



UPLAND CITY COUNCIL

AGENDA

**January 27, 2020
City Council Chamber**

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

**ROSEMARY HOERNING, INTERIM 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.

*** * * * ***

6:00 PM - Closed Session

- 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**

A. CLOSED SESSION PUBLIC EMPLOYEE PERFORMANCE EVALUATION, APPOINTMENT, AND RELATED ACTIONS

Pursuant to Government Code Section 54957
Title: City Manager

B. CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

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

Case Name: Inland Oversight Committee v. City of Upland
Case San Bernardino County Superior Court Case No. CIVDS
Number: 1936887

C. GOVERNMENT CODE SECTION 54956.8 - CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Property: APN 1044-061-41, 1044-061-42, 1044-061-43
(vacant land)

Agency Interim City Manager Hoerning, Development Services
Negotiators: Director Dalquest, Development Services Manager Chavez, and Economic Development Coordinator Picazo

Negotiating Parties: City of Upland and prospective buyers

Under Negotiation: Price and terms - Instructions in dealing with prospective buyers

7:00 PM

5. INVOCATION

Jim Thomas, Church of Jesus Christ of Latter-Day Saints

6. PLEDGE OF ALLEGIANCE

7. PRESENTATIONS

Informational Presentation on the Omni Trans Proposed Service Level Modifications to Bus Routes 83 & 85 by Jeremiah P. Bryant Director of Strategic Development

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 Special Joint Workshop Minutes of January 9, 2020 and the Regular Meeting Minutes of January 13, 2020. (Staff Person: Keri Johnson)

B. DESIGNATION OF A DELEGATE TO THE SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS GENERAL ASSEMBLY MEETING

Appoint Councilmember Janice Elliott as the delegate to represent the City of Upland at the Southern California Association of Governments General Assembly Meeting on May 7, 2020. (Staff Person: Keri Johnson)

C. DISPOSAL OF SURPLUS EQUIPMENT

Declare items as surplus, and authorize the Interim City Manager to initiate disposal of the surplus equipment. (Staff Person: Rosemary Hoerning)

D. ACCEPTANCE OF WORK FOR THE 3RD AVENUE PAVEMENT REHABILITATION AND WATER IMPROVEMENTS PROJECT

Accept the work; record the Notice of Completion; and, reduce the Faithful Performance Bond to 10% for the 3rd Avenue Pavement Rehabilitation and Water Improvements Project. (Staff Person: Steve Nix)

E. INTENTION TO VACATE A PORTION OF THE FRONTAGE ROAD ON THE NORTH SIDE OF FOOTHILL BOULEVARD RIGHT-OF-WAY PER APPLICATION FOR STREET VACATION 19-01, AND IN RELATION TO A PROPOSED STARBUCKS LOCATED AT 275 EAST FOOTHILL BOULEVARD

Declare its intention to vacate 3,983 square feet of a portion of the frontage road on the north side of Foothill Boulevard right-of-way, located approximately 175 linear feet east of the intersection of Foothill Boulevard and Second Avenue, per application for Street Vacation 19-01. It is further recommended the City Council set a Public Hearing for February 24, 2020 concerning the vacation. (Staff Person: Robert Dalquest)

12. PUBLIC HEARINGS

A. PROPOSED AMENDMENT TO THE ADMINISTRATIVE CITATION ORDINANCE AND THE ADMINISTRATIVE CITATION FINE SCHEDULE

The City Council will consider an Ordinance create and implement a comprehensive and transparent process for the issuance, collection, and appeals of administrative citations; and a Resolution establishing fines for certain violations of the Upland Municipal Code. (Staff Person: Darren Goodman)

Recommendation: 1) Staff presentation

2) Hold public hearing

3) Close public hearing

4) Hold first reading by title only, waive further reading, and introduce an Ordinance repealing Upland Municipal Code Chapter 1.10 regarding administrative fines and adding Chapter 1.22 regarding administrative citations to create and implement a comprehensive and transparent process

for the issuance, collection, and appeals of administrative citations.

- 5) Adopt a Resolution amending the master fee schedule and establishing administrative fines for certain violations of the Upland Municipal Code.

B. PROPOSED SOLID WASTE RATE ADJUSTMENT

The City Council will consider the proposed solid waste rate adjustments.
(Staff Person: Rosemary Hoerning)

Recommendation: 1) Staff presentation

2) Hold public hearing

3) Close public hearing

4) Approve a resolution adopting revisions to the schedule of solid waste rates.

