bonds to twenty-five (25%) percent for the respective amounts of \$531,750 for public improvements and \$ 388,000 for private improvements.

The project is generally located on the northeast corner of Monte Vista Avenue and 11th Street and was conditioned to construct improvements in the public and private right-of-way including street, sewer, water, storm drain, paving, curb and gutter, curb ramps and sidewalk.

ISSUES/ANALYSIS

KB Homes has completed construction of both the public and private improvements required for the development. The City has inspected the completed public and private improvements and found them to be in compliance with the approved plans.

The City can now accept the public and private improvements, and reduce their Faithful Performance Bonds to ten (10%) percent. This remaining 10% will serve as a guarantee of the work for a period of one year; it will be released thereafter, should there be no labor or material defects.

Similarly, the Labor and Materials Bonds for the private and public improvements will be released six months after project acceptance, if there are no claims (e.g. by vendors, subcontractors, etc.) filed against the project.

FISCAL IMPACTS

There are no fiscal impact associated with this action

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Location Map

TM18249 Subdivision Agreement Public

TM18249 Subdivision Agreement Private

Public and Private Improvement Bonds



LOCATION MAP

SUBDIVISION AGREEMENT

Tract Map Number 18249

THIS AGREEMENT is entered into as of this 10th day of October 2016 by and between SC Baldy View Development Company, LLC (hereinafter referred to as "Subdivider") and the CITY OF UPLAND, a municipal corporation (hereinafter referred to as the "City").

A. Recitals

- (i) The City approved a Tentative Tract Map pursuant to the California Subdivision Map Act as set forth in California Government Code Section 66410 et. seq. ("Map Act") identified as Tentative Tract Number 18249 in the City of Upland, State of California; and
- (ii) Subdivider seeks approval of a Final Map under the Map Act identified as Final Map Number 18249

B. Agreement

It is agreed by and between the parties hereto as follows:

1. In consideration of the City's approval of and filing Tentative Subdivision Tract Map Number 18249 and Final Tract Number 18249, Subdivider undertakes and agrees that it will, at Subdivider's sole cost and expense, design, construct and install all the improvements in accordance with the plans, specifications on file with the City, incorporated herein and made a part hereof, and including all conditions of approval required by the Planning Commission and City Council of the City of Upland.
2. Subdivider also undertakes and agrees upon the same consideration to design, construct and install all improvements in accordance with the ordinances and regulations of the City, and to do all other and further acts required of it pursuant to this Agreement.
3. Subdivider agrees in connection therewith to pay or cause to be paid all amounts becoming due to contractors, subcontractors, and persons renting equipment or furnishing labor or materials to the foregoing Final Tract with respect to such improvements.
4. Subdivider agrees that all such improvements shall be constructed and completed in accordance with the city standards required by the City Engineer. In case of dispute, the good faith judgment of the City Engineer shall be final and binding upon the parties.
5. Subdivider undertakes and agrees that all of the work of improvement shall be completed within three hundred sixty five (365) days from the date of execution of this Agreement.
6. Should Subdivider fail to comply with any of the terms or provisions of this Agreement, Subdivider shall be liable to the City for the reasonable value of any work or improvements not completed or improperly done or performed. In the event of any such failure, the City shall give to Subdivider written notice thereof. Unless the work or improvements covered by said notice, including defective work and improvements, are commenced by Subdivider within fifteen (15) days of the date of said notice and diligently prosecuted to completion, the City may at its option:

a) Collect from Subdivider the reasonable value of the work and improvements not so done and performed by Subdivider, to be measured by the anticipated costs and expenses of completing the same; or

b) The City may complete said work and improvements not so completed by Subdivider and collect its costs and expenses in completing the same; or

c) The City may, as to some of such work and improvements, proceed under remedy (a) above, and as to the remainder, under remedy (b) above.

The City may change any election prior to trial of any lawsuit, and prior thereto no election of remedies shall be binding upon the City. In either event, there shall be included in said "costs and expenses," the reasonable overhead expenses of the City. In addition to the foregoing, Subdivider shall be liable to the City for reasonable attorneys' fees and court costs incurred by the City in enforcing the obligations of Subdivider under this Agreement.

7. All slope banks over three (3) feet in vertical height within said Tract Map shall be landscaped with landscaping approved by the City Engineer. Sprinklers shall be installed on all slopes over three (3) feet in vertical height along arterial streets and shall be of a type and according to a sprinkler plan approved by the City Engineer, with sprinkler turn-ons at the tops of the slopes, and connected with the remainder of the water systems of the lots of which such slopes are a part.

8. Subdivider shall, at its sole cost and expense, secure and furnish to the City, bonds in a form approved by the City, executed by a corporation authorized to transact surety business within the State of California, for the following amounts and purposes:

(a) A bond in the amount of \$ 2,127,000.00 guaranteeing full performance of all the terms of this Agreement, see Performance Bond No. 929627120;

(b) A bond in the amount of \$ 1,064,000.00 securing payment to the contractor, his subcontractor and to persons renting equipment or furnishing labor or materials to them with respect to said public improvements, see Labor and Materials Bond No. 929627120;

(c) A cash deposit in the amount of \$ 191,800.00 securing the setting of monuments.

9. Acceptance of any work or improvements by the City shall not constitute an acknowledgment by the City that the same are properly done or performed, except as to any items or matters readily apparent from an inspection thereof. Except as to such matters so readily apparent, Subdivider shall repair any defects which occur in the work of improvements within a one (1) year period thereof following acceptance by the City.

10. As a condition precedent to the acceptance of the improvements hereunder as being complete and prior to the release of any bonds required under paragraph 8, hereof, securing the faithful performance of Subdivider's obligations hereunder, Subdivider shall give a bond with a corporate bonding company or similar instrument, satisfactory to the City in the amount of \$ 212,700.00 as guarantee and warranty of the work for a one (1) year period following the completion and acceptance thereof against any defective work or labor done, or defective materials furnished.

11. Except as to the sole and exclusive negligence of City, its elected officials, officers agents and employees, Subdivider hereby agrees to indemnify, defend and

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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

State of California)
County of SAN BERNARDINO)

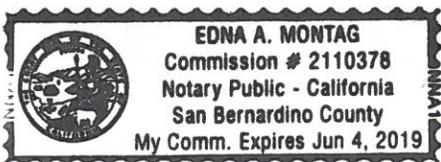
On September 29, 2016, before me, EDNA A. MONTAG, NOTARY PUBLIC,
Date Here Insert Name and Title of the Officer

personally appeared JOHN M. GOODMAN
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



Signature Edna A. Montag
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: SUBDIVISION AGREEMENT Document Date: _____

Number of Pages: 3 Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Corporate Officer — Title(s): _____
- Partner — Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator
- Other: _____

Signer Is Representing: _____

Signer's Name: _____

- Corporate Officer — Title(s): _____
- Partner — Limited General
- Individual Attorney in Fact
- Trustee Guardian or Conservator
- Other: _____

Signer Is Representing: _____

SUBDIVISION AGREEMENT

Tract Map Number 18249

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B. Agreement

It is agreed by and between the parties hereto as follows:

1. In consideration of the City's approval of and filing Tentative Subdivision Tract Map Number 18249 and Final Tract Number 18249, Subdivider undertakes and agrees that it will, at Subdivider's sole cost and expense, design, construct and install all the improvements in accordance with the plans, specifications on file with the City, incorporated herein and made a part hereof, and including all conditions of approval required by the Planning Commission and City Council of the City of Upland.
2. Subdivider also undertakes and agrees upon the same consideration to design, construct and install all improvements in accordance with the ordinances and regulations of the City, and to do all other and further acts required of it pursuant to this Agreement.
3. Subdivider agrees in connection therewith to pay or cause to be paid all amounts becoming due to contractors, subcontractors, and persons renting equipment or furnishing labor or materials to the foregoing Final Tract with respect to such improvements.
4. Subdivider agrees that all such improvements shall be constructed and completed in accordance with the city standards required by the City Engineer. In case of dispute, the good faith judgment of the City Engineer shall be final and binding upon the parties.
5. Subdivider undertakes and agrees that all of the work of improvement shall be completed within three hundred sixty five (365) days from the date of execution of this Agreement.
6. Should Subdivider fail to comply with any of the terms or provisions of this Agreement, Subdivider shall be liable to the City for the reasonable value of any work or improvements not completed or improperly done or performed. In the event of any such failure, the City shall give to Subdivider written notice thereof. Unless the work or improvements covered by said notice, including defective work and improvements, are commenced by Subdivider within fifteen (15) days of the date of said notice and diligently prosecuted to completion, the City may at its option:

a) Collect from Subdivider the reasonable value of the work and improvements not so done and performed by Subdivider, to be measured by the anticipated costs and expenses of completing the same; or

b) The City may complete said work and improvements not so completed by Subdivider and collect its costs and expenses in completing the same; or

c) The City may, as to some of such work and improvements, proceed under remedy (a) above, and as to the remainder, under remedy (b) above.

The City may change any election prior to trial of any lawsuit, and prior thereto no election of remedies shall be binding upon the City. In either event, there shall be included in said "costs and expenses," the reasonable overhead expenses of the City. In addition to the foregoing, Subdivider shall be liable to the City for reasonable attorneys' fees and court costs incurred by the City in enforcing the obligations of Subdivider under this Agreement.

7. All slope banks over three (3) feet in vertical height within said Tract Map shall be landscaped with landscaping approved by the City Engineer. Sprinklers shall be installed on all slopes over three (3) feet in vertical height along arterial streets and shall be of a type and according to a sprinkler plan approved by the City Engineer, with sprinkler turn-ons at the tops of the slopes, and connected with the remainder of the water systems of the lots of which such slopes are a part.

8. Subdivider shall, at its sole cost and expense, secure and furnish to the City, bonds in a form approved by the City, executed by a corporation authorized to transact surety business within the State of California, for the following amounts and purposes:

(a) A bond in the amount of \$ 1,552,000.00 guaranteeing full performance of all the terms of this Agreement, see Performance Bond No. 929627121;

(b) A bond in the amount of \$ 776,000.00 securing payment to the contractor, his subcontractor and to persons renting equipment or furnishing labor or materials to them with respect to said public improvements, see Labor and Materials Bond No. 929627121;

(c) A cash deposit in the amount of \$ N/A securing the setting of monuments.

9. Acceptance of any work or improvements by the City shall not constitute an acknowledgment by the City that the same are properly done or performed, except as to any items or matters readily apparent from an inspection thereof. Except as to such matters so readily apparent, Subdivider shall repair any defects which occur in the work of improvements within a one (1) year period thereof following acceptance by the City.

10. As a condition precedent to the acceptance of the improvements hereunder as being complete and prior to the release of any bonds required under paragraph 8, hereof, securing the faithful performance of Subdivider's obligations hereunder, Subdivider shall give a bond with a corporate bonding company or similar instrument, satisfactory to the City in the amount of \$ 155,200.00 as guarantee and warranty of the work for a one (1) year period following the completion and acceptance thereof against any defective work or labor done, or defective materials furnished.

11. Except as to the sole and exclusive negligence of City, its elected officials, officers agents and employees, Subdivider hereby agrees to indemnify, defend and

hold harmless, the City, its elected officials, officers, agents and employees from and against any and all claims, demands, suits, actions or proceedings of any kind or nature, including, but not by way of limitation, all civil claims, workers' compensation claims, costs, expenses or damages to property or injuries to or death of any person or persons, including attorneys fees and all other claims, whether groundless or not, arising out of or related to the acts, errors or omissions of Subdivider, its officers, agents, employees, consultants, subcontractors or other persons, companies or other entities using roadways/streets of the subdivision, performing labor, transporting and/or supplying material, designing, constructing or installing the improvements contemplated in this Subdivision Agreement. Where the Subdivider divides the project in phases and or allows construction vehicles or construction traffic use the same roadways/streets used by residents of the subdivision causing accidents, the Subdivider shall indemnify the City, its officers, its employees and its agents from any and all liability, claims, damages, or injuries to any person or property arising from the Subdivider's actions or actions of his employees, agents, and contractors.

12. All notices to Subdivider may be sent to 1156 North Mountain Ave. Upland, California, 91786 or at such other address of which the City shall actually receive notice in writing specifically calling attention to this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first above written.

SC BALDY VIEW DEVELOPMENT COMPANY, LLC,
a Delaware limited liability company
BY LEWIS MANAGEMENT CORP.,
a Delaware corporation - Its Sole Manager

DATE: September 29, 2016

BY *John M. Goodman*
John M. Goodman, Authorized Agent

CITY OF UPLAND, a municipal Corporation

BY _____
Martin Thouvenell, Interim City Manager

ATTEST _____
Jeannette Vagnozzi, City Clerk

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

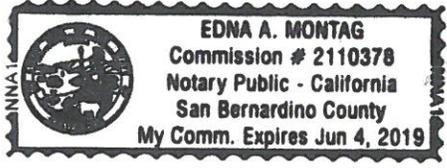
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of SAN BERNARDINO)
On September 29, 2016, before me, EDNA A. MONTAG, NOTARY PUBLIC,
Date Here Insert Name and Title of the Officer
personally appeared JOHN M. GOODMAN
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



Signature Edna A. Montag
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: SUBDIVISION AGREEMENT Document Date: _____
Number of Pages: 3 Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

SUBDIVISION PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That **KB Home California LLC**, as Principal and **The Continental Insurance Company**, a corporation licensed to transact surety business in the California, as Surety, are held and firmly bound unto the **City of Upland** as obligee, in the penal sum of **Two Million One Hundred Twenty Seven Thousand and 00/100 Dollars (\$2,127,000.00)**, for the payment of which sum well and truly to made, we bind ourselves, our heirs, executors, successors and assigns, jointly and severally by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas said Principal, the owner of a tract of land representing a subdivision entitled **Harvest Tract 18249**

, and

WHEREAS, the map of said tract on which Principal desires to construct

Public Improvements – Sewer, Water, Drainage Improvements

hereinafter referred to as improvements, and petition the obligee to accept the improvements, and

WHEREAS, said obligee requires a bond conditioned for the improvements of said tract, and

WHEREAS, the Principal proposes at its own cost and expense to improve said tract within the limits of said subdivision.

NOW, THEREFORE, if the said Principal shall well and truly cause said improvements, as herein before specified, within the limits of said subdivision to be improved, then this obligation shall cease and be void, otherwise it shall remain in full force and effect, and the Surety on this bond binds itself to said Obligee, to the amount on the herein above stated penal sum, that said improvements shall be completed in accordance with the agreement between Principal and Obligee.

IN WITNESS WHEREOF, said Principal has hereunto set its hands and seals, and said Surety has caused these presents to be executed by its officers thereunto authorized this 27th day of May 2016.

KB Home California LLC

By: _____

John V. Mills Sr. Principal Mgr
(Name & Title)

The Continental Insurance Company

By: _____

Brenda Wong
Brenda Wong, Attorney-in-Fact

SUBDIVISION LABOR AND MATERIAL BOND

KNOW ALL MEN BY THESE PRESENTS:

That **KB Home California LLC**, as Principal and **The Continental Insurance Company**, a corporation licensed to transact surety business in the State of California, as Surety, are held and firmly bound unto the **City of Upland**, as obligee, in the penal sum of **One Million Sixty Four Thousand and 00/100 Dollars (\$1,064,000.00)**, for the payment of which sum well and truly to made, we bind ourselves, our heirs, executors, successors and assigns, jointly and severally by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas said Principal, the owner of a tract of land representing a subdivision entitled **Harvest Tract 18249**

, and

WHEREAS, the tract on which Principal desires to construct

Public Improvements – Sewer, Water, Drainage Improvements

hereinafter referred to as improvements, and petition the obligee to accept the improvements, and

WHEREAS, said obligee requires a bond conditioned for the payment of labor and material as herein provided.

NOW, THEREFORE, if the said Principal shall pay for any materials, provisions, provender or for any work or labor done thereon of any kind, in, on or about the construction of the public improvements or performance of the work to be done in, on or about the above tract then this obligation shall be void; otherwise it shall remain in full force and effect.

NO SUIT, action or proceeding to recover on this bond shall be sustained unless the same be commenced within six (6) months from the completion of said structure or work of improvement.

IN WITNESS WHEREOF, said Principal has hereunto set its hands and seals, and said Surety has caused these presents to be executed by its officers thereunto authorized this 27th day of May 2016.

KB Home California LLC

By: John Wilton Sr. Project Mgr.
(Name & Title)

The Continental Insurance Company

By: Brenda Wong
Brenda Wong, Attorney-in-Fact

SUBDIVISION PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That **KB Home California LLC**, as Principal and **The Continental Insurance Company**, a corporation licensed to transact surety business in the **California**, as Surety, are held and firmly bound unto the **City of Upland** as obligee, in the penal sum of **One Million Five Hundred Fifty Two Thousand and 00/100 Dollars (\$1,552,000.00)**, for the payment of which sum well and truly to made, we bind ourselves, our heirs, executors, successors and assigns, jointly and severally by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas said Principal, the owner of a tract of land representing a subdivision entitled **Harvest Tract 18249**

, and

WHEREAS, the map of said tract on which Principal desires to construct

Private Improvements – Streets, Drainage, Traffic Improvements

hereinafter referred to as improvements, and petition the obligee to accept the improvements, and

WHEREAS, said obligee requires a bond conditioned for the improvements of said tract, and

WHEREAS, the Principal proposes at its own cost and expense to improve said tract within the limits of said subdivision.

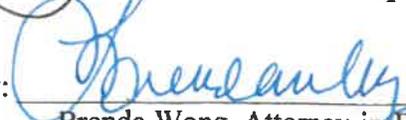
NOW, THEREFORE, if the said Principal shall well and truly cause said improvements, as herein before specified, within the limits of said subdivision to be improved, then this obligation shall cease and be void, otherwise it shall remain in full force and effect, and the Surety on this bond binds itself to said Obligee, to the amount on the herein above stated penal sum, that said improvements shall be completed in accordance with the agreement between Principal and Obligee.

IN WITNESS WHEREOF, said Principal has hereunto set its hands and seals, and said Surety has caused these presents to be executed by its officers thereunto authorized this 27th day of May 2016.

KB Home California LLC

By:  
John Miller (Name & Title)

The Continental Insurance Company

By: 
Brenda Wong, Attorney-in-Fact

SUBDIVISION LABOR AND MATERIAL BOND

KNOW ALL MEN BY THESE PRESENTS:

That **KB Home California LLC**, as Principal and **The Continental Insurance Company**, a corporation licensed to transact surety business in the **State of California**, as Surety, are held and firmly bound unto the **City of Upland**, as obligee, in the penal sum of **Seven Hundred Seventy Six Thousand and 00/100 Dollars (\$776,000.00)**, for the payment of which sum well and truly to made, we bind ourselves, our heirs, executors, successors and assigns, jointly and severally by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas said Principal, the owner of a tract of land representing a subdivision entitled **Harvest Tract 18249**

, and

WHEREAS, the tract on which Principal desires to construct

Private Improvements – Streets, Drainage, Traffic Improvements

hereinafter referred to as improvements, and petition the obligee to accept the improvements, and

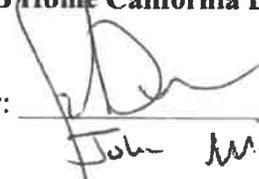
WHEREAS, said obligee requires a bond conditioned for the payment of labor and material as herein provided.