13. COUNCIL COMMITTEE REPORTS

14. BUSINESS ITEMS

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, February 10, 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 Upland Public Library, downstairs reference desk at 450 North Euclid Avenue, the City Clerk's Office at 460 North Euclid Avenue and the City website at www.ci.upland.ca.us, subject to staff's ability to post the documents before the meeting.

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 January 22, 2020 a true and correct copy of this agenda was posted on the bulletin boards at 450 N. Euclid Avenue (Upland Public Library) and 460 N. Euclid Avenue (Upland City Hall).

**MINUTES OF A SPECIAL JOINT WORKSHOP OF THE
UPLAND CITY COUNCIL, THE PLANNING COMMISSION,
AND THE AIRPORT LAND USE COMMITTEE
JANUARY 9, 2020**

1. CALL TO ORDER AND ROLL CALL OF THE CITY COUNCIL

The special meeting of the Upland City Council was called to order by Mayor Debbie Stone at 6:00 p.m. in the Council Chamber of the Upland City Hall.

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

2. CALL TO ORDER AND ROLL CALL OF THE PLANNING COMMISSION AND AIRPORT LAND USE COMMITTEE

The special meeting of the Upland Planning Commission and Airport Land Use Committee was called to order by Chairperson Robin Aspinall at 6:00 p.m. in the Council Chamber of the Upland City Hall.

Present: Chair Robin Aspinall, Commissioners/Committee Members Carolyn Anderson, Linden Brouse, Alexander Novikov, and Yvette Walker. Committee Members Howard Bunte and Ron Campbell (arrived at 6:03 p.m.)

Absent: Commissioner/Committee Member Gary Schwary

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

3. ORAL COMMUNICATIONS

A number of individuals spoke in opposition of the proposed project citing traffic concerns, pollution impacts to residents' health, impacts to streets, lack of tax revenue to the City, zoning of the property, the proximity to residential neighborhoods, the need for noise studies to be performed at night when there will be truck traffic, potential increases in crime, and concerns regarding the validity of the environmental study. Speakers requested a full environment impact report be performed before the project is considered for approval. The following spoke:

Steve Bierbaum, Upland
Mark Walters, Upland
Irmalinda Osuna
Roger Stephenson, La Verne
Leland Marks, Upland
Bill Behjat, Upland
Fariba Noory, Upland
John Weinerth, Upland
Eric Nilsson, Claremont
Natasha Walton, Upland
April McCormick

Brinda Sarathy
Lois Sicking Dieter
Mike Nunez, Upland
David Wade, Upland
Chris Garcia, Upland
Libby Hummel, Upland
Charlene Contreras, Upland
Carlos Garcia, Upland
Terri D
Alunzo Zaldivar
Marjorie Mikels

Ray Musser, Upland, spoke in support of the proposed project.

Eric Reese, suggested the developer use porous reflective pavements to reduce surface temperatures, lower energy costs, and reduce emissions.

Carl Bunch, Upland, suggested the following issues be considered, cross traffic issues on Foothill Boulevard, financial penalties for the tenant if the maximum number of truck trips is exceeded, and request that the tenant designate Upland as the point of sale in order to retain sales tax revenues in the City.

Eric Gavin, spoke in support of the project and stated that the City had missed out on other development opportunities.

Brigitte James, requested that the legislative bodies listen to the community concerns and continue to try and negotiate with the developer.

Bob Cable, spoke in support of the project and stated that there have been many changes in the City since the airport was built over 75 years ago.

At 7:23 p.m. Mayor Stone called a recess. The City Council, Planning Commission, and Airport Land Use Committee reconvened at 7:29 p.m.

4. DISCUSSION OF A DRAFT INITIAL STUDY/MITIGATED NEGATIVE DECLARATION FOR THE BRIDGE POINT UPLAND, LOCATED ON THE NORTH SIDE OF FOOTHILL BOULEVARD NEAR THE TERMINUS OF CENTRAL AVENUE, APPROXIMATELY 50.25 ACRES

Development Services Director Dalquest introduced Candyce Burnett with Kimley-Horn who presented information on the environmental review process along with a PowerPoint, which is on file in the City Clerk's office.

Interim City Attorney Flower clarified that discussion should be limited to only the draft initial study and the mitigated negative declaration; and not the merits of the project.

There was discussion regarding the differences between a Mitigated Negative Declaration and an Environmental Impact Report, the zoning classification of the property, and the review/approval process.