NOW, THEREFORE, if the said Principal shall pay for any materials, provisions, provender or for any work or labor done thereon of any kind, in, on or about the construction of the public improvements or performance of the work to be done in, on or about the above tract then this obligation shall be void; otherwise it shall remain in full force and effect.

NO SUIT, action or proceeding to recover on this bond shall be sustained unless the same be commenced within six (6) months from the completion of said structure or work of improvement.

IN WITNESS WHEREOF, said Principal has hereunto set its hands and seals, and said Surety has caused these presents to be executed by its officers thereunto authorized this 27th day of May 2016.

KB Home California LLC

By:  John Wiloy Sr. Project Mgr
(Name & Title)

The Continental Insurance Company

By:  Brenda Wong, Attorney-in-Fact



STAFF REPORT

ITEM NO. 11.I.

DATE: April 27, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: STEVEN NIX, INTERIM PUBLIC WORKS DIRECTOR
JESUS SANCHEZ, ASSISTANT ENGINEER
SUBJECT: ACCEPTANCE OF IMPROVEMENTS FOR ARROW VISTA VILLAGE,
LLC AND REDUCTION OF CASH SURETY

RECOMMENDED ACTION

It is recommended that the City Council accept the public improvements related to the Arrow Vista Village project, generally located on the southeast corner of Monte Vista Avenue and Arrow Route; and approve a reduction of the cash surety to fifty percent (50%).

GOAL STATEMENT

The proposed action supports the City's goal to adhere to a review schedule for the processing of development matters in an efficient, professionally responsive, and courteous manner.

BACKGROUND

On August 9, 2017, the Planning Commission approved CUP 16-26 for Arrow Vista Village, LLC for the construction of 44 apartment units on the southeast corner of Monte Vista Avenue and Arrow Route under Resolution No. 4861. This resolution also required that the Developer execute a Subdivision Improvement Agreement and provide an improvement security in the amount of \$338,883.60 to guarantee completion of all required improvements.

ISSUES/ANALYSIS

Arrow Vista Village, LLC has completed construction of all public and private improvements required by the development. The City has inspected the completed improvements and found them to be in compliance with the approved plans.

With the acceptance of the improvements, the City can reduce the amount of the cash security to \$169,441.80 or fifty (50%) percent. This \$169,441.80 must be retained for a period of six (6) months from the date of this action to ensure that no labor and material claims have been filed after which an additional \$84,720.90 or twenty-five (25%) percent will be released. The remaining \$84,720.90 will be held an additional six (6) months until such time that the overall twelve (12) month warrantee period is complete. The warrantee period shall conclude on or about April 27, 2021.

FISCAL IMPACTS

None

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Location Map

Subdivision Agreement

Figure 1 – Project Location



SUBDIVISION AGREEMENT

2398 W. Arrow Route
Upland, CA 91786

Tract Map Number _____

THIS AGREEMENT is entered into as of this 12th day of September 2018 by and between Arrow Vista Village, LLC (hereinafter referred to as "Subdivider") and the CITY OF UPLAND, a municipal corporation (hereinafter referred to as the "City").

A. Recitals

- (i) The City approved a Tentative Tract Map pursuant to the California Subdivision Map Act as set forth in California Government Code Section 66410 et. seq. ("Map Act") identified as Tentative Tract Number _____ in the City of Upland, State of California; and
- (ii) Subdivider seeks approval of a Final Map under the Map Act identified as Final Map Number _____

B. Agreement

It is agreed by and between the parties hereto as follows:

1. In consideration of the City's approval of and filing Tentative Subdivision Tract Map Number _____ and Final Tract Number _____, Subdivider undertakes and agrees that it will, at Subdivider's sole cost and expense, design, construct and install all the improvements in accordance with the plans, specifications on file with the City, incorporated herein and made a part hereof, and including all conditions of approval required by the Planning Commission and City Council of the City of Upland.
2. Subdivider also undertakes and agrees upon the same consideration to design, construct and install all improvements in accordance with the ordinances and regulations of the City, and to do all other and further acts required of it pursuant to this Agreement.
3. Subdivider agrees in connection therewith to pay or cause to be paid all amounts becoming due to contractors, subcontractors, and persons renting equipment or furnishing labor or materials to the foregoing Final Tract with respect to such improvements.
4. Subdivider agrees that all such improvements shall be constructed and completed in accordance with the city standards required by the City Engineer. In case of dispute, the good faith judgment of the City Engineer shall be final and binding upon the parties.
5. Subdivider undertakes and agrees that all of the work of improvement shall be completed within three hundred sixty five (365) days from the date of execution of this Agreement.
6. Should Subdivider fail to comply with any of the terms or provisions of this Agreement, Subdivider shall be liable to the City for the reasonable value of any work or improvements not completed or improperly done or performed. In the event of any such failure, the City shall give to Subdivider written notice thereof. Unless the work or improvements covered by said notice, including defective work and improvements, are commenced by Subdivider within fifteen (15) days of the date of said notice and diligently prosecuted to completion, the City may at its option:

2398 W.
Arrow
Route,
Upland
CA, 91786

a) Collect from Subdivider the reasonable value of the work and improvements not so done and performed by Subdivider, to be measured by the anticipated costs and expenses of completing the same; or

b) The City may complete said work and improvements not so completed by Subdivider and collect its costs and expenses in completing the same; or

c) The City may, as to some of such work and improvements, proceed under remedy (a) above, and as to the remainder, under remedy (b) above.

The City may change any election prior to trial of any lawsuit, and prior thereto no election of remedies shall be binding upon the City. In either event, there shall be included in said "costs and expenses," the reasonable overhead expenses of the City. In addition to the foregoing, Subdivider shall be liable to the City for reasonable attorneys' fees and court costs incurred by the City in enforcing the obligations of Subdivider under this Agreement.

7. All slope banks over three (3) feet in vertical height within said Tract Map shall be landscaped with landscaping approved by the City Engineer. Sprinklers shall be installed on all slopes over three (3) feet in vertical height along arterial streets and shall be of a type and according to a sprinkler plan approved by the City Engineer, with sprinkler turn-ons at the tops of the slopes, and connected with the remainder of the water systems of the lots of which such slopes are a part.

8. Subdivider shall, at its sole cost and expense, secure and furnish to the City, bonds in a form approved by the City, executed by a corporation authorized to transact surety business within the State of California, for the following amounts and purposes:

(a) A ~~bond~~ ^{cash surety} in the amount of \$ 338,883.60 guaranteeing full performance of all the terms of this Agreement, see Performance Bond No. Cash;

(b) A ~~bond~~ in the amount of \$ 338,883.60 securing payment to the contractor, his subcontractor and to persons renting equipment or furnishing labor or materials to them with respect to said public improvements, see Labor and Materials Bond No. Cash;

(c) A cash deposit in the amount of \$ securing the setting of monuments.

9. Acceptance of any work or improvements by the City shall not constitute an acknowledgment by the City that the same are properly done or performed, except as to any items or matters readily apparent from an inspection thereof. Except as to such matters so readily apparent, Subdivider shall repair any defects which occur in the work of improvements within a one (1) year period thereof following acceptance by the City.

10. As a condition precedent to the acceptance of the improvements hereunder as being complete and prior to the release of any bonds required under paragraph 8, hereof, securing the faithful performance of Subdivider's obligations hereunder, Subdivider shall give a bond with a corporate bonding company or similar instrument, satisfactory to the City in the amount of \$ 33,888.35 as guarantee and warranty of the work for a one (1) year period following the completion and acceptance thereof against any defective work or labor done, or defective materials furnished.

11. Except as to the sole and exclusive negligence of City, its elected officials, officers agents and employees, Subdivider hereby agrees to indemnify, defend and hold harmless, the City, its elected officials, officers, agents and employees from and against any and all claims, demands, suits, actions or proceedings of any kind or nature, including, but not by way of limitation, all civil claims, workers' compensation claims, costs, expenses or damages to property or injuries to or death of any person or persons, including attorneys fees and all other claims, whether groundless or not, arising out of or related to the acts, errors or omissions of Subdivider, its officers, agents, employees, consultants, subcontractors or other persons, companies or other entities using roadways/streets of the subdivision, performing labor, transporting and/or supplying material, designing, constructing or installing the improvements contemplated in this Subdivision Agreement. Where the Subdivider divides the project in phases and or allows construction vehicles or construction traffic use the same roadways/streets used by residents of the subdivision causing accidents, the Subdivider shall indemnify the City, its officers, its employees and its agents from any and all liability, claims, damages, or injuries to any person or property arising from the Subdivider's actions or actions of his employees, agents, and contractors.

12. All notices to Subdivider may be sent to _____, California, _____ or at such other address of which the City shall actually receive notice in writing specifically calling attention to this Agreement.

2520. N. Santiago Blvd
Orange, CA 92867

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first above written.

BY C. J. Felix
Arrow Villa Village, LLC.
Name and Company

BY _____

Name and Company

CITY OF UPLAND, a municipal Corporation

BY _____
City Manager

BY _____
City Clerk

ACKNOWLEDGMENT

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

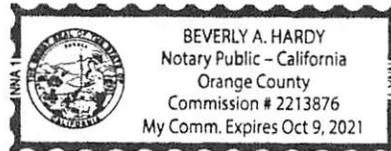
State of California
County of Orange)

On September 12, 2018 before me, Beverly A. Hardy, Notary Public
(insert name and title of the officer)

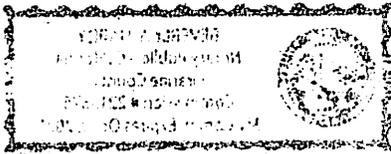
personally appeared C.J. Felix,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their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

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

WITNESS my hand and official seal.



Signature Beverly Hardy (Seal)





STAFF REPORT

ITEM NO. 11.J.

DATE: April 27, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: STEVEN NIX, INTERIM PUBLIC WORKS DIRECTOR
SUBJECT: SECOND AMENDMENT TO THE WATERSHARE ASSIGNMENT AND USE AGREEMENT WITH UPLAND HILLS COUNTRY CLUB

RECOMMENDED ACTION

It is recommended that the City Council approve the Second Amendment to the Watershare Assignment and Use Agreement with Upland Hills Country Club; and authorize the City Manager to execute the agreement.

GOAL STATEMENT

The proposed action supports the City's goal to optimize the use of local water resources, to achieve water supply reliability, and promote water conservation.

BACKGROUND

On May 10, 2010 the City entered into the original Watershare Assignment and Use Agreement with the Upland Hills Country Club (UHCC). On September 10, 2012 the City entered into the First Amendment to the Water Share Assignment and Use Agreement. Upland Hills Country Club owns 173.5 shares of San Antonio Water Company (SAW Co.) water stock. This assignment agreement allows the City to use the UHCC SAW Co. water entitlement for City potable water supply purposes and it also encourages the UHCC to use available recycled water for its landscape irrigation at a discounted rate.

This agreement expires May 10, 2020. The UHCC notified the City of its desire for an extension to the agreement and consideration of some changed conditions. The second amendment to the agreement provides for an additional five years and an option, if mutually agreeable, for one additional five year extension.

ISSUES/ANALYSIS

Optimizing the use of recycled water and local water supply for the highest and best use benefits the City especially during times of drought or reduced imported water supplies. Increasing local supply water is very beneficial to the City and its customers especially during a drought or emergency water shortage. Additionally, since the uses of recycled water are currently limited and are not allowed for potable purposes, the use of recycled water supplies is a good solution for large landscape irrigation areas like the golf course. During dry periods, recycled water is still available for landscaping uses when drinking water supplies are typically regulatorily restricted. Thus, this is a benefit to the golf course operation.

FISCAL IMPACTS

The second amendment continues to provide recycled water to UHCC at ninety percent of the adopted SAW Co. Tier 1 rate. It also shifts the recently adopted SAW Co. Water Supply Availability Charges to the City, unless UHCC uses more than five (5%) percent of their monthly SAW Co. water allocation to flush their greens. UHCC has not used any SAW Co. water since September 2018 to flush their greens. The assignment provides the City the ability to use 173.5 shares of SAW Co. water or 114.79 million gallons of water per year (352.3 Acre-feet/year) for drinking water purposes based on the current entitlement. In 2019 the City used 100 percent of its SAW Co. entitlement water including the assigned shares provided under this agreement.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Second Amendment to the Watershare Assignment and Use Agreement

Letter to UHCC RE: Second Amendment dated 4-6-2020

First Amendment to the Watershare Assignment and Use Agreement, 9-10-2012

Watershare Assignment and Use Agreement, 5-10-2010

**SECOND AMENDMENT TO
WATERSHARE ASSIGNMENT AND USE AGREEMENT**

This second amendment to Watershare Assignment and Use Agreement (“the Agreement” hereinafter) is made by and between the City of Upland (“City”), a California municipal corporation, and the Upland Hills Country Club (“Shareholder”), effective _____, 2020, with reference to the following:

A. Recitals.

(i) City and Shareholder previously entered into the Agreement, dated May 10, 2010, for a mutually beneficial use of Shareholder’s shares in the San Antonio Water Company (“Company”).

(ii) Shareholder agreed to assign an unconditional right of use and permit the City to use Shareholder’s ownership of 173.5 shares in the Company. The City, in consideration of Shareholder’s assignment, agreed to deliver recycled water to Shareholder at the rate equal to 90% of the Tier 1 rate charged by the Company.

(iii) Shareholder’s ownership in the Company entitles Shareholder to approximately 2,951 hundred cubic feet per week of usage at the Company’s Tier 1 rate.

(iv) Shareholder is interested in maintaining access to the Company’s water supplies to blend with the City’s recycled water supplies, if so needed, for golf course irrigation purposes.

(v) On September 10, 2012, the parties entered into the First Amendment to the Agreement (“the First Amendment” hereinafter).

(vi) The parties now wish to enter into the Second Amendment in order to extend the term thereof and to establish terms concerning supply and price of water to be delivered hereunder.

B. Second Amendment.

NOW, THEREFORE, it hereby is agreed by the parties hereto as follows:

1. Paragraph 3 of the First Amendment hereby is amended to read as follows:

“3. City shall (a) assume responsibility for payment of the Water Supply Availability Charges adopted by the Company and chargeable to Shareholder only if the Shareholder does not use more than 5% of the Company Water Supply a month (590 hundred cubic feet per month), (b) provide a monthly Tier 1 water allocation from Company in the aggregate annual entitlement divided by 12 months (effective 1/1/2020; 11,805 hundred cubic feet per month) and the monthly water use shall be equal to the amount of Company irrigation water and recycled water used, (c) charge the amount of Company water supplied at the then current Company rate and (d) charge Shareholder for its recycled water at 90% of the adopted Tier 1 Company rate, provided that the Shareholder’s aggregate water

use above its Tier 1 monthly entitlement, but less than two times the Company entitlement, shall be charged at the Company's adopted Tier 2 rate and water use above two times the monthly Company entitlement shall be charged at the Company's adopted Tier 3 rates.

2. Paragraph 7.b.1 of the Agreement hereby is amended to read as follows:

"1. The term of this Agreement shall be for an initial term of fifteen (15) years and during the initial fifteen (15) year there is no right of revocation, cancellation or alteration of this Agreement unless a Party seeks to do so based on a material breach of this agreement."

3. The first sentence of 7.b.2 of the Agreement hereby is amended to read as follows:

"2. Commencing on the first day of the sixteenth (16th) year of the term hereof, Shareholder may, subject to the following notice requirements, terminate this Agreement without such termination being based on a material breach of this Agreement by City. The parties may mutually agree in writing for an additional five year extension to the term."

4. The first sentence of Paragraph 10. of this Agreement hereby is amended to read as follows:

"10. In the event of a violation of any Shareholder's obligations set forth herein, subject to the provisions of Paragraph 7.b.1 hereof, the City shall be entitled to all remedies at law or equity that may be available to it, including the right to terminate this Agreement, the right to seek an injunction against any violation hereof, the right to seek an injunction prohibiting the use or occupancy of the recycled water system, an action for specific performance or an action for damages."

5. Other than as amended hereby, the Agreement as amended by the First Amendment and each and every term and provision thereof shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this Second Amendment as of the day and year first above written.

CITY OF UPLAND

Rosemary Hoerning, City Manager

Attest:

Keri Johnson, City Clerk

Approved as to form:

City Attorney

UPLAND HILLS COUNTRY CLUB

By:

Name:

Title:

By:

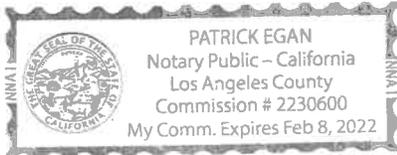
Name:

Title:

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

State of California, County of Los Angeles
Subscribed and sworn to (or affirmed) before me
on this 8th day of April, 2020
by Christopher Kim
personally known to me or proved to me on the
basis of satisfactory evidence to be the person(s)
who appeared before me.

Signature:





City Manager's Office
Telephone (909) 931-4106
Facsimile (909) 931-4301

April 6, 2020

Val Munson
Upland Hills Country Club
1231 E. 16th Street
Upland, CA. 91784-2450

Re: Second Amendment to the SAW Co. Water Lease Agreement

Dear Mr. Munson:

Per our discussion, I have been working with Richard Avent to develop the second amendment to the agreement dated May 10, 2010 to allow the Upland Hills Country Club Golf Course the ability to use recycled water at a reduced landscape rate in exchange for the City of Upland being able to use the SAW Co. water share entitlement water.

The Second Amendment provides for the following:

A minimum five year extension of the lease agreement, with the option for an additional five year extension with written consent of the parties.

The City will assume the SAW Co. Water Availability Monthly Per Share Charge provided the golf course does not exceed 590 hundred cubic feet of SAW Co water in a month period to encourage use of the recycled water.

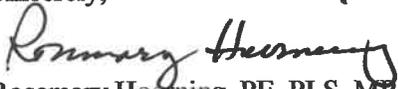
The monthly water allocation is 11,805 hundred cubic feet (8.8 million gallons) charged at 90% the SAW Co adopted Tier 1 rate use rate. Water above the monthly allocation but below two times the monthly allocation will be charged at the SAW Co adopted Tier 2 rate, and water use above two times the monthly allocation will be charged at the SAW Co adopted Tier 3.

Lastly, if either party breaches the contract, each party may take the necessary remedies, including legal remedies, to correct the violation.

I have include SAW Co. Shareholder Lease Policy for your reference. Please execute and notarize two original copies of the agreement and return it to me by April 13, 2020. I anticipate taking this to City Council for their review and consideration on their regularly scheduled meeting of April 27, 2020.

Thank you for your time and attention to this matter.

Sincerely,


Rosemary Hoerning, PE, PLS, MPA
City Manager

cc: Richard Avent, Upland Hill Country Club Facilitator

**FIRST AMENDMENT TO THE
WATERSHARE ASSIGNMENT AND USE AGREEMENT**

This first amendment to Watershare Assignment and Use Agreement (the "First Amendment"), dated as of September 10, 2012, is made by and between the City of Upland ("City"), a California municipal corporation, and the Upland Hills Country Club ("Shareholder"), with reference to the following:

RECITALS:

WHEREAS, the City and Shareholder previously entered into the Watershare Assignment and Use Agreement, dated May 10, 2010, for a mutually beneficial use of Shareholder's shares in the San Antonio Water Company ("Company"); and

WHEREAS, Shareholder agreed to assign an unconditional right of use and permit the City to use Shareholder's ownership of 173.5 shares in the Company. The City, in consideration of Shareholder's assignment, agreed to deliver recycled water to Shareholder at the rate equal to ninety percent (90%) of the Tier 1 rate charged by the Company; and

WHEREAS, Shareholder's ownership in the Company entitles Shareholder to approximately 3,770 Hundred Cubic Feet per week of usage at the Company's Tier 1 rate; and

WHEREAS, Shareholder is interested in maintaining access to the Company's water supplies to blend with the City's recycled water supplies, if so needed, for golf course irrigation purpose.

NOW, THEREFORE, it is hereby agreed by and between the parties hereto as follows:

1. Recitals. The foregoing Recitals are incorporated herein by this reference.
2. Water Usage. Shareholder shall be entitled to have access to a volume of water supplied by the Company for the purpose of using it as part of irrigation supply.
3. Usage Cost. The cost of said water shall be in accordance with the Company's adopted Tier 1 and Tier 2 rate structure, in which water usage occurred in any month not greater than one week worth of water entitlement shall be subject to Tier 1 rate and usage in excess shall be subject to Tier 2 rate.
4. Service Fees. Other water service fees pertaining to the use of water supplied by the Company, including the Readiness to Serve Charge, shall be applied, if applicable, in accordance with the Company's adopted rate structure.
5. Payment. Payment for use of said water and service will be billed by the City, in accordance with the City's billing requirements, including late charges and turn-on/off fees as adopted by the City, and shall be made payable to the City.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment as of the date set forth above.

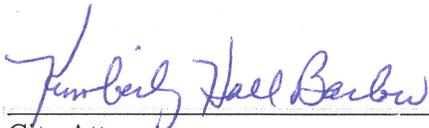
CITY OF UPLAND


Stephen Dunn, City Manager

Attest:

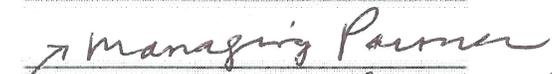

Stephanie A. Mendenhall, City Clerk

Approved as to form:

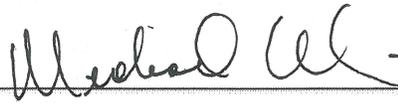

City Attorney

UPLAND HILLS COUNTRY CLUB

By: 

Name:  managing Partner

Title:  C. Christopher Kim

By: 

Name: MICHAEL WINN

Title: G. M.

WATERSHARE ASSIGNMENT AND USE AGREEMENT

The City of Upland, California ("City") and the Upland Hills Country Club ("Shareholder") have entered into this Watershare Assignment and Use Agreement ("Agreement"), effective for all purposes, this 10th day of May, 2010. The consideration, terms and conditions controlling this Agreement are as set forth hereafter.

1. Intent of the Parties.

City and Shareholder have entered into a separate agreement for the provision, by City, of recycled water to Shareholder, for Shareholder's beneficial use on Shareholder's real property located in the City of Upland. The subject real property is addressed as 1231 E. 16th Street, Upland, CA 91784. In furtherance of that separate agreement the Parties want to presently commence a mutually beneficial, separate relationship whereby Shareholder allocates an unconditional right of use, delivery and permitted reuse to City of Shareholder's shares in the San Antonio Water Company, while remaining otherwise responsible for all tolls, charges, interest, costs or penalties relating to Shareholder's shares as is set forth in Section 10.09 of the Amended and Restated Bylaws of San Antonio Water Company as in effect January 13, 1992 ("Bylaws").

In consideration of Shareholder's assignment of shares in the San Antonio Water Company City shall, by any lawful means, ensure the sum paid by Shareholder for the recycled water to be delivered to Shareholder shall not exceed an amount equal to a sum equal to ninety percent (90%) of the then current Tier 1 rate charged by the San Antonio Water Company. The City may accomplish the controlled recycled water rate by any lawful means, including, but not limited to, a monthly payment to Shareholder or a reduction in the rate charged to Shareholder. The City's obligation to provide consideration to Shareholder, and Shareholder's obligation to subject its shares in the San Antonio Water Company to City's dominion and control shall terminate, without further action by City or Shareholder, if and when Shareholder's ownership of San Antonio Water shares is less than 173.5 shares. Upon termination City shall cease ensuring Shareholder's rate for recycled water is at ninety percent (90%) of the San Antonio Water Company's Tier 1 rate and Shareholder shall pay the rate established by the City in the separate agreement.

2. Representations and Warranties of City.

The following representations and warranties are offered by City with the expectation Shareholder will rely upon them:

- a. City is a shareholder, in good standing, in San Antonio Water Company and is subject, in that capacity, to the Bylaws.
- b. City is a general law city and operates its own water utility department.
- c. City is authorized to enter into this Agreement.

4/2/2010
RE

3. Representations and Warranties of Shareholder.

The following representations and warranties are offered by Shareholder with the expectation City will rely upon them:

- a. Shareholder is a shareholder, in good standing, in San Antonio Water Company and is subject, in that capacity, to the Bylaws.
- b. Shareholder is Upland Hills Country Club and has the legal authority to enter into this Agreement.
- c. There are no contracts, servitudes, loans, deeds, limitations, covenants or other binding and enforceable promises that in any manner, directly or indirectly, limit or conditions Shareholder's use, transfer or assignment of its 173.5 shares in the San Antonio Water Company except for the Bylaws.
- d. Shareholder has lawfully accomplished all condition precedents that are lawfully required in order to execute this Agreement as a binding and enforceable obligation of Shareholder for the benefit of City and Shareholder has, subject to all conditions precedents imposed on Shareholder, duly authorized the persons signing this Agreement on behalf of Shareholder to execute this Agreement and bind Shareholder the duties and obligations set forth herein in this Agreement.

4. Bylaws of the San Antonio Water Company.

City and Shareholder agree that the Bylaws of San Antonio Water Company, as in effect January 13, 1992 are in full force and effect and that each party hereto shall act in the manner required by the Bylaws so as to ensure the regular and customary delivery and use of the water due under the record ownership by Shareholder of the 173.5 shares held by Shareholder. Other than City's right to direct the delivery and use of the water due pursuant to Shareholder's record ownership of the subject 173.5 shares, Shareholder shall remain solely responsible for all duties, obligations and payments, if any imposed upon Shareholder by the Bylaws, including, but not limited to the obligation imposed by Section 10.09 of the Bylaws.

5. City's rights under this Agreement.

City, by and through its City Manager or his designee, which designee may be changed from time to time, shall provide written direction to Shareholder as regards the point or points of delivery of the water that is due Shareholder as and pursuant to Shareholder's record ownership of 173.5 shares of San Antonio Water Company stock. Shareholder shall immediately direct San Antonio Water Company to deliver the water as directed by City. Shareholder agrees that the City may, from time to time, and without condition or limitation, direct Shareholder to request San Antonio Water Company change the point or points of delivery to City.

6. Consideration from City to Shareholder.

City agrees that as consideration for Shareholder's assignment of its shares in San Antonio Water Company, it shall ensure that the amount Shareholder pays for recycled water from City shall, during the term of this Agreement, not exceed, on an annual basis, an amount equal to ninety

percent (90%) of the then applicable Tier 1 water rate charged by San Antonio Water Company. City may utilize any lawful means to accomplish this rate, including, but not limited to, providing regular payments to Shareholder in an amount necessary to achieve the ninety percent (90%) of the San Antonio Water Company Tier 1 rate or by reducing the amount due to City from Shareholder for any fee or payment. Shareholder and City agree to promptly provide any accountings, audits, reviews or proofs necessary to ensure the proper payments are achieved as required by this Agreement.

7. City's use and management of Shareholder's shares.

a. General provisions

Shareholder has represented and warranted to City that Shareholder is record owner of 173.5 shares of stock in the San Antonio Water Company, is in good standing with San Antonio Water Company as regards its shares and has not encumbered the 173.5 shares in any manner that will conflict with or limit Shareholder's ability to deliver, without charge or cost except as set forth in this Agreement, the water available pursuant to the shares, to City.

In consideration of the terms, conditions, duties and obligations arising under this Agreement Shareholder agrees to and hereby immediately, upon its execution of this Agreement, grants sole management, control, right of use and right to receive the full annual amount of water due the record owner of the 173.5 shares of San Antonio Water Company stock to City.

Shareholder shall not, during the term of this Agreement, cause itself or, as a result of any cause, be the record owner of less than 173.5 shares of stock in San Antonio Water Company or cause the City to receive any reduction in the amount of water due from San Antonio Water Company as would be due a record owner of 173.5 shares in that company.

b. Term

1. The term of this Agreement shall be for an initial term of ten (10) years and during the initial ten (10) year term there is no right of revocation, cancellation or alteration of this Agreement, without such being a material breach subjecting the City to damages.

2. Commencing at the first day of the eleventh (11th) year of this Agreement's term, Shareholder may, subject to the following notice requirements, terminate this Agreement without such termination consisting of a material breach of this Agreement. Shareholder, in order to terminate this Agreement without such termination constituting an unpermitted and actionable breach of this Agreement, shall give the City written notice that the Shareholder intends this Agreement to terminate as of January 1 of the next calendar year. In order for the termination to be effective Shareholder must deliver the notice of intent to terminate, in writing, to the City's City Manager not less than one hundred and eighty (180) calendar days before the intended effective date of the termination of this Agreement. If the notice is not delivered to City in a timely manner the notice of termination shall be void and without force or effect for any purpose.

3. Notwithstanding anything to the contrary in this Agreement the parties may mutually agree, in writing, to alternate terms as regards the term of this Agreement.

8. Agreement Runs with Land.

This Agreement shall be a covenant running with the land and shall be binding upon the Shareholder's Property and any future owners of the Shareholder's Property or successors in interest of Shareholder, and shall run to the benefit of the City, until this Agreement is released or modified by the City. This Agreement shall run with the land and shall be a burden upon the Property and shall be for the benefit of all real property owned or controlled by the City which is located in the City of Upland, County of San Bernardino, State of California. This instrument is intended to be a covenant running with the land and such intention shall be liberally construed in favor of the City.

9. Time is of Essence.

Time is of the essence of each provision of this Agreement of which time of performance is a factor.

10. City's Remedies for Breach.

In the event of a violation of any of Shareholder's obligations set forth herein, the City shall be entitled to all remedies at law or equity that may be available to it, including the right to seek an injunction against any violation hereof, an injunction prohibiting the use or occupancy of the recycled water system, an action for specific performance, or an action for damages. In addition to any other remedies available to the City, upon breach of this Agreement the City may refuse to issue or revoke any building permit, approval or certificate therefor issued for the recycled water improvements to be constructed on the Property. Shareholder acknowledges and agrees that in the event Shareholder breaches this provision, the City may withhold the issuance of building or grading permits and/or refuse to process any land use applications for the Property related to the recycled water system.

11. For Benefit of City.

This Agreement shall be enforceable by and inure to the benefit of the City and its successors and assigns and shall bind Shareholder and Shareholder's successors and assigns. This Agreement shall be enforceable by the City and any assignee of the rights of the City. The City shall be entitled to assign its rights hereunder to any governmental agency or subdivision of the City or of the State of California.

12. Entire Agreement; Amendment.

This instrument contains the entire agreement of Shareholder relating to the rights herein granted and the burdens and obligations herein assumed. Any oral representations or modifications concerning this instrument shall be of no force or effect except for a subsequent modification in writing signed by the then current owner of the Shareholder's Property and by the City, except for a termination hereof executed by the City. This Agreement may not be amended, modified or revoked without the written consent of the City.

13. Factual Investigation; Representations.

Shareholder acknowledges and agrees that in entering into this Agreement it has had the opportunity to consult with legal counsel and technical experts and has had the opportunity to thoroughly investigate the terms in this Agreement. Shareholder acknowledges and agrees that it has not relied upon any representations or opinions of the City, or any City employee, agent or consultant in deciding to pursue this alternative. Shareholder acknowledges and agrees that it is solely responsible for the success or failure of the system.

14. Attorneys' Fees.

In the event of any controversy, claim, or dispute relating to this instrument or the breach thereof, the prevailing party shall be entitled to recover from the losing party reasonable attorneys' fees and costs.

15. Indemnification.

Shareholder agrees to defend, indemnify, protect and hold harmless the City, its officers, officials, employees, attorneys and volunteers from and against any and all claims, demands, losses, defense costs or expenses, including attorney fees and expert witness fees, or liability of any kind or nature which the City, its officers, agents and employees may sustain or incur or which may be imposed upon them from and including, but not limited to injury to or death of persons, or damage to property arising out of and to the extent of acts or omissions arising out of or in any way related to the performance or non-performance of this Agreement, or its use of the Shareholder's Property, excepting only liability arising out of and to the extent of the sole negligence of the City or its officers, officials, employees and volunteers.

16. Captions.

The captions used in this Agreement are for convenience only and therefore do not constitute a part of this Agreement and do not amplify or limit the meaning of the provisions of this Agreement.

17. Interpretation.

This Agreement shall be construed according to its fair meaning and as if prepared by both parties hereto. Any rule of law (including without limitation California Civil Code Section 1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the party that has drafted it is not applicable and is hereby waived.

18. Governing Law.

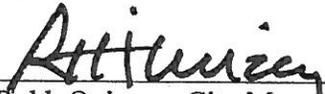
This Agreement shall be construed in accordance with the laws of the State of California. Venue shall be in the Superior Court of the County of San Bernardino or the equivalent Federal District Court.

19. Authority of Signatories.

Each person executing this agreement warrants and represents to the parties that the party on whose behalf they are signing have approved this Agreement pursuant to all applicable laws and corporate authorities and that they are duly authorized to execute this Agreement on behalf of the party.

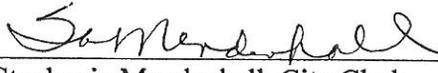
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

CITY OF UPLAND

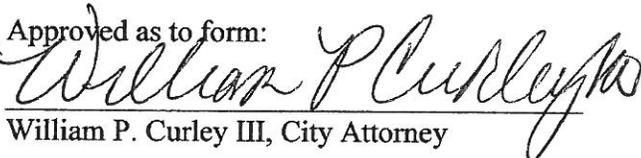


Robb Quincey, City Manager

Attest:



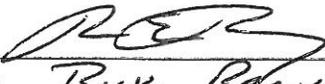
Stephanie Mendenhall, City Clerk

Approved as to form:


William P. Curley III, City Attorney

UPLAND HILLS COUNTRY CLUB

By: 
Name: Young Soob Lee Peter Lee
Title: Pres.

By: 
Name: Rick Parillo
Title: G.M.

[Two signatures of officers are required.]

Legal Description of Shareholder's Property

The following APNs all in San Bernardino County:

1044471090000
1044491220000
1045121030000
1045143690000
0202701270000
1044481020000
1045131020000
1044501010000
1044491210000
1045143700000
0207483450000
1045143710000
0202701680000
0207483440000



STAFF REPORT

ITEM NO. 11.K.

DATE: April 27, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: ROBERT D. DALQUEST, DEVELOPMENT SERVICES DIRECTOR
LIZ CHAVEZ, DEVELOPMENT SERVICES MANAGER
SUBJECT: UPDATE ON THE STATUS OF THE FISCAL YEAR 20-21 WEED
ABATEMENT PROGRAM AS A RESULT OF THE COVID-19
PANDEMIC

RECOMMENDED ACTION

It is recommended that the City Council receive and file this report on the status of the Fiscal Year 2020-21 Weed Abatement Program due to the extraordinary circumstances surrounding the COVID-19 pandemic.

GOAL STATEMENT

The proposed action supports the public health emergency orders of the Federal Government, State and City of Upland proclamations associated with managing the spread of COVID-19.

BACKGROUND

On February 10, 2020, the City Council adopted Resolution No. 6525 authorizing the commencement of the FY 20-21 Weed Abatement Program to operate within City limits. Normally, Program inspections occur at the end of February and run continuously for ten to twelve weeks. Regrettably, Program staff tasked with administering the Program was impacted by the guidelines of the executive orders relative to COVID-19, and was unable to begin the inspections phase of the Program which hindered the ability to meet mandatory Program time frames. This includes the June public hearing to allow non-compliant property owners the ability to contest the inspection results, and the August public hearing for the Council to receive a report of the weed abatement assessments and authorize placement on the San Bernardino County tax rolls.

ISSUES/ANALYSIS

Due to the absence of Program staff to administer the Program and meet public hearing noticing timeframes, the Program is unable to meet the deadline of the San Bernardino County Assessor's Office to record assessments on non-compliant properties.

In light of these circumstances the FY 20-21 Weed Abatement Program will not be initiated this year. However, this does not relieve property owners of their responsibilities associated with maintenance of their properties. The Code Enforcement Division has the ability on a case by case basis to enforce the Upland Municipal Code with the use of administrative citations.

FISCAL IMPACTS

None. No fiscal impact will be reported as a result of Program suspension due the fact that the Program is self-funded.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

No Attachments Available



STAFF REPORT

ITEM NO. 11.L.

DATE: April 27, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: ROBERT D. DALQUEST, DEVELOPMENT SERVICES DIRECTOR
SUBJECT: CONSIDERATION TO ADOPT A RESOLUTION OF THE CITY COUNCIL RATIFYING EXECUTIVE ORDER 2020-1 OF THE DIRECTOR OF EMERGENCY SERVICES

RECOMMENDED ACTION

It is recommended that the City Council adopt a resolution ratifying the Director of Emergency Services Executive Order 2020-1 permitting temporary signage in the right of way for essential businesses and permitting the use of recreational vehicles and trailers for the purpose of complying with public health orders during the local emergency caused by the COVID-19 pandemic.

GOAL STATEMENT

The proposed action supports the City goal of providing assistance to local businesses which have been disrupted by the stay at home orders and other pre-emptive measures to stop the spread of the COVID-19 virus.

BACKGROUND

On March 13, 2020, the Upland City Council adopted Resolution No. 6529 proclaiming the existence of a local emergency concerning the COVID-19 virus pursuant to Government Code Section 8630.