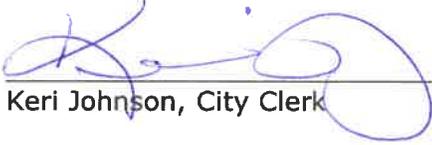
Brendan Kotler Vice President of Development with Bridge Development Partners, Inc., and consultants then answered questions from the Council and Planning Commission regarding the environmental review process and comment period, the traffic study, the greenhouse gas thresholds, the Mitigated Negative Declaration, potential project conditions to limit traffic impacts, the zoning of the property, and noise impacts.

5. ADJOURNMENT

Mayor Stone adjourned the meeting at 9:15 p.m. The next regular meeting of the City Council is Monday, January 13, 2020. The next regular meeting of the Planning Commission is Wednesday, January 22, 2020.

SPECIAL JOINT WORKSHOP MINUTES
UPLAND CITY COUNCIL, PLANNING COMMISSION,
AND AIRPORT LAND USE COMMITTEE
JANUARY 9, 2020
PAGE 3

SUBMITTED BY:



Keri Johnson, City Clerk

APPROVED:

January 27, 2020

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

OPENING

The regular meeting of the Upland City Council was called to order by Mayor Debbie Stone at 6:00 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

2. ADDITIONS/DELETIONS TO AGENDA None

3. ORAL COMMUNICATIONS

Marjorie Mikels, stated that the City representing that the Memorial Park Master Plan will have environmental impact and the City should prepare an environmental study.

Brinda Sarathy, Upland, thanked the Interim City Manager for her professionalism and responsiveness to resident inquiries. She also requested that the City move forward with an environmental study for the Memorial Park Master Plan.

Natasha Walton, Upland, requested that the City prepare an environmental study for the Memorial Park Master Plan to allow the community the opportunity to provide input and comments.

4. CLOSED SESSION

At 6:10 p.m. Mayor Stone announced the City Council would recess to Closed Session pursuant to Government Code Section

A. CLOSED SESSION PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Government Code Section 54957
Title: City Manager

B. CLOSED SESSION CONFERENCE WITH LABOR NEGOTIATORS

Government Code Section 54957.6
Unrepresented employee: Interim City Manager
City designated representative: Interim City Attorney

C. CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

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

Case Name: Inland Oversight Committee v. City of Upland
Case Number: San Bernardino County Superior Court Case No. CIVDS 1936887

D. CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

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

Case Name: Michael Wehner v. City of Upland

Case Number: 5:19-cv-01155-GW-E

E. CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL - LIABILITY CLAIM

Government Code Section 54956.9

Claimant: Richard Vives

Agency: City of Upland

The City Council reconvened in open session at 7:02 p.m.

5. INVOCATION Reverend Jan Chase, Unity Church of Pomona

6. PLEDGE OF ALLEGIANCE Councilmember Velto

7. PRESENTATIONS

A presentation was given by General Manager Brian Lee on San Antonio Water Company activities.

8. CITY ATTORNEY

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

9. ORAL COMMUNICATIONS

Glenn Bozar, stated the City should recruit for a permanent City Manager and not extend the Interim City Manager's contract.

10. COUNCIL COMMUNICATIONS

Councilmembers announced various activities throughout the community, including providing an update on the meetings they attended.

11. CONSENT CALENDAR

Motion by Councilmember Zuniga to approve the remainder of the Consent Calendar, seconded by Councilmember Velto, and carried unanimously.

A. APPROVAL OF MINUTES

Approved the Special Meeting Minutes of December 9, 2019 and the Regular Meeting Minutes of December 9, 2019.

B. APPROVAL OF WARRANT AND PAYROLL REGISTERS DECEMBER, 2019

Approved the December Warrant Registers and Direct Disbursements (check numbers 28106-28414) totaling \$5,115,129.65 and Payroll Registers totaling \$1,506,909.28 (check Numbers 161078-161282 and EFTs 18450-18952).

C. TREASURY REPORT NOVEMBER 2019

Received and filed the November 2019 Treasury Report.

D. FIRST AMENDMENT TO AGREEMENT WITH SFG RETIREMENT PLAN CONSULTING, LLC FOR INVESTMENT ADVISOR AND FIDUCIARY SERVICES

Approved amendment number one to the Retirement Plan Investment Advisory Agreement between the City of Upland and SFG Retirement Plan Consulting, LLC and authorized the Interim City Manager to execute the agreement.