Pursuant to Upland Municipal Code Chapter 2.20, the City Manager is the Emergency Services Director and is empowered to make and issue rules and regulations on matters reasonably related to the protection of life and property impacted by the local emergency, provided the City Council ratify those actions.

ISSUES/ANALYSIS

On March 19, 2020, the Governor issued Executive Order N-33-20 to implement directives developed by the State Public Health Officer that require all individuals living in the State of California to stay at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure and other essential sectors. This as well as local public health orders resulted in the temporary closure of non-essential businesses and the significant restrictions on essential retail businesses, restaurants and other essential enterprises.

In addition, some residents to implement self quarantine from families have found it necessary to use their RV as temporary housing to shelter near but away from family members as a safety precaution. Thus, the Executive Order provides temporary relief and rules related to the use of these temporary housing vehicles.

During this unprecedented time, it is in the best interest to work with businesses and residents to provide some level of financial relief where it is reasonably possible. The Executive Order will allow enforcement staff to temporarily suspend issuance of citations for business signage that does not conform to City requirements and permit temporary adjustments to the rules related to allowable business signage. These temporary adjustments will assist the public regarding available essential food services like take out and/or order and pick food services, auto repair, and other essential services during the non-essential business closure conditions.

It is important to the Upland business community and the City that our local business are able to weather the operating restrictions and are able to recover and continue to thrive.

On April 21, 2020, the City manager, acting as the City's Director of Emergency Services, issued Executive Order 2020-1 to provide relief to Upland businesses and residents.

As previously mentioned, during the local emergency Code Enforcement will not cite businesses for the placement of temporary signage per the orders rules and regulations. Additionally, Code Enforcement will not issue citations for the parking and use of recreational vehicles in a residential area for more than 72 hours if for self quarantine purposes due to COVID-19 virus.

FISCAL IMPACTS

The fiscal impact to the City is difficult to determine. Once the local emergency is over, additional staff time will be required to notify businesses and residents that the permission for the temporary measures has been discontinued and compliance with the City's normal requirements is in effect.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Resolution ratifying Executive Order 2020-1
Executive Order 2020-1

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UPLAND, CALIFORNIA RATIFYING THE DIRECTOR OF EMERGENCY SERVICES EXECUTIVE ORDER 2020-1 PERMITTING TEMPORARY SIGNAGE IN THE RIGHT OF WAY FOR ESSENTIAL BUSINESSES AND PERMITTING THE USE OF RECREATIONAL VEHICLES AND TRAILERS FOR THE PURPOSE OF COMPLYING WITH PUBLIC HEALTH ORDERS DURING THE LOCAL EMERGENCY CAUSED BY THE COVID-19 PANDEMIC

Intent of the Parties and Findings

(i) International, national, state, and local health and governmental authorities are responding to an outbreak of a respiratory disease caused by a novel coronavirus named "SARS-CoV-2," and the disease it causes has been named "Coronavirus Disease 2019," abbreviated "COVID-19"; and

(ii) On March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and to help the State prepare for the broader spread of COVID-19; and

(iii) On March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

(iv) On March 17, 2020, the Health Officer of the County of San Bernardino issued a public health order to prohibit all public and private gatherings and require the closure of all bars, adult entertainment establishments, and other business establishments that do not serve food, as well as movie theatres, gyms, and health clubs to help prevent the spread of COVID-19. On April 2, 2020, the Health Officer extended the order until such time that the Governor's Executive Order N-22-20 and the Health Officer's orders are rescinded; and

(v) On March 13, 2020, the Upland City Council adopted Resolution No. 6529 proclaiming the existence of a local emergency concerning the COVID-19 virus; and

(vi) On March 19, 2020, the Governor issued Executive Order N-33-20 to implement directives developed by the State Public Health Officer that require all individuals living in the State of California to stay at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure and other essential sectors; and

(vii) Based on the foregoing, the Centers for Disease Control and Prevention, the California Department of Public Health, and the San Bernardino County Department of Public Health have all issued public health recommendations to the community including, but not limited to, staying home if sick, social distancing from

non-family members, canceling or postponing events and gatherings, and taking other precautions to protect public health and prevent transmission of this communicable virus; and

(viii) These public health directives and City orders impact daily life in the community, as well as the livelihood and economic well-being of residents and businesses; and

(ix) Designated businesses are striving to provide some essential services to the community, such as providing meals and groceries, and have a need to inform the public about the availability of these services even during this emergency; and

(x) It may necessary for certain household members due to their occupation or other circumstances in which they have possible exposure to COVID-19, and may need to quarantine or isolate themselves from the rest of their household members and need to use Recreational Vehicles or trailers designed for human habitation for purposes of complying with State, County, and City public health orders to social distance, quarantine, or isolate due to COVID-19; and

(xi) Pursuant to Chapter 2.20 of the Upland Municipal Code, the City Manager is the Director of Emergency Services, and is empowered to make and issue rules and regulations on matters reasonably related to the protection of life and property as affective by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the City Council; and

(xii) In the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to exercise my authority pursuant to Section 2.20.060 of the Upland Municipal Code to issue this regulation related to the protection of life and property.

NOW, THEREFORE, the City Council hereby finds, determines and resolves as follows:

Section 1. The above findings are true and correct.

Section 2. The above described conditions warrant the Director of Emergency Services' actions to permit temporary signs in the right of way and to permit the use of recreational vehicles and trailers for the purpose of complying with public health orders during the COVID-19 pandemic.

Section 3. Executive Order 2020-1 issued by the Director of Emergency Services on April 15, 2020, as attached hereto as Exhibit A, is hereby ratified and confirmed pursuant to Section 2.20 of the Upland Municipal Code and Government Code Section 8634.

Section 4. This Order shall take effect immediately and shall remain in effect until the local emergency declared by the City Council, due to the COVID-19

pandemic, is concluded, at which time it will automatically expire unless extended or expressly superseded by a duly enacted Resolution of the City Council or by a further Order by the Director of Emergency Services.

Section 6. Certification. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED and ADOPTED this 27th day of April 2020.

Debbie Stone, Mayor

I, Keri Johnson, City Clerk of the City of Upland, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Council held on the 27th day of April, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

ATTEST:

Keri Johnson, City Clerk



EXECUTIVE ORDER 2020-1 OF THE DIRECTOR OF EMERGENCY SERVICES

WHEREAS international, national, state, and local health and governmental authorities are responding to an outbreak of a respiratory disease caused by a novel coronavirus named "SARS-CoV-2," and the disease it causes has been named "Coronavirus Disease 2019," abbreviated "COVID-19"; and

WHEREAS, on March 4, 2020, the Governor of the State of California declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and to help the State prepare for the broader spread of COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States of America declared a national emergency and announced that the federal government would make emergency funding available to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

WHEREAS, on March 17, 2020, the Health Officer of the County of San Bernardino issued a public health order to prohibit all public and private gatherings and require the closure of all bars, adult entertainment establishments, and other business establishments that do not serve food, as well as movie theatres, gyms, and health clubs to help prevent the spread of COVID-19. On April 2, 2020, the Health Officer extended the order until such time that the Governor's Executive Order N-22-20 and the Health Officer's orders are rescinded; and

WHEREAS, on March 13, 2020, the Upland City Council adopted Resolution No. 6529 proclaiming the existence of a local emergency concerning the COVID-19 virus; and

WHEREAS, on March 19, 2020, the Governor issued Executive Order N-33-20 to implement directives developed by the State Public Health Officer that require all individuals living in the State of California to stay at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure and other essential sectors; and

WHEREAS, based on the foregoing, the Centers for Disease Control and Prevention, the California Department of Public Health, and the San Bernardino County Department of Public Health have all issued public health recommendations to the community including, but not limited to, staying home if sick, social distancing from non-family members, canceling or postponing events and gatherings, and taking other precautions to protect public health and prevent transmission of this communicable virus; and

WHEREAS these public health directives and City orders impact daily life in the community, as well as the livelihood and economic well-being of residents and businesses; and

WHEREAS, designated businesses are striving to provide some essential services to the community, such as providing meals and groceries, and have a need to inform the public about the availability of these services even during this emergency; and

WHEREAS, it may necessary for certain household members due to their occupation or other circumstances in which they have possible exposure to COVID-19, and may need to quarantine or isolate themselves from the rest of their household members and need to use Recreational Vehicles or trailers designed for human habitation for purposes of complying with State, County, and City public health orders to social distance, quarantine, or isolate due to COVID-19; and

WHEREAS, pursuant to Chapter 2.20 of the Upland Municipal Code, the City Manager is the Director of Emergency Services, and is empowered to make and issue rules and regulations on matters reasonably related to the protection of life and property as affective by such emergency; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the City Council; and

WHEREAS, in the interest of public health and safety, as affected by the emergency caused by the spread of COVID-19, it is necessary to exercise my authority pursuant to Section 2.20.060 of the Upland Municipal Code to issue this regulation related to the protection of life and property.

NOW, THEREFORE, I, Rosemary Hoerning, the Director of Emergency Services for the City of Upland, do hereby issue the following order to become effective immediately, subject to ratification as soon as practicable by the City Council.

IT IS HEREBY ORDERED THAT:

Section 1. For businesses offering essential services, as designated by the California Department of Public Health in its list of Essential Critical Infrastructure Workers, and open to the general public with modified service levels, signs may be placed in the right-of-way subject to these limitations:

a. Temporary signs may be placed in the right-of-way and landscape areas of private property in the areas immediately adjacent to the business or shopping center.

b. Signs must be free-standing and be in the form of an A-Frame sign or a Banner affixed to the ground but cannot be attached to any existing structure, tree or parking lot light standard, etc.

c. A business may place one A-Frame sign or one Banner not to exceed 24 square feet per side or 4 feet in height on each street frontage.

d. Signs shall not be placed to create a hazard for pedestrians or drivers, including line-of-sight obstructions within 20 feet of a corner radius.

Section 2. Recreational vehicles and trailers designed for human habitation may be occupied for purposes of complying with State, County, and City public health orders to social distance, quarantine, or isolate due to COVID-19. When utilized for this purpose,

the vehicle or trailer may be located in a driveway or other paved parking area intended for vehicles on private property. For properties which are unable to accommodate the vehicle or trailer on a driveway or paved parking area, the vehicle or trailer may be located on the street. All occupancy shall be subject to the following requirements:

a. Recreational vehicles and trailers must be located adjacent to or nearly adjacent to the property where registered or the permanent home address of the occupant.

b. Occupants must have access to the associated residence for sanitation purposes.

c. The recreational vehicles and trailers may be connected to electricity, but generators are prohibited.

d. There can be no obstruction of streets, driveways or pedestrian access.

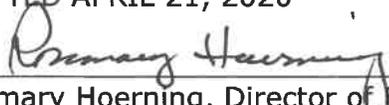
e. Trailers on the street must be stabilized and anchored to prevent unintended movement.

f. Recreational vehicles and trailers parked on the street and utilized for social distancing, quarantining, or isolation shall not be subject to 72-hour restrictions or overnight parking restrictions pursuant to Chapter 10.36 of the Upland Municipal Code.

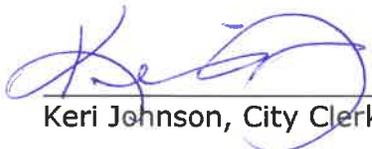
g. This order shall not apply to box trailers, specialized equipment trailers, or any other restricted vehicle which is not designed for human habitation.

Section 5. This Order shall take effect immediately and shall remain in effect until the local emergency declared by the City Council, due to the COVID-19 pandemic, is concluded, at which time it will automatically expire unless extended or expressly superseded by a duly enacted Resolution of the City Council or by a further Order by the Director of Emergency Services.

ADOPTED APRIL 21, 2020

BY: 
Rosemary Hoerning, Director of Emergency Services

ATTEST:


Keri Johnson, City Clerk



STAFF REPORT

ITEM NO. 14.A.

DATE: April 27, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: STEVEN NIX, INTERIM PUBLIC WORKS DIRECTOR
SUBJECT: GIS SOFTWARE AND PROFESSIONAL SERVICES FOR WATER FACILITIES

RECOMMENDED ACTION

It is recommended that the City Council approve a Professional Services Agreement with Nobel Systems to implement a data conversion of the City's water system improvement drawings and facility information for incorporation into the City GeoViewer system; and authorize the City Manager to execute the agreement in an amount of \$111,300.

GOAL STATEMENT

The proposed action supports the City's goal to manage the City's water, sewer, and storm resources and provide staff with the resources needed to deliver services to the City of Upland residents.

BACKGROUND

The City has 2,650 Water facility improvement drawings. The Water Division is currently using hard copy reports to store information on activities such as water line flushing operations and the number and location of water valves exercised each year. The field crews are also using paper maps to search for water infrastructure as needed to support development projects as well as utility line marking when required as a result of an Underground Service Alert request. All of the hard copy improvement drawings will be converted into shape files and placed on a computerized platform with accompanying software to allow review and management of the data. In addition, the location and maintenance activity of all fire hydrants, blow-offs, air-vacuum valves and mainline operational valves will be managed through the GeoViewer software.

Currently, Upland receives Underground Service Alert (USA Dig Alter) notifications via email or fax. This requires staff to print and manually plot the location of the dig alert to perform

the required field utility marking of the City's utilities facilities that are in conflict with the reported construction dig alert. This new proposed software will receive and automatically plot on the GIS platform the USA Dig Alert information. The GIS data can be used in the field by staff to identify, locate, and mark the City facilities in conflict with the proposed construction. This electronic access to the notifications and facility data will reduce the staff time required on these projects.

The Water Division utilizes paper maps of the water system infrastructure and books with valve and water service records. When shutting down a water line for service or emergency repairs, staff manually searches through map and record data books. GeoViewer will provide field crews access to all inspections and system records. This system will allow staff to analyze the records, identify any valves that need to be operated in order to isolate a repair, and identify impacted fire hydrants, other water facilities, and affected customers, in an efficient manner. This automated platform will assist staff in optimizing their operations, which minimizes service delays to our customers.

ISSUES/ANALYSIS

Technology platforms assist in the efficient use of staff resources by providing easy access to data maps and essential information. Staff explored the use of different consultants and vendor platforms to facilitate the automation of the City owned and maintained water, sewer, and storm drain service systems.

One of the most important elements of this review was the ease and ability of staff to effectively use the electronic platform and update the system information. As part of this process, staff visited other utility districts, such as, Roland Water District and Cucamonga Valley Water District to see their systems in operation and to talk with the field staff to understand the effective use of the automated platform. Both of these District's use the Nobel GeoViewer platform and find it to be an essential tool. Based on these facility tours and feedback from software users, staff recommends the Nobel GeoViewer. Nobel GeoViewer helps to bridge the technical gap between the GIS platform and the end user making it more user friendly and effective. Staff tested the software system both in-house and off-site and found it easy to use and useful in their operations. Some of the applications tested include:

- Mobile view, edit and input data.
- GeoViewer Online
- Valve Exercise Module
- Hydrant Flushing Module
- Manhole Inspection Module
- Sewer Line Cleaning Module
- CCTV Module
- Leak History
- History (Hotspot) Sewer, Storm and water
- USA DigAlert Module Integration

All of these modules are beneficial to the City's utility operations, office, and field staff.

Staff solicited proposals from ESRI to perform the data conversion services including water, sewer and storm drain as well as setting up a user interface system. The ESRI quote was \$450,000. Staff reviewed and evaluated the ESRI user system and found this platform alone was not as user friendly as the Nobel software interface platform.

On August 12, 2019, City Council approved an agreement with Nobel for the conversion of the sewer and storm drain improvement drawings and the purchase of the GeoViewer software necessary to operate the system at a cost of \$138,600. The work to convert the sewer and storm drain facilities has been generally completed and is being used by staff.

The GeoViewer proposal includes a one-time cost to convert the Water Facility improvement drawings for a total amount of \$111,300. This additional work to convert the water infrastructure to GeoViewer will bring the total project cost to \$249,900. No additional software or hardware is needed for the integration of the water facility data into the existing GeoViewer platform.

FISCAL IMPACTS

The cost to convert the water facility improvement drawings is \$111,300 and will be funded by available budget in the water fund contract services account.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

**Professional Services Agreement - Nobel
Nobel Proposal for Services**

**AGREEMENT
FOR PROFESSIONAL SERVICES
Nobel GIS Software System**

THIS AGREEMENT is made and effective as of April 27, 2020, between the City of Upland, a municipal corporation ("City") and Nobel Systems ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **TERM.** This Agreement shall commence on April 27, 2020, and shall remain and continue in effect for a period of three (3) years and terminate on March 31, 2023, unless sooner terminated pursuant to the provisions of this Agreement. In addition this Agreement may be extended for two additional option periods of one year apiece subject to mutual agreement.

2. **SERVICES.** Consultant shall perform the services and tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A.

3. **PERFORMANCE.** Consultant represents that it has that degree of knowledge and experience and holds all necessary licenses to practice and perform the services herein contemplated and shall at all times faithfully, competently and to the complete satisfaction of the City, perform all tasks described herein. Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement.

4. **PREVAILING WAGES.** Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, the City Council has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in this locality for each craft, classification, or type of workman needed to execute this Contract from the Director of the Department of Industrial Relations. Copies may be obtained from the California Department of Industrial Relations' Internet web site at <http://www.dir.ca.gov>. Consultant shall provide a copy of prevailing wage rates to any staff or sub-contractor hired, and shall pay the adopted prevailing wage rates as a minimum. Consultant shall comply with the provisions of Sections 1773.8, 1775, 1776, 1777.5, 1777.6, and 1813 of the Labor Code. Pursuant to the provisions of 1775 of the Labor Code, Consultant shall forfeit to the City, as a penalty, the sum of \$25.00 for each calendar day, or portion thereof, for each laborer, worker, or mechanic employed, paid less than the stipulated prevailing rates for any work done under this contract, by him or by any subcontractor under him, in violation of the provisions of the Contract.

5. **PAYMENT.**

a. The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, Payment Rates and Schedule, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed **One Hundred Eleven Thousand Three Hundred Dollars (\$111,300.00)** for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

b. Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City

Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services.

The City Manager may approve additional work up to ten percent (10%) of the amount of the Agreement or fifty thousand dollars (\$50,000.00) whichever is less. In no event shall the total sum of the agreement (*basic agreement amount and additional work*) exceed One hundred twenty two thousand four hundred thirty dollars (\$122,430.00). Any additional work in excess of this amount shall be approved by the City Council.

c. Consultant will submit invoices monthly for actual services performed. Invoices shall be submitted between the first and fifteenth business day of each month, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of consultant's fees it shall give written notice to Consultant within 30 days of receipt of a invoice of any disputed fees set forth on the invoice.

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE.

a. The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the consultant at least ten (10) days' prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

b. In the event this Agreement is terminated pursuant to this Section, the City shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the City pursuant to Section 4.

7. DEFAULT OF CONSULTANT.

a. The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

b. If the City Manager or his delegate determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, it shall serve the Consultant with written notice of the default. The Consultant shall have (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

8. OWNERSHIP OF DOCUMENTS.

a. Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of

services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to such books and records, shall give City the right to examine and audit said books and records, shall permit City to make transcripts there from as necessary, and shall allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

b. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files containing data generated for the work, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused or otherwise disposed of by the City without the permission of the Consultant. With respect to computer files containing data generated for the work, Consultant shall make available to the City, upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

c. With respect to the design of public improvements, the Consultant shall not be liable for any injuries or property damage resulting from the reuse of the design at a location other than that specified in Exhibit A without the written consent of the Consultant.

9. INDEMNIFICATION.

a. Consultant agrees to defend, indemnify, hold free and harmless the City, its elected officials, officers, agents and employees, at Consultant's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the City, its elected officials, officers, agents and employees arising out of the performance of the Consultant, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Consultant, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the Consultant, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected officials, officers, agents and employees based upon the work performed by the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

b. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which City might require.

10. INSURANCE REQUIREMENTS. Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

a. Minimum Scope of Insurance. Coverage shall be at least as broad as:

- (1) Insurance Services Office Commercial General Liability form No. CG 00 01 11 85 or 88.
- (2) Insurance Services Office Business Auto Coverage form CA 00 01 06 92 covering Automobile Liability, code 1 (any auto). If the Consultant owns no automobiles, a non-owned auto endorsement to the General Liability policy described above is acceptable.
- (3) Worker's Compensation insurance as required by the State of California and Employer's Liability Insurance. If the Consultant has no employees while performing under this Agreement, worker's compensation insurance is not required, but Consultant shall execute a declaration that it has no employees.
- (4) Professional Liability Insurance shall be written on a policy form providing professional liability for the Consultant's profession.

b. Minimum Limits of Insurance. Consultant shall maintain limits no less than:

- (1) General Liability: One million dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- (2) Automobile Liability: One million dollars (\$1,000,000) per accident for bodily injury and property damage.
- (3) Worker's Compensation as required by the State of California; Employer's Liability: One million dollars (\$1,000,000) per accident for bodily injury or disease.
- (4) Professional Liability coverage: Two million (\$2,000,000) per claim and in aggregate.

c. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City Manager. At the option of the City Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

d. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- (1) The City, its officers, officials, employees and volunteers are to be covered as insured's as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on

the scope of protection afforded to the City, its officers, officials, employees or volunteers.

- (2) For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insured maintained by the City, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
- (3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees or volunteers.
- (4) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (5) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.
- (6) Additional Insured – All policies, except for Worker's Compensation and Professional Liability policies, shall contain endorsements naming the City of Upland and their officers, employees, agents, and volunteers as additional insured parties with respect to liabilities arising out to the performance of Work hereunder. The additional insured endorsements shall also be primary and non-contributory.
- (7) Waiver of Subrogation Rights - CONSULTANT shall require the carriers of Commercial General Liability, Automobile Liability and Worker's Compensation to waive all rights of subrogation against the City of Upland, and its officers, employees, agents and volunteers. Such insurance coverage provided shall not prohibit CONSULTANT's employees or agents from waiving the right of subrogation prior to a loss or claim. CONSULTANT hereby waives all rights of subrogation against the City of Upland.

e. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VIII, and admitted and licensed to do business in the State of California, unless otherwise acceptable to the City. Self insurance shall not be considered to comply with these insurance requirements.

f. Verification of Coverage. Consultant shall furnish the City with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City before work commences. As an alternative to the City's forms, the Consultant's insurer may provide complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.

11. INDEPENDENT CONTRACTOR.

a. Consultant is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officers, employees, agents, or volunteers shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation or liability whatever against City, or bind City in any manner.

b. No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

c. PERS Eligibility Indemnification: In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

12. LEGAL RESPONSIBILITIES. The Consultant shall keep itself informed of all local, State and Federal ordinances, laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. Consultant is responsible for compliance with the Patient Protection and Affordable Care Act (2010), and City shall not be obligated to provide any health care coverage to Consultant. The Consultant shall at all times observe and comply with all such ordinances, laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this section.

13. RELEASE OF INFORMATION.

a. All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization. Consultant, its officers, employees, agents or subcontractors, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

b. Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

14. **NOTICES.** Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by Notice. Notice shall be effective upon delivery to the addresses specified below or on the third business day following deposit with the document delivery service or United States Mail as provided above.

To City: City of Upland
 460 North Euclid Avenue
 Upland, California 91785
 Attention: City Manager

To Consultant:

15. **ASSIGNMENT.** The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City. Upon termination of this Agreement, Consultant's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the City Council and the Consultant.

16. **LICENSES.** At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

17. **GOVERNING LAW.** The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with geographic jurisdiction over the City of Upland. In the event such litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court's judgment, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

18. **PROHIBITED INTEREST.** No officer, or employee of the City of Upland shall have any financial interest, direct or indirect, in this Agreement, the proceeds thereof, the Consultant, or Consultant's sub-contractors for this project, during his/her tenure or for one year thereafter. The Consultant hereby warrants and represents to the City that no officer or employee of the City of Upland has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, or in the business of the Consultant or Consultant's sub-contractors on this project. Consultant further agrees to notify the City in the event any such interest is discovered whether or

not such interest is prohibited by law or this Agreement.

19. **ENTIRE AGREEMENT.** This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

20. **AUTHORITY TO EXECUTE THIS AGREEMENT.** The person or persons executing this Agreement on behalf of Consultant warrants and represents that he or she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

21. **SEVERABILITY.** If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

22. **WAIVER.** The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

23. **CONSTRUCTION.** The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

24. **COSTS.** Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

25. **RESPONSIBILITY FOR ERRORS.** Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

26. **ATTORNEYS' FEES.** In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF UPLAND

Rosemary Hoerning, City Manager

Attest:

Keri Johnson, City Clerk

Approved As to Form:

Steven L. Flower, Interim City Attorney

CONSULTANT

By: _____
Name: MICHAEL SAMUEL
Title: PRESIDENT

By: _____
Name: MICHAEL SAMUEL
Title: SECRETARY

EXHIBIT B
PAYMENT RATES AND SCHEDULE



PROPOSAL FOR SERVICES:
GIS DATA CONVERSION SERVICES FOR WATER FACILITY



Prepared by: Nobel Systems Inc.
436 East Vanderbilt Way
San Bernardino, CA 92408

Date: March 16, 2020

March 16, 2020

Richard Jeganathan
Information Technology
City of Upland
460 N. Euclid Ave
Upland, CA 91786

Re: GIS DATA CONVERSION SERVICES FOR WATER FACILITY

Dear Mr. Jeganathan,

Nobel Systems is pleased to submit this proposal for our proposal to the City of Upland ("City") for the above referenced project. As demonstrated throughout the proposal, we offer an outstanding combination of Mapping, Information Technology and most importantly an in-depth understanding of Water GIS data conversion.

While Nobel Systems is a premier leader in Cloud Mapping and Data Conversion, we maintain a balance of using existing and new technologies to insure the highest level of customer service and costs effectiveness to meet our clients' critical objectives. The core solutions described in Nobel Systems' proposal, is based on proven methods successfully implemented at other Municipalities and Utility agencies across the globe.

Should you have any questions concerning this proposal, please feel free to contact me directly by phone (909 -891-0896), fax (909 -890-5912) or e-mail (kbalaji@nobel-systems.com)

Sincerely,



Balaji Kadaba
Vice President, Operations
Nobel Systems, Inc.

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1. FIRM'S QUALIFICATION

NOBEL SYSTEMS INC.

Nobel is among the largest Geographic Information System (GIS) firm that has GIS Data Conversion and GIS hosting services as its sole focus. Our revenues have shown impressive, yet stable growth over time and honored by INC Magazine as one of the Top 100 Fastest Growing Inner City Companies. The company is headquartered in San Bernardino, which is quite close to Upland.

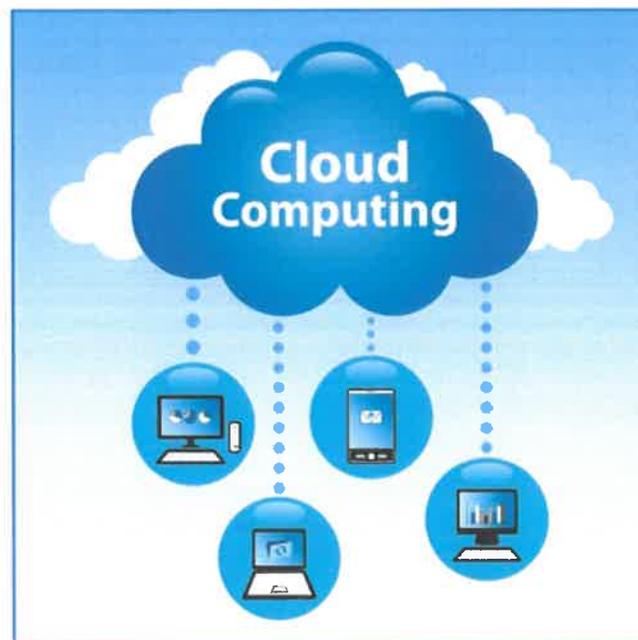
Nobel is an industry leader in all aspects of GIS, comprised of over 70 information technology professionals with backgrounds that include Civil Engineering, Public Works Management, Utility Engineering & Design, Information Technology, and GIS. Nobel provides a portfolio of GIS services – from data conversion and custom application development to consulting and Software as a Service (SaaS) solutions. Nobel's clientele ranges from cities, counties and quasi government agencies to private utilities and engineering companies.

Nobel is exceptionally skilled in the development, maintenance, and integration of GIS software and integration to other legacy systems. We have successfully built GIS applications that span entire organizations, bringing disparate sets of data from legacy applications into the GIS platform in a seamless manner.

The financial stability of Nobel can best be characterized by our Dun and Bradstreet report that places Nobel in the lowest risk category possible in the Financial Stress and Credit categories.

Nobel's Mission is to develop enterprise GIS programs that meet the following:

- Aligned with Enterprise Priorities
- Comprehensive, Accurate, and Timely Data Management
- Accessible to all user levels
- Relevant to Operational Workflow
- Integrated with Enterprise Systems and Data
- Demonstrates Return on Investment
- Sustainability



2. EXECUTIVE SUMMARY

City of Upland has made a significant investment in Water Atlas, Asbuilt sheets (about 2650 Water documents), Record Drawings and Operation & Maintenance records which are a critical source of information in the City's operations. The City currently maintains the Atlas and Asbuilts sheets in a PDF and Tiff formats. The implementation of a state-of-the-art Geographic Information System (GIS) will allow the use of computer technology to map the entire City service area, and greatly improving facilities planning, construction processes as well as emergency repair and customer service response times.

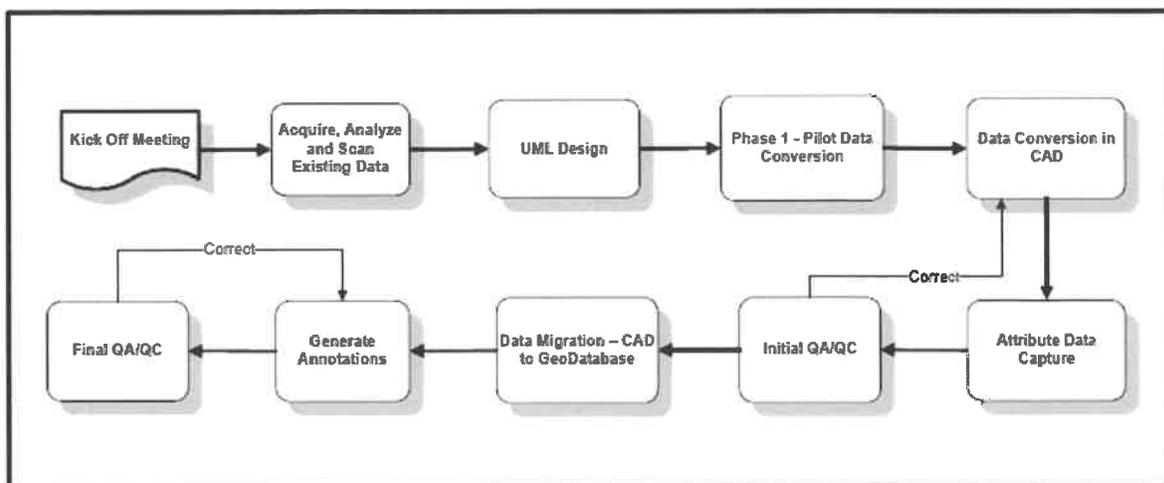
The first step in this GIS implementation is to capture all that spatial information into a GIS. The process of data capture is the part that is more straightforward. This is essential to ensuring a smooth data conversion process. Once the Geodatabase design is reviewed and accepted, and the various symbology used on the source documents are understood, the actual data capture for each individual source document can proceed in a well-regulated manner.

This methodology represents the main effort to complete the creation of all features and interpretation of attributes depicted using the source documents available with City into a comprehensive and fully functional GIS, which meets City's expectations.

The proposed technical methodology for the Data Automation will consist of two phases.

- Phase I - Pilot Study
- Phase II - GIS Conversion of Remaining City Service Area

3. SCOPE OF WORK



1. Acquire & Analyze Existing Data

Nobel Systems will collect and review digital parcel & street centerline database and digital source documents, such as record drawings, existing Water System studies, engineering reports, O & M records and any other pertinent information. This will be used to identify features and attributes that can be gained through conversion of the City's digital documents. Additionally, any deficiencies in the data will be noted and additional research will be conducted to mitigate if possible.

The results of the digital analysis will be compared with the existing Water model of the City. The focus will be identifying critical features and attributes that are missing in City's existing data as well as features/attributes that are found in City's existing data that are not part of the standard UML model.

In addition, Nobel Systems will collect the customer service database that needs to be linked to the Water Meters if available.

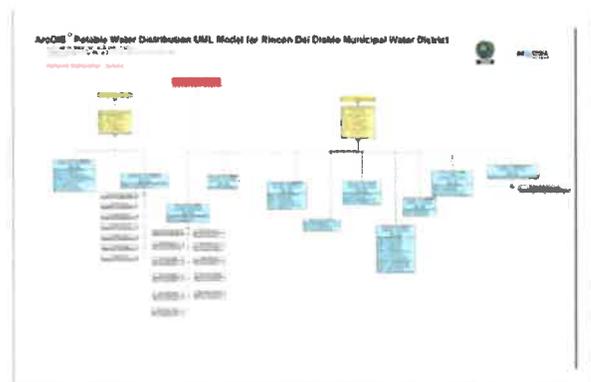
2. Meet with Department Staff & Project Setup/Challenges

Nobel Systems will begin the project with a team kickoff meeting that includes the Nobel Systems project team and all key decision-makers from the City. The purpose of this meeting is to bring together all players and to finalize the definitions of the common goals for the project. Nobel Systems will formally introduce their team to all of the participants, discuss the goals of the project and our approach, and give an overview of the project approach. This kickoff meeting provides an opportunity to bring all players together in the same room to understand the scope and goals of this initiative and to identify roles of each point of contact.

3. UML Design

What is a UML? The UML (Unified Modeling Language) is a data format which is basically a flow chart. It is a standard to display an object-oriented database's feature classes. For this project, feature classes will include storm water main lines, service laterals, catch basins, manholes, fittings, meters etc. The UML flowchart will allow our database designers to identify needed information to be collected about each feature type and how the various feature types will be related to one another. The physical data models will be developed using UML (Unified Modeling Language) and Microsoft Visio and will incorporate all relevant GeoDatabase elements such as feature datasets, feature classes, attribute domains, sub types, topologies, geometric network , relationship classes, etc.

During this task Nobel Systems will take the information and reports developed from the two prior tasks and develop an initial UML design. This task will be accomplished taking into consideration the potential opportunity for this information to accommodate a wide variety of workflows to including integration to other future information systems. UML workshop sessions will be held to review the current UML design and identify critical items to add and delete based on users knowledge of the systems. Nobel will moderate this session to ensure that modifications will contribute to usefulness and maintainability of the resultant GeoDatabase.



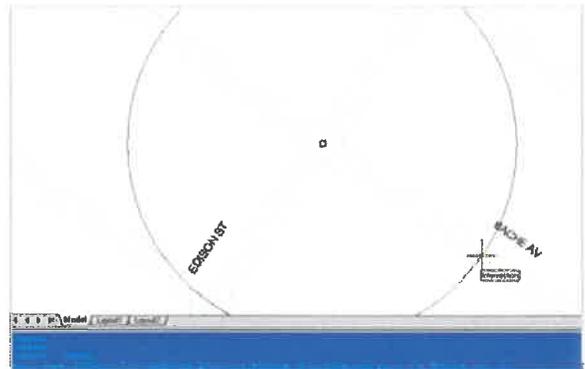
4. Phase 1 - Pilot Data Conversion

The goal of the pilot is to ensure that all needs of the City are met in conversion, and we propose to complete one atlas sheet as a pilot. We will, however, be willing to convert additional sheets as part of the pilot, should the City still feel it is necessary. As part of the pilot conversion, Nobel Systems will also discuss with the City, the possibility of revising the annotations layout to be better positioned and provide a generally better pleasing outlook including font selection compared to the existing atlas sheets. Nobel Systems will pay attention to the Water system features, ensuring that all attributes requested to be captured, such as Valves, Hydrants, Water Mains with Size, Material, Install Date and service laterals that include Service Sizes and Material. In addition, Nobel Systems will observe City's rule that where laterals are not shown in the Asbuilts, we will refer the Water Billing database if made available. In addition, we will also verify if the Water construction records have data for laterals that are also shown in the as-builts and compare them against each other. Any discrepancies will be flagged for City approval. The pilot conversion will follow these steps:

5. Data Conversion in CAD

Nobel Systems will use the City's Water grid system of 3000' x 2000' for this project. This will accommodate a horizontal scale of 1" = 200' on 11" x 17" sheets and minimize the amount of sheets that have match lines in public Right-of-Way.

The data conversion process will begin with the San Bernardino County digital Basemap Landbase data being imported to AutoCAD Map. Using the source maps, the conversion will begin from the upper-left corner.