E. ACCEPTANCE OF RIGHT OF WAY DEDICATION (CORNER CUTBACK, GENERALLY LOCATED AT THE NORTHWEST CORNER OF 9TH STREET AND SAN ANTONIO AVENUE) FROM MR. MARIO SOSA HERRERA

Accepted the street right of way offer of dedication from Mario Sosa Herrera and authorized recordation of document.

F. APPROVAL OF PUBLIC IMPROVEMENT AGREEMENT AND ENCROACHMENT LICENSE AGREEMENT WITH BRIXMOR FOR PROJECT LOCATED ON THE NORTHWEST CORNER OF FOOTHILL BOULEVARD AND SAN ANTONIO AVENUE

Approved the Public Improvement Agreement and Encroachment License Agreement (ELA) with Brixmor Upland Town Square, LLC; and authorized the Interim City Manager to execute the ELA. The City Council accepted the Faithful Performance bond and the Labor Materials bond in the amount \$569,000 and \$285,000 respectively.

G. ACCEPTANCE OF PUBLIC IMPROVEMENT FOR TRACT MAP 18867 LOCATED EAST OF EUCLID AVENUE AND SOUTH OF 19TH STREET (MERITAGE HOMES)

Accepted the Tract Map 18867 public improvements performed by Meritage Homes and release the 25% bond. The City Council accepted the pedestrian bridge improvements and reduced the bond to twenty five percent (25%) as a guaranty to be held for a period of 12 months after acceptance.

H. APPROVAL OF AGREEMENT FOR CONSTRUCTION OF PUBLIC IMPROVEMENT AT 1160 E 19TH STREET BY WP FUND V UPLAND, LLC

Approved the Agreement for Construction of Public Improvements by WP Fund V Upland, LLC and accepted the Performance Bond in the amount of \$469,000 and Labor and Materials Bond in the amount of \$235,000.

I. CONSIDERATION OF A RESOLUTION TO APPROVE MODIFICATIONS TO THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) EMERGENCY REPAIRS PROGRAM GUIDELINES/POLICIES

Approved Resolution No. 6522 adopting amended program guidelines/policies with respect to the City's Emergency Repair Program.

J. ACCEPTANCE OF COVENANT AND AGREEMENT REGARDING WATER CONTROL MANAGEMENT PLAN AND STORM WATER BEST MANAGEMENT PRACTICES TRANSFER, ACCESS, AND MAINTENANCE

Accepted and executed all the Covenant and Agreements Regarding Water Quality Management Plan and Storm Water Best Management Practices Transfer, Access, and Maintenance and authorized recordation of said agreements.

12. PUBLIC HEARINGS

A. CONSIDERATION OF AN ORDINANCE TO ADOPT BY REFERENCE THE 2019 EDITION OF THE CALIFORNIA BUILDING CODE STANDARDS

Development Services Director Dalquest presented the staff report, which is on file in the City Clerk's Office.

Mayor Stone opened the public hearing and hearing no testimony, closed the public hearing.

Motion by Councilmember Felix to hold second reading by number and title only, and adopt Ordinance No. 1935 adopting by reference the 2019 California Administrative, Building, Fire, Green Building Standards, Mechanical, Residential, Plumbing, Electrical, Energy, Existing Building, Historical Building, and Referenced Standards Codes (Title 24, California Code of Regulations, Parts 1, 2, 2.5, 3, 4, 5, 6, 8, 9, 10, 11, and 12); the 1997 Uniform Housing Code; the 1997 Uniform Code for the Abatement of Dangerous Buildings; including certain appendices and penalties, seconded by Councilmember Elliott, and carried unanimously.

13. COUNCIL COMMITTEE REPORTS

A. SPECIAL POLICE AND FIRE COMMITTEE MEETING, DECEMBER 16, 2019

Councilmember Zuniga provided a recap of the meeting, which is on file in the City Clerk's office.

3) PROPOSED PURCHASE OF AN ARMORED RESCUE VEHICLE

Police Captain Blanco provided a brief report on this item.

There was discussion on the type of incidents that would warrant use of the proposed armored rescue vehicle.

Motion by Councilmember Felix to authorize the exploration of external funding sources for the purchase of an armored rescue vehicle, seconded by Councilmember Zuniga, and carried unanimously.

Interim City Manager Hoerning left the Council Chamber at 7:46 p.m.

14. BUSINESS ITEMS

A. AMENDMENT TO THE INTERIM CITY MANAGER'S EMPLOYMENT AGREEMENT

Interim City Attorney Flower presented the staff report, which is on file in the City Clerk's Office.