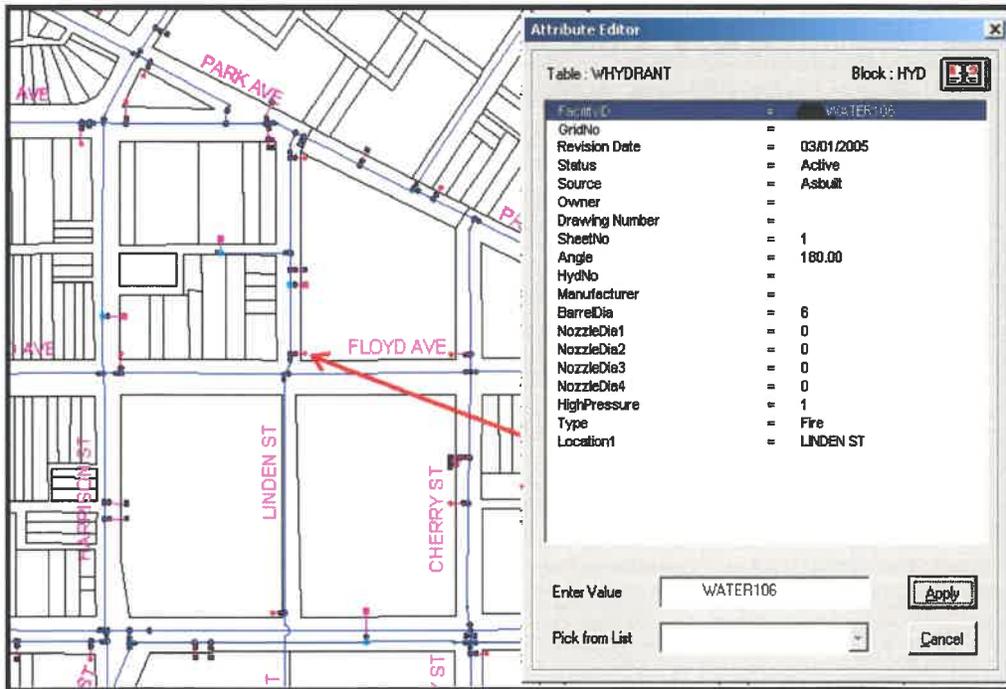
Using the appropriate engineering measurements noted on the source documents, the point or pipeline will be placed accurately within the drawing. A qualifier will be added in the database to show the method of data capture. This will ensure complete conformance with standard digitizing requirements that all features located relative to the Landbase features are within $\pm 0.5'$ accuracy.

For instances where engineering measurements are not annotated on the source documents, but offset distances are available, the features will be placed using the known offset distances.

Similar to controlled placement digitizing, when offset digitizing occurs, a qualifier will automatically be placed to denote the offset placement and measurements that were used. This is important when performing quality control, because controlled/offset placement should be systematic. By labeling the point and reference of measure, consistency between Nobel and City's GIS Team will occur. Users will know both how the utility feature was constructed, and which accurate measurements were used.

6. Attribute Data Capture

Nobel Systems proposes to use our proprietary system Dataworks which is software that sits within AutoCAD to capture attributes. Using DataWorks, the technician will then enter the attributes into AutoCAD Map's Object Data. Programmatic validity checks are built into the system, so that an entry is made more through a default entry system, limiting operator error. Source ID numbers will be entered in the database for each feature. This will allow querying of the data, either by clicking on the feature or querying by source number. This will comply with City's requirement of hyper linking the GIS data to the scanned source documents.



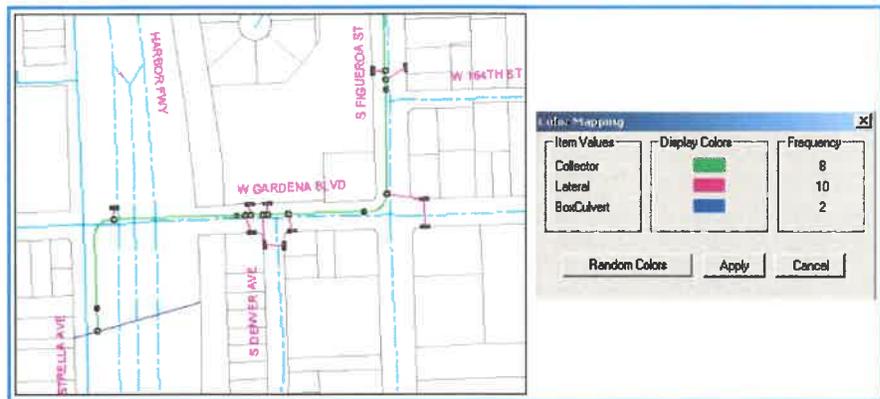
7. Initial QA/QC

Upon completion of capturing the graphics and attributes, a series of processes ensure a complete and accurate data set. Immediately after data capture in ACAD, special QA/QC tools embedded into Nobel's DataWorks AutoCAD plug in are run. These tools will identify graphical connectivity errors, features that are missing attributes and allows the technician to render the pipelines based on attribute values. Errors are fixed and QC tools are re-run until the drawing is error free.

Dangling ends, incorrectly split lines, and other errors are identified using the Geometric Network rules established during the GeoDatabase design phase. By deploying these built in error checks, even very small errors never make it past the initial CAD based conversion phase.

Verification Plot of Graphics and Attributes

In order to check the quality and completeness of attribution, a manual review is performed. Using a custom VBA application, AutoCAD drawings will be converted to ArcInfo coverages. A custom application developed using Arc Macro Language (AML) will then be run to generate a plot using ArcPlot. ArcPlot provides rich functions to stack attributes and display them using leader lines. The quantity of attributes that will be reviewed is also listed on the QC plot. The Project Team will review the attribute check plots and perform a 100-percent check of the source documents against the QC plot, marking errors on the plot. The number of errors found is marked on the plot to calculate the error rate. If the percentage of errors is less than 2 percent, that grid will move to the next process step of fixing errors. If errors greater than 2 percent are detected, the grid will loop back to editing in AutoCAD. Upon making the corrections, a fresh QC plot is generated for QC. Corrections of all errors marked on the QC plots will be made in AutoCAD.



In addition to the on-screen consistency check, QC plots will be generated using colors to distinguish between different LINETYPE and SYMBOLS. Prior to this, after graphic feature and attribution for a particular grid is completed, data will be migrated to coverage format. These coverage format data will be used by ArcPlot to generate verification plots.

Verification plots are generated, as grid based individual plots, to perform the visual check. Figure below provides a screenshot of how a typical QC plot would look like. If closely observed, all features with graphical and vital attributes associated are displayed for verification.

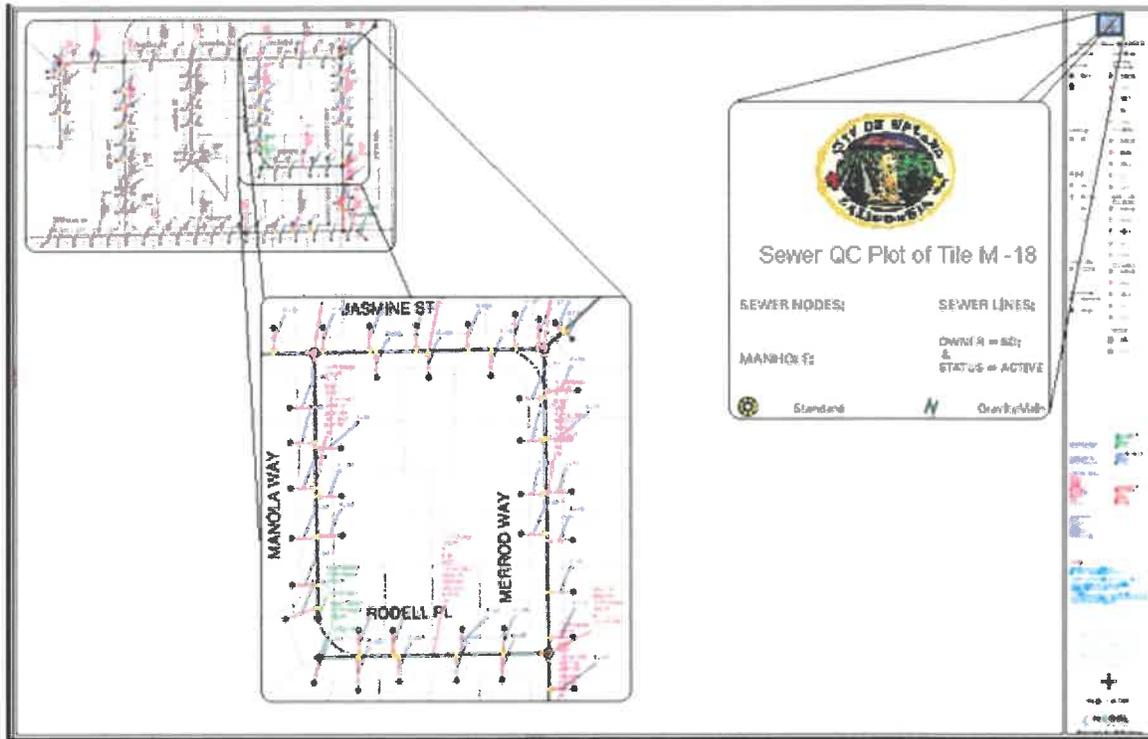
Attributed information will be displayed as labels using the over-posting capabilities of ArcInfo's ArcPlot module.

Key attributes pertaining to water mainlines, such as DIAMETER, MATERIAL, OFFSET, OFFSETREF, STATUS, SUBTYPE, INSTALLDATE, SECTIONALNUMBER, SOURCE, etc., will be compared with the information on the original source map documents.

Similarly attributes associated with point features like SIZE, MATERIAL, DRAWINGNUMBER, INSTALLDATE, SUBTYPE, YEAR_INSTALLED, DIAMETER, OWNER, SOURCE, etc., will be checked for the information shown on the original source map.

The key attributes of polygon features is also displayed for check.

During this process, a one to one check is done against the converted data with all source documents available at our disposal. Data will be checked for discontinuity in network, particularly at the grid boundary to ensure that no edge-match errors have crept in to the data.



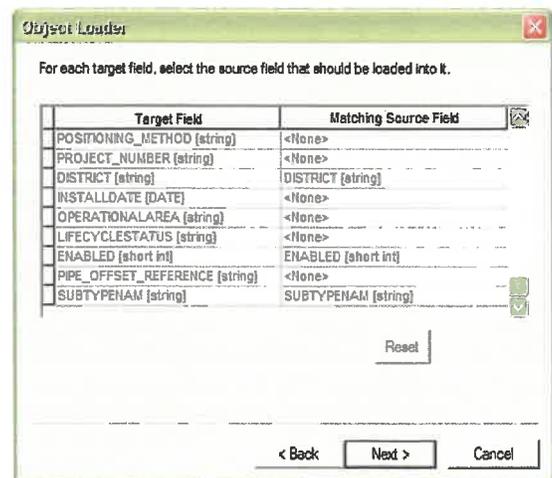
Any discrepancy identified will be annotated as an error, using color pencil by the QC staff. These plots will be sent for next task, where correction of these errors will be performed.

These plots will be delivered to City, if required to perform quality checks / for reviewing the data captured using Atlas Maps, Record drawings, As-built drawings, etc.

8. Data Migration - CAD to GeoDatabase

At this point the AutoCAD data is ready to be brought into the GIS. The data is imported to ArcGIS GeoDatabase into appropriate feature classes as defined in the Data Model. ESRI's Object Loader will be used to load the data. Soon after loading the data, the Geometric Network will be validated against the GeoDatabase Connectivity Rules established during the GeoDatabase Design. Connectivity Rules will define how various features will participate in the Geometric Network. Errors, if any will be reviewed and fixed as appropriate.

Nobel in its set of application tools, DataWorks, has functionality, in which enables direct migration of data from CAD to a GeoDatabase. This functionality automatically takes care of loading the data to its respective feature classes, saving a lot of manual effort. This is also a time-efficient method, which eliminates errors that could possibly occur during loading of data, using LoadObjects tool, available with ArcMap.



ESRI's out of the box Object Loader, allows loading of data into one feature class at a time. This process also involves field mapping between the Source and Target feature classes. Loading data into multiple feature classes could become tedious. AutoObject Loader runs ESRI's Object Loader in a batch. It imports all the data stored in a directory. It uses a Field Mapping Table, to correlate fields from Source and Target feature classes.

Source	Target
POSITIONIN	POSITIONING_METHOD
PROJECT_NU	PROJECT_NUMBER
DISTRICT	DISTRICT
INSTALLDAT	INSTALLDATE
OPERATIONA	OPERATIONALAREA
LIFECYCLES	LIFECYCLESTATUS
SUBTYPE	SUBTYPE
ENABLED	ENABLED
PIPE_OFF_1	PIPE_OFFSET_REFERENCE
SUBTYPENAM	SUBTYPENAM

Record: 1 of 31

After completing the data conversion and importing data to ArcGIS Geodatabase, Nobel team will use the ESRI's Geometric Network Editing tool to check the connectivity between the collections of feature classes in feature dataset such as Water Pressurized Mains, Valves, Hydrants, Meters etc. Each Water feature has a role in the geometric network of either an edge or a junction.



Nobel team will setup the basic methodology for creating a geometric network to determine which feature classes will participate in the network and what role each will play. Optionally, a series of network weights can be specified, as can other more advanced parameters.

- No orphan point features allowed in the data model.
- Point features attribution should be captured as completely as possible given the source data provided by the City.

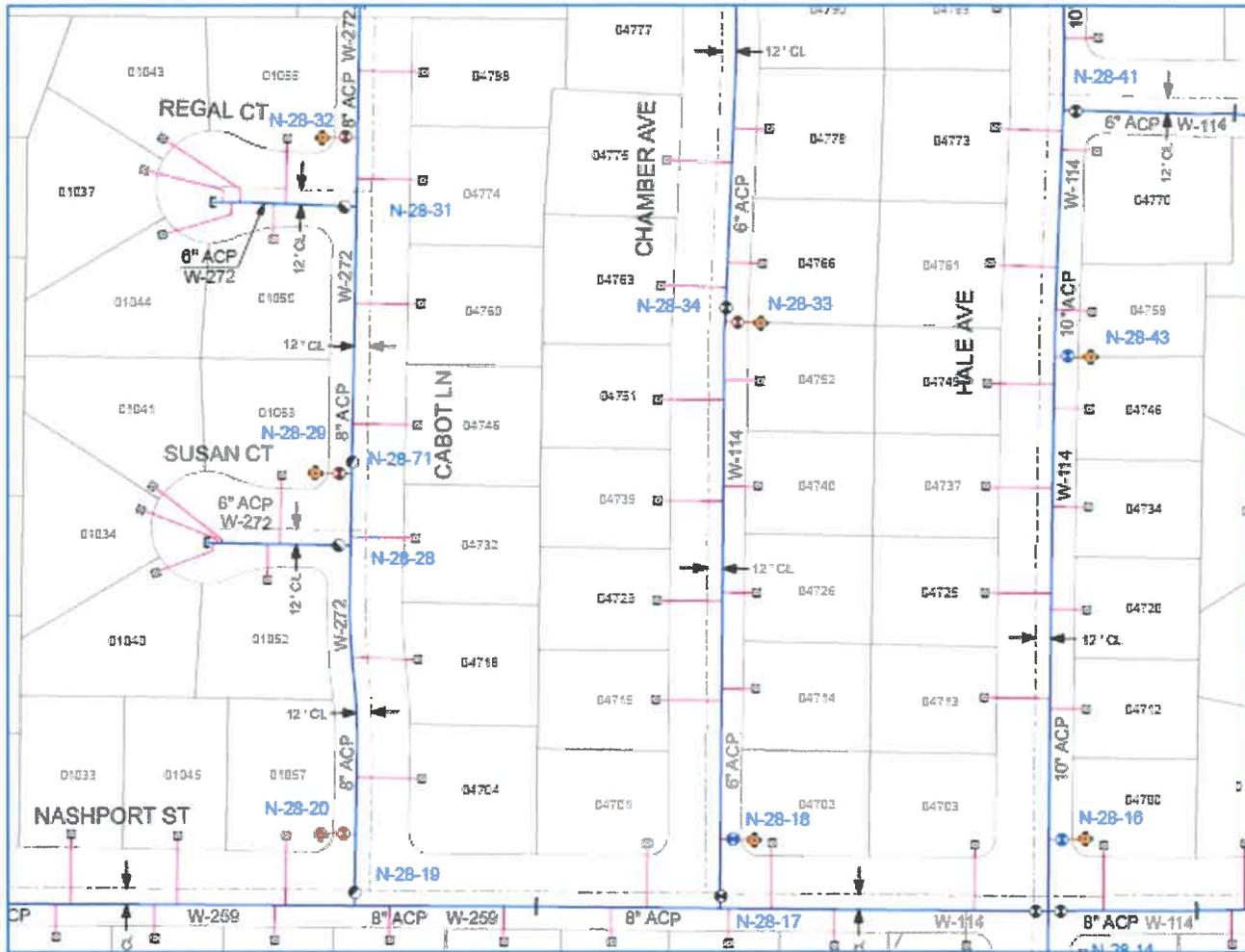
When the network building process encounters coincident junctions or when the snapping process results in coincident junctions, the resulting connectivity will be nondeterministic. In other words, connectivity will only be established to one of the coincident junctions.

9. Generate Annotations

Annotation is stored in special feature classes called annotation classes. There are two kinds of annotation: feature linked annotation and non-feature linked annotation. Feature linked annotation is associated with a specific feature in another feature class in the Geodatabase. This means that when the attribute value is changed, the feature's corresponding annotation will automatically be updated to reflect the change. Annotations pertaining to water facility such as Pipe Size and Material will all be feature-linked. Annotations pertaining to basemap such as Street Names will not be feature-linked since the basemap is obtained from a different source and subject to change. Dimension classes will be created as appropriate to display the offset distances.

As soon as the features are loaded into the GeoDatabase, feature-linked annotations are automatically created based on the label parameters set during the creation of the feature class. Though label parameters will be defined to place the annotations at best possible locations to avoid overlaps with other features, some manual work will still be involved to review and re-position them. They are placed perpendicular to the street, the address refers to. Hence, as a standard all annotations will be placed to match the hand-drawn Base/Atlas Maps. Special attention will be paid to display Critical

features by using appropriate symbology and/or adding annotations as such. Once annotations are placed, another manual check plot of annotations is produced. This document is inspected visually for errors in placement or values.



10. Final QA/QC

As a final quality control step, Nobel will use **ArcGIS Data Reviewer Extension**, to produce high-quality, consistent data and perform accurate data analysis, to ensure City's source database is of high quality and well maintained. ArcGIS Data Reviewer allows data management in support of data production and analysis, which is in a way tailor-made for City's requirements, to check data related issues pertaining to the following:

- Spatial Checks
- Attribute Checks
- Feature Integrity Checks
- Metadata Checks

Nobel uses this Data Reviewer Extension, which provides a complete system for automating and simplifying data quality control, which can quickly improve the integrity of data. Prior starting data validation and analysis tasks with Data Reviewer check conditions / business rules will have to be established for the data. Business rules can either be defined by City or by Nobel, or by following the standards that are followed during the project. Checks will be configured to validate any of these conditions. Should the situation demand, Nobel can configure multiple checks to search for all the rules that are needed to validate within a single feature class or table.

11. Final ArcGIS GeoDatabase

Data conversion for the remainder of City service area will be attempted after making sure that the pilot data is accepted and approved. Nobel will adhere to the plan approved by City during this stage of work. It is estimated that the rest of the City will be split into four deliverable areas, but that will be finalized after consultation and approval by the City.

The Project Manager at Nobel will communicate with his City's counterpart regarding scheduling of meetings to report progress of work on a monthly basis.

Verification plots will be submitted based on existing plat map grid boundaries. All errors found on the plots will be properly marked by the City. Nobel will be responsible for correcting errors or other inconsistencies that represent noncompliance with the specifications agreed to by Nobel Systems and the City. This process may repeat as many times as necessary till the corrections are made.

4. SCHEDULE

Nobel Systems propose to complete the Water GIS Data Conversion with in four (4) months from Notice to proceed. Pilot project for Water will be complete within one (1) month and remaining three (3) months for the full data conversion.

5. DELIVERABLES

- ArcGIS Geodatabase
- Water Atlas Book PDF file in 11 x 17 size
- Update the revised Geodatabase in GeoViewer Online and GeoViewer Mobile
- Update 2650 Asbuilt PDF file in GeoViewer for hotlink purpose
- Water Data Model in Visio format

6. REFERENCES

CITY OF HESPERIA	
Title: Enterprise GIS Conversion of the Water and Sewer Facilities	Contact: Mr. Eric Greene GIS Manager 9700 Seventh Avenue Hesperia, CA 92345 760-947-1440 egreene@Cityofhesperia.us
Start: 2007 End: Ongoing (Updates)	Project Manager: Balaji Kadaba

CITY OF LA VERNE	
Title: GIS Conversion for Water and Sewer Facilities	Contact: Mr. Dan Keesey Director of Public Works 3660 D Street La Verne, CA 91750 909-596-8741
Start: 2005 End: Ongoing (Updates)	Project Manager: Balaji Kadaba

CITY OF BANNING	
Title: GIS Conversion for Water and Sewer Facilities	Contact: Mr. Perry Gerdes Water/Wastewater Superintendent 99 East Ramsey Street Banning, CA 92220 951-849-3273
Start: 2005 End: Ongoing (Updates)	Project Manager: Balaji Kadaba

7. COSTS

One-time fixed costs (Water GIS Data Conversion)

Project Setup and Kick off Meeting	\$ 4,800
Develop Source Document Inventory.....	\$ 4,200
Develop Database Design (UML)	\$ 2,400
Perform Pilot Area Data Conversion	\$19,600
Perform Data Conversion for reminder Areas	\$80,300
TOTAL	\$111,300

Nobel Estimated about 9,275 Hours to work on the Water GIS Data conversion project by using 2,650 Asbuilt drawings.



STAFF REPORT

ITEM NO. 14.B.

DATE: April 27, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: STEVEN NIX, INTERIM PUBLIC WORKS DIRECTOR
BOB CRITCHFIELD, ENGINEERING MANAGER
SUBJECT: AWARD OF BID FOR PROJECT NO. 9128, PUMP STATION
DEMOLITION (BID NO. 2020-01)

RECOMMENDED ACTION

It is recommended that the City Council approve the plans and specifications for Project No. 9128, Pump Station Demolition; declare the bids received by Asbestos Instant Response, Inc., Standard Demolition, and 5M Contracting, Inc. to be non-responsive; award the construction contract to American Wrecking, Inc. in the amount of \$79,700.00; and, approve a construction contingency in the amount of \$20,300.00, for a total amount of \$100,000.00.

GOAL STATEMENT

The proposed action supports the City's goal to maintain water facilities in good operable condition in order to provide safe and reliable service to the community.

BACKGROUND

The City recently completed design and construction documents for the demolition of the old pump station structure and surrounding concrete pads located at the northwest corner of Benson Avenue & 17th Street. This location will serve as the future Reservoir 15 replacement site, and will pave way for the construction of a new 7.5 MG water reservoir.

On April 8, 2020, the City held a non-mandatory pre-bid on-site job walk through with prospective bidders to provide them with an opportunity to see the site conditions prior to bidding.

ISSUES/ANALYSIS

On April 16, 2020, the City received and opened 9 bids for Project No. 9128, under Bid No. 2020-01:

BIDDER	BID AMOUNT
Asbestos Instant Response, Inc.	\$46,400.00 (1)
Standard Demolition	\$49,721.00 (1)(2)
5M Contracting, Inc.	\$58,275.00 (2)
American Wrecking, Inc.	\$79,700.00
Resource Environmental, Inc.	\$94,000.00
Abajian Enterprise dba SoCal Removal	\$95,000.00
AMPCO Contracting, Inc.	\$107,321.00 (1)
Advanced Chemical Transport dba ACT Enviro	\$144,999.00
Sentica Construction, Inc.	\$165,600.00

Note: (1) = Bid contains math errors
(2) = Incomplete bid form (Non-Responsive)

At the time of bid opening, Asbestos Instant Response, Inc. was announced the apparent low bidder, with a bid price of \$46,400.00; however, during subsequent bid evaluation, the City found mathematical errors made by the bidder on bid items #4 and #8 deeming the bid non-responsive. In addition, bids received from Standard Demolition (apparent second low bidder) and 5M Contracting, Inc. (apparent third low bidder) failed to include the Acknowledgement of Addendum No. 1 into their proposals as required, deeming their bids non-responsive for failure to comply with the bid specifications.

The City has reviewed the bid information and upon removal of the non-responsive bids, confirmed that American Wrecking, Inc. of South El Monte, California, is the lowest responsible and responsive bidder. In addition, the bid received from American Wrecking is \$80,425 less than the engineer's estimate. If awarded by the City Council, demolition is anticipated to begin in May, and be substantially complete by late June 2020.

FISCAL IMPACTS

The City's adopted Fiscal Year 2019-20 Capital Improvement Program (FY 19-20 CIP) budget contains sufficient funds for the Project. The estimated project costs and funding are summarized below:

Estimated Project Costs

Basic Bid Amount	\$79,700.00
Construction Contingency	\$20,300.00
Total Contract Work:	\$100,000.00

Construction Administration and Inspection	\$10,000.00
Total Project Cost:	\$110,000.00

Funding

FY 2019-20 CIP Account No. 640-9128 (Water Fund)	\$110,000.00
Total Project Funding:	\$110,000.00

ALTERNATIVES

1. Reject all bids received and authorize the City Clerk to re-advertise Project No. 9128. This alternative will delay the demolition schedule by approximately 6 weeks, and incur approximately \$5,000 in re-advertisement and reproduction expenses. Due to time constraints associated with construction of the replacement reservoir, staff does not recommend this alternative.
2. Provide alternative direction to staff.

ATTACHMENTS:

Engineering Bid Tabulation
Location Map



CITY OF UPLAND
PUBLIC WORKS DEPARTMENT
ENGINEERING DIVISION
1370 N. Benson Avenue

Upland, CA 91786
(909) 291-2946

bcritchfield@ci.upland.ca.us

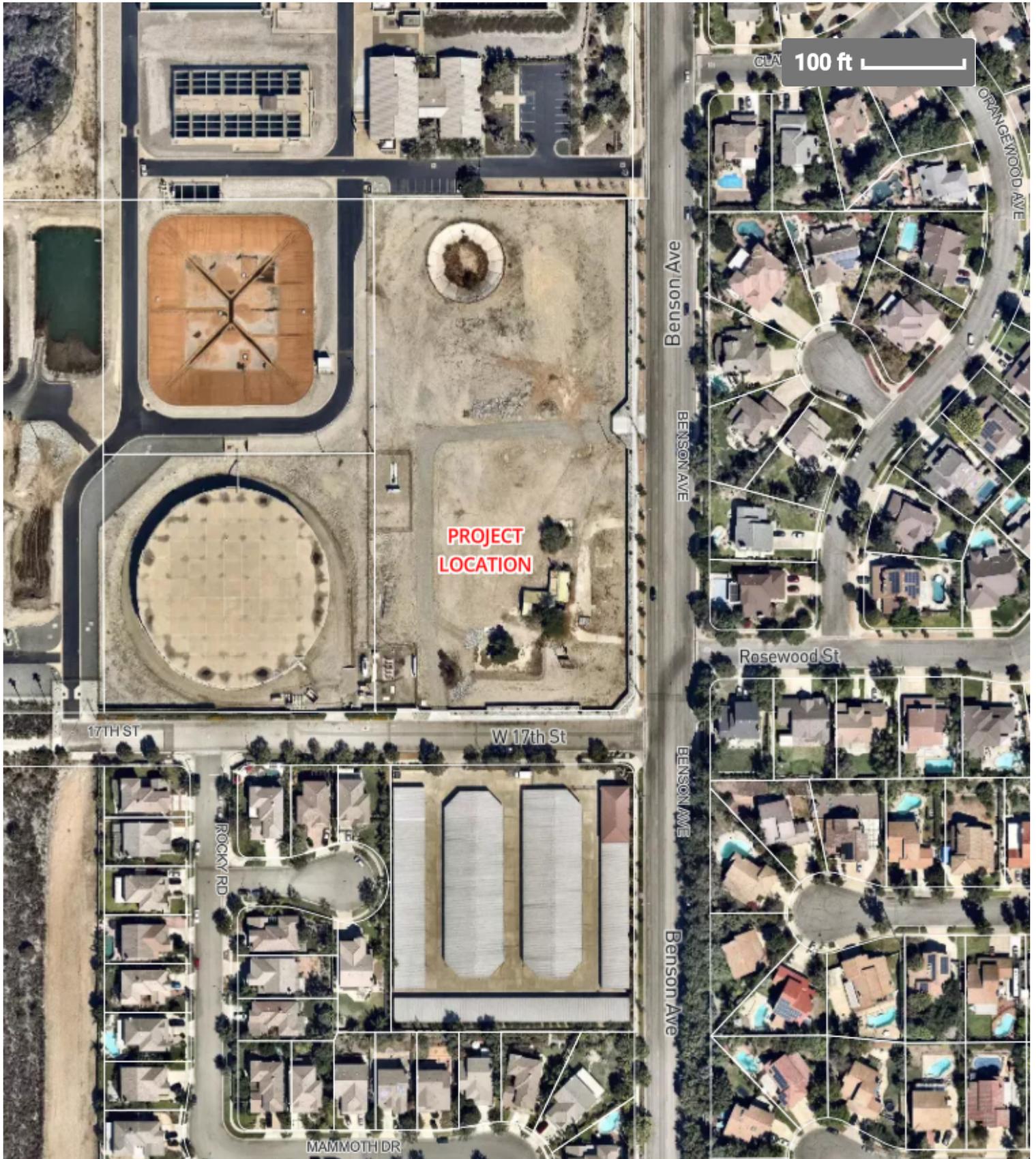
Project 9128 - Pump Station Demolition (17th & Benson)

Bid No. 2020-01

Bid Opening: April 16, 2020

			1		2		3		4		5		6		7		8		9				
			Asbestos Instant Response, Inc.		Standard Demolition		5M Contracting, Inc.		American Wrecking, Inc.		Resource Environmental, Inc.		Abajian Enterprise dba SoCal Removal		AMPCO Contracting, Inc.		Advanced Chemical Transport dba ACT Enviro		Sentica Construction, Inc.				
			3517 W. Washington Blvd. Los Angeles, CA 90018		1905 Lirio Ave. Ventura, CA 93004		2691 Dow Ave., Suite C-2 Tustin, CA 92780		2459 Lee Ave. South El Monte, CA 91733		6634 Schilling Ave. Long Beach, CA 92805		15520 Rockfield Blvd., Suite B100 Irvine, CA 92618		1420 South Allec Street Anaheim, CA 92805		967 Mabury Rd. San Jose, CA 95133		12523 Limonite Ave. Ste. #440-345 Mira Loma, CA 91752				
			795278		1020712		962390		685192		864417		980451		851752		897636		940475				
			Addendum #1 Attached: YES		NO		NO		YES		YES		YES		YES		YES		YES				
			ENGINEER'S ESTIMATE		BID PRICE		BID PRICE		BID PRICE		BID PRICE		BID PRICE		BID PRICE		BID PRICE		BID PRICE				
#	CATEGORY / DESCRIPTION	QUANTITY	UNIT	UNIT COST	ITEM TOTAL	UNIT COST	ITEM TOTAL	UNIT COST	ITEM TOTAL	UNIT COST	ITEM TOTAL	UNIT COST	ITEM TOTAL	UNIT COST	ITEM TOTAL	UNIT COST	ITEM TOTAL	UNIT COST	ITEM TOTAL	UNIT COST	ITEM TOTAL		
PART A- GENERAL (#1-#9)																							
1	Remove & Dispose Asbestos Containing Materials (Flange Gaskets)	30	EA	\$ 500.00	\$ 15,000.00	\$ 100.00	\$ 3,000.00	\$ 100.00	\$ 3,000.00	\$ 100.00	\$ 3,000.00	\$ 150.00	\$ 4,500.00	\$ 230.00	\$ 6,900.00	\$ 150.00	\$ 4,500.00	\$ 88.00	\$ 2,640.00	\$ 145.00	\$ 4,350.00	\$ 150.00	\$ 4,500.00
2	Remove & Dispose Lead-Based Materials	1	LS	\$ 20,000.00	\$ 20,000.00	\$ 2,000.00	\$ 2,000.00	\$ 1,000.00	\$ 1,000.00	\$ 4,200.00	\$ 4,200.00	\$ 4,000.00	\$ 4,000.00	\$ 4,100.00	\$ 4,100.00	\$ 9,500.00	\$ 9,500.00	\$ 4,102.00	\$ 4,102.00	\$ 7,240.00	\$ 7,240.00	\$ 4,500.00	\$ 4,500.00
3	Cut & Plug 16" Steel Pipe to be Abandoned in Place	1	LS	\$ 3,000.00	\$ 3,000.00	\$ 5,000.00	\$ 5,000.00	\$ 3,721.00	\$ 3,721.00	\$ 10,500.00	\$ 10,500.00	\$ 5,000.00	\$ 5,000.00	\$ 18,340.00	\$ 18,340.00	\$ 4,975.00	\$ 4,975.00	\$ 30,874.00	\$ 30,874.00	\$ 4,350.00	\$ 4,350.00	\$ 25,000.00	\$ 25,000.00
4	Remove & Dispose Existing Trees & Stumps	5	EA	\$ 2,000.00	\$ 10,000.00	\$ 2,000.00	\$ 10,000.00	\$ 1,200.00	\$ 6,000.00	\$ 500.00	\$ 2,500.00	\$ 300.00	\$ 1,500.00	\$ 2,340.00	\$ 11,700.00	\$ 1,000.00	\$ 5,000.00	\$ 429.00	\$ 2,145.00	\$ 1,450.00	\$ 7,250.00	\$ 1,250.00	\$ 6,250.00
5	Clearing & Grubbing, Including Removal & Disposal of All Items Inside and Outside the Building	1	LS	\$ 25,000.00	\$ 25,000.00	\$ 1,500.00	\$ 5,000.00	\$ 5,000.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 2,500.00	\$ 6,500.00	\$ 6,500.00	\$ 5,000.00	\$ 5,000.00	\$ 1,838.00	\$ 1,838.00	\$ 11,599.00	\$ 11,599.00	\$ 15,850.00	\$ 15,850.00
6	Remove and Dispose Pump Station Equipment and Related Facilities. Salvage Equipment as Required	1	LS	\$ 15,000.00	\$ 15,000.00	\$ 1,000.00	\$ 1,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,500.00	\$ 2,500.00	\$ 800.00	\$ 800.00	\$ 4,000.00	\$ 4,000.00	\$ 3,500.00	\$ 3,500.00	\$ 3,006.00	\$ 3,006.00	\$ 17,398.00	\$ 17,398.00	\$ 7,500.00	\$ 7,500.00
7	Demolish and Dispose Pump Station Building	1	LS	\$ 30,000.00	\$ 30,000.00	\$ 15,400.00	\$ 15,400.00	\$ 20,000.00	\$ 20,000.00	\$ 21,000.00	\$ 21,000.00	\$ 50,450.00	\$ 50,450.00	\$ 16,500.00	\$ 16,500.00	\$ 40,000.00	\$ 40,000.00	\$ 46,952.00	\$ 46,952.00	\$ 27,548.00	\$ 27,548.00	\$ 70,000.00	\$ 70,000.00
8	Remove and Dispose Concrete Slab	6,750	SF	\$ 5.50	\$ 37,125.00	\$ 13,500.00	\$ 91,125,000.00	\$ 6,000.00	\$ 40,500,000.00	\$ 1.30	\$ 8,775.00	\$ 1.40	\$ 9,450.00	\$ 1.92	\$ 12,960.00	\$ 2.30	\$ 15,525.00	\$ 0.91	\$ 6,142.50	\$ 8.38	\$ 56,565.00	\$ 4.00	\$ 27,000.00
9	Site Restoration	1	LS	\$ 5,000.00	\$ 5,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,300.00	\$ 3,300.00	\$ 1,500.00	\$ 1,500.00	\$ 13,000.00	\$ 13,000.00	\$ 7,000.00		\$ 9,619.00	\$ 9,619.00	\$ 8,699.00	\$ 8,699.00	\$ 5,000.00	\$ 5,000.00
Basic Total:																							
						Bid Amount*:	\$ 46,400.00	Bid Amount*:	\$ 49,721.00	Bid Amount*:	\$ 58,275.00	Bid Amount*:	\$ 79,700.00	Bid Amount*:	\$ 94,000.00	Bid Amount*:	\$ 95,000.00	Bid Amount*:	\$ 107,321.00	Bid Amount*:	\$ 144,999.00	Bid Amount*:	\$ 165,600.00
						Corrected Bid:	\$ 91,164,400.00	Corrected Bid:	\$ 40,543,721.00	Corrected Bid:	\$ 58,275.00	Corrected Bid:	\$ 79,700.00	Corrected Bid:	\$ 94,000.00	Corrected Bid:	\$ 88,000.00	Corrected Bid:	\$ 107,318.50	Corrected Bid:	\$ 144,999.00	Corrected Bid:	\$ 165,600.00
						Total Sub Work*	\$ -	Total Sub Work*	\$ 4,000.00	Total Sub Work*	\$ 1,500.00	Total Sub Work*	\$ 4,500.00	Total Sub Work*	\$ -	Total Sub Work*	\$ 59,800.00	Total Sub Work*	\$ 25,000.00	Total Sub Work*	\$ -	Total Sub Work*	\$ 32,300.00
						Total General	\$ 91,164,400.00	Total General	\$ 40,539,721.00	Total General	\$ 56,775.00	Total General	\$ 75,200.00	Total General	\$ 94,000.00	Total General	\$ 28,200.00	Total General	\$ 82,318.50	Total General	\$ 144,999.00	Total General	\$ 133,300.00
						General %	100.00%	General %	99.99%	General %	97.43%	General %	94.35%	General %	100.00%	General %	32.05%	General %	76.70%	General %	100.00%	General %	80.50%

Vicinity Map



1" = 200 ft

**Pump Station
Demolition**

04/21/2020



This map may represent a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.



STAFF REPORT

ITEM NO. 14.C.

DATE: April 27, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: ROBERT D. DALQUEST, DEVELOPMENT SERVICES DIRECTOR
SUBJECT: POLICY DISCUSSION CONCERNING LAND USE REGULATIONS FOR WAREHOUSING FACILITIES

RECOMMENDED ACTION

It is recommended that the City Council provide direction to the City Manager on whether to pursue an amendment to the Zoning Code to expand the definition of warehousing and/or modify the regulatory process.

GOAL STATEMENT

The proposed action supports the City's goal to periodically review and consider changes to the City's Zoning Code as issues arise or State legislation mandates amendments.

BACKGROUND

This report was prepared at the request of Councilmember Elliott who desires to initiate a discussion regarding "warehousing" and the regulatory framework in the City's Development Code (the "Code") in two areas. One issue concerns the current definition of warehousing and whether it should be amended to distinguish the different types of warehousing and distribution facilities. The other concerns whether to establish a specific regulatory threshold in the Code's land use chart for warehousing based on building size to differentiate the entitlement process. For instance, warehouse buildings that are smaller in size than the threshold would be considered a permitted use by right of a given zone; which under the Code would only require a Development Plan Review (Site Plan and Design Review) process; notwithstanding environmental review. Alternatively, warehouse buildings exceeding the threshold would be considered a "conditionally permitted use" which means a conditional use permit (CUP) is required for land use approval. A CUP establishes a discretionary approval process enabling the Planning Commission (or City Council if a legislative action is associated) to control certain land uses on a proposed site and/or limit certain operational characteristics both of which could cause externalities or land use compatibility issues.

Hence, this report will juxtapose the regulations of other cities in the region containing warehouse development to provide context in this analysis.

ISSUES/ANALYSIS

The City's Development Code defines "warehousing" in Section 17.51.010 as "the *provision of facilities used primarily for the storage of commercial goods, including documents. "Warehousing" does not include mini-storage*". The "warehousing" listing in the land use chart is categorical in nature which is common in most Zoning Codes, and allows for a range of warehouse/distribution type uses under this classification. This would include "standard warehouses" which are used for long-term storage of finished goods as part of a company's outbound supply chain operation. At one time prior to the 1990's, storage warehouses were extremely common, as many companies employed a make-to-stock strategy in their supply chains. However, in the early 1990's supply chain management was broadened to include the warehousing function, setting the stage for a more comprehensive and high technological approach to supply chain management.

The warehousing listing in the Zoning Code also include "distribution warehouse". These are today's modern, automated warehouses and are often known as distribution centers, warehouse distribution facilities, or fulfillment warehouses. Many logistics professionals and City Zoning Codes use the term warehouse and distribution center "interchangeably". Key features of a typical warehouse distribution facility include:

- Acts as a center for value added services, such as order fulfillment, labeling, packaging, cross-docking, and transportation;
- Are focused as much on customer service excellence as on efficient storage;
- Utilizes technology to improve service, cost, and efficiency;
- Generally, ceiling heights are 36 feet or greater in order to optimize storage capacity based on modern racking systems; and,
- Serve as the primary supply chain link between suppliers and customers.

Currently, the City's Zoning Code allows "warehousing" as a permitted use by right in the following zones: 1.) Light Industrial (LI) District; 2.) General Industrial (GI) District; as well as, the mixed-use zones: 3.) Commercial/Industrial Mixed-Use (C/I-MU) District; 4.) Commercial/Office Mixed-Use (C/O-MU) District; and, 5.) Commercial/Residential Mixed-Use (C/R-MU) District. Staff has included a copy of the City's Zoning Map with this report for the City Council's reference.

To provide some context to the discussion, the following are examples of how other cities in the region define warehousing uses and how they are regulated:

City of Chino. Chino defines warehousing as: "*The provision of facilities used primarily for the storage of commercial goods, including documents. "Warehousing" does not include mini-storage*". This is the same definition as in Upland's Zoning Code. There is also a definition for "Wholesaling and distribution" which means "*The provision of facilities used primarily for selling or distributing goods to retailers, contractors, commercial purchasers or other wholesalers, or to the branch or local offices of a company or organization*". In Chino's Industrial District's land use chart "Warehouse and Storage" is how this land use is listed and includes "Warehousing/Wholesaling and Distribution" which are regulated as a permitted use or requiring a CUP in certain zoning districts based on the size categories as follows:

- *Warehousing/Wholesaling and Distribution, Very Light (<25,000 sq. ft.*
- *Warehousing/Wholesaling and Distribution, Light (25,000 to 50,000 sq. ft.*
- *Warehousing/Wholesaling and Distribution, General (>50,000 sq. ft.)*

Chino only requires a CUP in its Light Industrial District for warehouses over 50,000 square feet in size. In the other industrial zones it's a permitted use regardless of building size, and

is allowed by right in the Service Commercial District which allows a mix of heavy commercial and certain light industrial uses, if the building is less than 25,000 square feet in size.

City of Ontario. Ontario does not have a definition of warehouse or distribution center in the zoning code's glossary, but in the land use chart it's listed using the U.S. government's Standard Industrial Classification (SIC) system for "warehouse and storage" (SIC #493) which includes:

Warehousing and Storage, limited to the following:

- *Within a Wholly Enclosed Building*
- *Outside Materials and Equipment Storage*
 - 1.) *In conjunction with an allowed use*
 - 2.) *As a primary use of property*
- *Refrigerated Warehousing and Storage*

Warehousing and Storage is a permitted use in Ontario's industrial zoning districts and are not regulated by building size.

City of Rancho Cucamonga. Rancho Cucamonga provides a fairly detailed definition for various types of warehousing and distribution facilities in their zoning code as follows:

Storage warehouse. Facility for the storage of furniture, household goods, or other commercial goods of any nature. Includes cold storage. Does not include warehouse, storage, or mini-storage facilities offered for rent or lease to the general public (see Storage, personal storage facility) or warehouse facilities in which the primary purpose of storage is for wholesaling and distribution [see Wholesale, storage and distribution (heavy, medium and light)].

Wholesale, storage, and distribution, heavy. Activities typically include, but are not limited to, warehousing, storage, freight handling, shipping, trucking services and terminals, and storage and wholesaling from the premises of unfinished, raw, or semi-refined products requiring further processing, fabrication, or manufacturing. Typical uses include, but are not limited to, trucking firms, and the wholesaling of metals, minerals, and agricultural products. Outdoor storage is permitted.

Wholesale, storage, and distribution, light. Activities typically include, but are not limited to, wholesaling, storage, and warehousing services and storage and wholesale to retailers from the premises of finished goods and food products. Activities under this classification shall be conducted in enclosed buildings and occupy 50,000 square feet or less of building space. Retail sales from the premises may occur when approved by a conditional use permit.

Wholesale, storage, and distribution, medium. Activities typically include, but are not limited to, wholesale, storage, and warehousing services; moving and storage services; storage and wholesaling to retailers from the premises of finished goods and food products; and distribution facilities for large-scale retail firms. Activities under this classification shall be conducted in enclosed buildings and occupy greater than 50,000 square feet of building space. Included are multi-tenant or speculative buildings with over 50,000 square feet of warehouse space.

Rancho Cucamonga only requires a CUP in its General Industrial District for "wholesale, storage and distribution, heavy", whereas in the other industrial zoning districts it's a permitted use regardless of building size or the classification (Heavy, Medium or Light). Building size is used to distinguish "Medium" (>50,000 sq. ft.) from "Light" (≤ 50,000 sq. ft.).

City of Rialto. Rialto does not have a definition in their zoning code's glossary. In the land use chart, the use is listed as:

"Wholesaling, warehousing and storage when conducted within a permanent and completely enclosed building".

The land use is generally a permitted use in the industrial zones and commercial/industrial zone but is not permitted in the general manufacturing (M-2) zone. There is no regulatory distinction based on building size.

City of Fontana. Fontana's definitions discern various types of warehouses which include: 1.) Warehousing, Logistics and Distribution Facility; 2.) Warehousing Facilities; 3.) Warehousing Sales, Retail; 4.) Warehousing Sales, Wholesale; and, 5.) Distribution Facilities. The following are the definitions in their Code:

Distribution Facility means a use engaged primarily in distribution of manufactured products, supplies, and equipment, including incidental storage and sales activities, but excluding of bulk storage of materials which are flammable or explosive.

Warehousing, Logistics and Distribution Facility means warehouse/distribution facilities used for the storage and/or consolidation of manufactured goods (and to a lesser extent, raw materials and excludes bulk storage of materials, which are flammable or explosive or create hazardous or commonly recognized offensive conditions) before their distribution to retail locations or other warehouses. Warehouse/distribution centers are generally greater than 200,000 square feet in size, with a land coverage ratio of approximately 50 to 80 percent, and a dock-high loading door ratio of approximately 1:5,000 – 8,000 square feet. They are characterized by dock high loading doors, could be on opposing sides of the building (Cross-Dock Facility); significant movement and storage of products, materials, or equipment; truck activities frequently outside of the peak hour of the adjacent street system; and freeway access, including:

- *Freight Yards/Forwarding Terminals*
- *Warehousing Distribution/High Cube Distribution Centers*
- *Moving Agencies*
- *Parcel Delivery Terminals*
- *Railroad Freight Stations*
- *Shipping/Receiving Yards*
- *Truck Terminals*

Warehousing Facility means the use of a building primarily for the storage of goods of any type by one or two businesses and used for the sale or distribution of those goods to their direct customers (excluding bulk storage of materials which are flammable or explosive or which create hazardous or commonly recognized offensive conditions). Typically, 200,000 square feet or less in size with a land coverage ratio of approximately 45 to 55 percent with dock high and/or ground level loading doors on one side of the building only.

Warehousing Sales, Retail means the use of a building or buildings primarily for the internal storage of goods of any type, which includes the selling of such goods both directly to the ultimate consumer and includes incidental wholesaling. Generally, sales tax is collected from the ultimate consumer.

Warehousing Sales, Wholesale means the use of a building or buildings primarily for the internal storage of goods of any type, which includes the selling of such goods to other businesses, including retailers, industrial, commercial, institutional, or professional business users, other wholesalers, or acting as agents or brokers and buying

merchandise for, or selling merchandise to, such individuals or companies, and specifically excluding sales of goods directly to the ultimate consumer. Generally, sales tax is not collected from businesses purchasing such goods.

The definition of "Warehouse, Logistics and Distribution Facility" above is quite broad and includes a full range of warehousing and distribution uses. Fontana's Zoning & Development Code lists land uses by categories. In the industrial zoning districts, the term "Warehousing Uses" is used and includes the following uses under this category:

- Warehousing, high-cube (See footnote 1)
- Warehousing, standard
- Warehousing, Logistics and Distribution
- Warehousing sales, Retail
- Warehousing sales, Wholesale

Warehousing uses are permitted by right in Fontana's Light Industrial (M-1) and General Industrial (M-2) zoning districts, and the Warehousing Distribution/Logistics Overlay district. In the commercial zoning districts, only "Warehousing Sales, Retail" and "Warehousing Sales, Wholesale" are permitted by right, except a CUP is required in the Community Commercial (C-1) district for "Warehousing Sales, Retail", and a CUP is required in the General Commercial (C-2) district for "Warehousing sales, Wholesale".

(1): According to the Institute of Transportation Engineers (ITE) Manual, a high-cube warehouse is a building that typically has at least 200,000 gross square feet of floor area, has a ceiling height of 24 feet or more, and is used primarily for the storage and/or consolidation of manufactured goods prior to their distribution to retail locations or other warehouses. A typical HCW has a high-level of on-site automation and logistics management.

STAFF RECOMMENDATION

The above provides a good representation of how other cities define, differentiate and regulate warehousing. From a land use classification perspective, it's clearly evident from the sample cities that warehousing and distribution uses are interchangeable as previously discussed earlier in this report. Also, warehousing is predominately regulated as a permitted use in industrial zones, except that there are examples where a CUP is required in a lesser intense zoning district, such as a commercial and industrial zoning district, or if the warehouse building is greater than a certain size; such as 50,000 square feet. If the City Council wishes to pursue an amendment to the Zoning Code, staff provides the following observations:

1. Based on this analysis and that warehousing and distribution facilities are interchangeable in meaning from a land use perspective, it is not necessary to refine the "warehousing" definition in the Code. If the goal is to provide more land use control for warehousing, then building size (See No. 2 below) is a more appropriate metric than regulating what zoning districts that individual types of warehousing and distribution uses are permitted;
2. If the goal is to provide more quasi-judicial control by the size of a warehousing development, a CUP can be required to give the reviewing authority more discretionary approval power relative to larger warehousing projects proposed at a specific site or containing certain negative operational characteristics. If this is preferred, staff suggests that the threshold could be 50,000 square feet to differentiate "warehousing" as a permitted use versus one that is a "conditionally permitted use" requiring a CUP; and,
3. Consider removing "warehousing" as a permitted use in the Commercial/Office Mixed-Use (C/O-MU) District and the Commercial/Residential Mixed-Use (C/R-MU) District. This action would prohibit the reach of warehousing along both sides of Foothill Boulevard, east of Benson Avenue to Grove Avenue.

ENVIRONMENTAL DETERMINATION

The proposed policy discussion may result in staff being directed to pursue an amendment to the Zoning Code. Any subsequent amendment to the Zoning Code regarding warehousing will be reviewed under California Environmental Quality Act (CEQA) at that time. The analysis and any subsequent direction under this matter is not considered a "project" under CEQA, as defined in Section 15378 of the CEQA Guidelines.

FISCAL IMPACTS

There is no fiscal impact associated with this item. Should staff be directed to pursue an amendment to the City's Zoning Code, the cost to the City will entail staff's time in processing a Zoning Code Amendment.

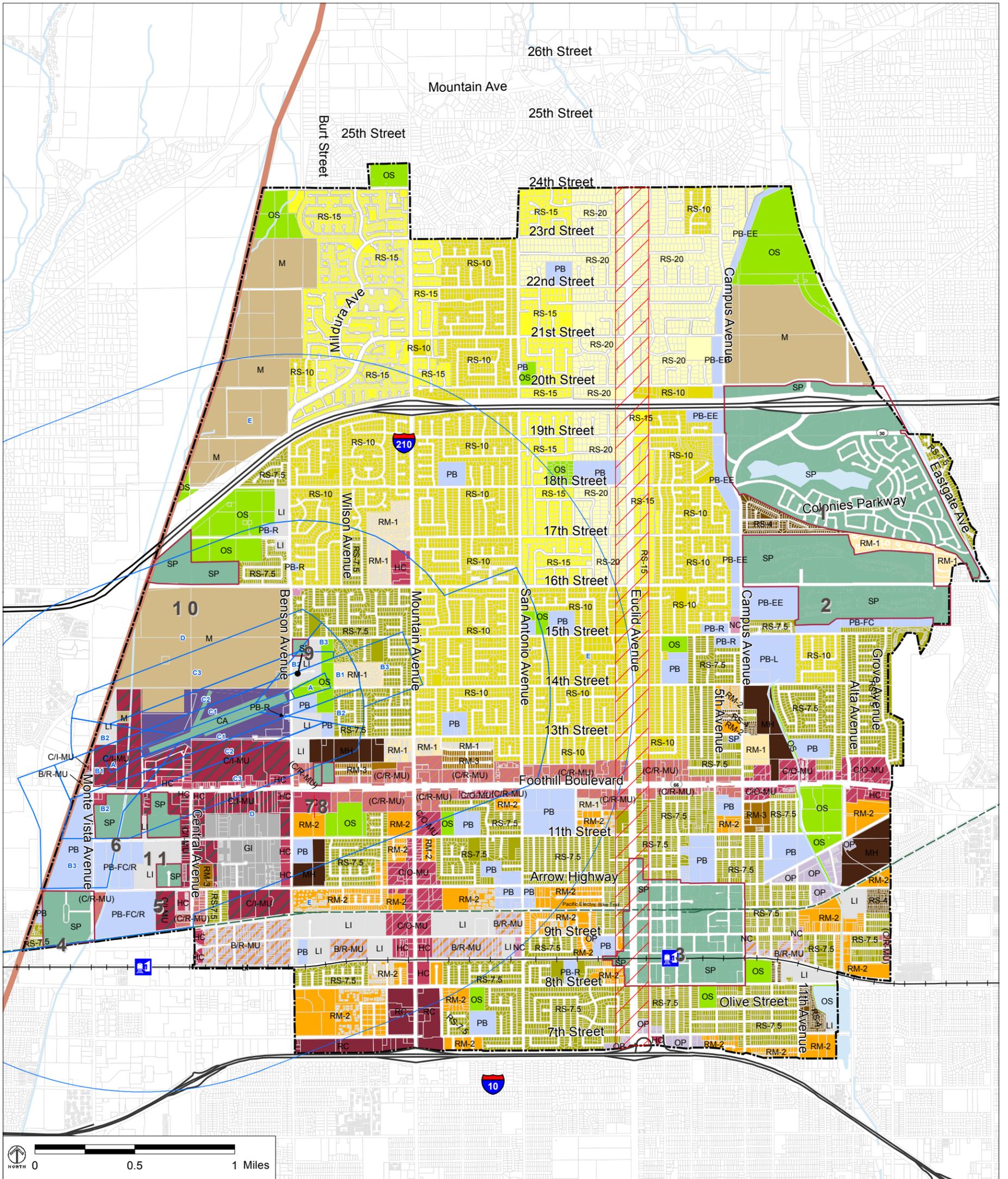
ALTERNATIVES

The City Council may provide staff with an alternative decision.

ATTACHMENTS:

Exhibit 1: Reduced Size Zoning Map

Map Date: 9/14/15



Source: City of Upland

	SINGLE-FAMILY RESIDENTIAL	MULTI-FAMILY RESIDENTIAL	INDUSTRIAL	SPECIAL PURPOSE
	RS-20,000 (RS-20)	RM-10	General Industrial (GI)	Open Space (OS)
	RS-15,000 (RS-15)	RM-20	Light Industrial (LI)	Mining (M)
	RS-10,000 (RS-10)	RM-30	MIXED-USE	Cable Airport (CA)
	RS-7,500 (RS-7.5)	COMMERCIAL	Commercial/Residential Mixed-Use (C/R-MU)	Public (PB)
<ol style="list-style-type: none">1. The Colonies2. Upland Hills Country Club3. Historic Downtown Upland4. College Park5. College Commerce Center6. Harvest at Upland7. Foothill Benson Terrace8. Foothill Walk9. Wyeth Cove10. Park View11. The Enclave	RS-6,000 (RS-6)	Office Professional (OP)	Business/Residential Mixed-Use (B/R-MU)	Scenic Corridor Overlay
	RS-4,000 (RS-4)	Regional Commercial (RC)	Commercial/Office Mixed-Use (C/O-MU)	Airport Safety Overlay Zones
	Mobile Home Park (MH)	Highway Commercial (HC)	Commercial/Industrial Mixed-Use (C/I-MU)	
		Neighborhood Commercial (NC)		