Motion by Councilmember Velto to approve an amendment to the Interim City Manager's employment agreement, which extends its term for six months, seconded by Councilmember Elliott, and carried unanimously.

Interim City Manager Hoerning returned to the Council Chamber at 7:47 p.m. and took her seat on the dais.

15. ORAL COMMUNICATION (items not on the agenda)

Christian Daly, Pasadena, introduced himself and announced he would be running for Congress in the November 2020 election.

Terri Galdo, Upland Chamber, reminded the Community to use the Shop Upland application and shop local.

Shannan Maust, announced an upcoming fundraiser at Upland High School.

Arielle Roberson, Claremont, spoke regarding the Americans with Disabilities Act and the responsibilities of community leaders to be aware of the needs of others.

La Kenya Pichford, Claremont, invited the Councilmembers to participate in an upcoming workshop on disability awareness.

Terri D. urged the Council to attend the upcoming workshop on disability awareness.

Glenn Bozar, spoke in opposition of the proposed Bridge Development and stated it does not belong in a bedroom community.

Carlos Garcia, Upland, stated the proposed Bridge Development will not bring revenue to the City and he further stated opposition to the project.

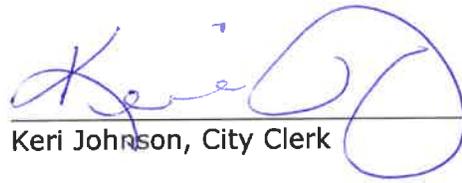
16. CITY MANAGER

Interim City Manager Hoerning introduced Steve Nix, Interim Public Works Director.

17. ADJOURNMENT

Mayor Stone adjourned the meeting at 8:08 p.m. The next regularly scheduled City Council meeting is Monday, January 27, 2020.

SUBMITTED BY



Keri Johnson, City Clerk

APPROVED

January 27, 2020 _____



STAFF REPORT

ITEM NO. 11.B.

DATE: January 27, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, INTERIM CITY MANAGER
PREPARED BY: KERI JOHNSON, CITY CLERK
SUBJECT: DESIGNATION OF A DELEGATE TO THE SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS GENERAL ASSEMBLY MEETING

RECOMMENDED ACTION

It is recommended that the City Council appoint Councilmember Janice Elliott as the delegate to represent the City of Upland at the Southern California Association of Governments (SCAG) General Assembly Meeting on May 7, 2020.

GOAL STATEMENT

The proposed action supports the City's goal to participate in activities in developing policies for California cities.

BACKGROUND

The City of Upland is a member of SCAG, a planning organization representing six counties, 191 cities and more than 19 million residents in an area covering over 38,000 square miles. SCAG is involved in coordinating a number of planning and policy initiatives related to Southern California transportation and land-use planning.

ISSUES/ANALYSIS

The SCAG General Assembly Regional Conference will take place May 7-8, 2020, in Palm Desert, CA. The conference will feature presentations and panel discussions on new opportunities and innovations that will help meet the challenges the region faces in the coming years. In order to vote in the SCAG General Assembly meeting, the City Council must designate a representative.

FISCAL IMPACTS

There is no fiscal impact associated with this action.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

No Attachments Available



STAFF REPORT

ITEM NO. 11.C.

DATE: January 27, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, INTERIM CITY MANAGER
PREPARED BY: KERI JOHNSON, CITY CLERK
SUBJECT: DISPOSAL OF SURPLUS EQUIPMENT

RECOMMENDED ACTION

It is recommended that the City Council declare items as surplus, and authorize the Interim City Manager to initiate disposal of the surplus equipment.

GOAL STATEMENT

The proposed action supports the City's goal to eliminate surplus equipment that is no longer needed for department operations.

BACKGROUND

Over time, the Information Technology Division has accumulated equipment that has become obsolete, damaged, and/or no longer useful for City operations. These items can be sold for re-use to offset the cost of the purchase of new equipment or if there is no residual value they can be properly disposed.

Upland Municipal Code Section 2.48.150 states that all departments shall submit reports showing all supplies and equipment which are no longer used or which have become obsolete or worn out. It further states that the items declared surplus may be sold on a competitive bid basis, scrapped, or donated based on highest rate of return.

ISSUES/ANALYSIS

The City disposes of surplus items through a public surplus auction website or directly to vendors if a higher price can be obtained. This is consistent with City Policy and the Upland

Municipal Code. The items listed on the attachment do not appear to have residual or scrap value and will be disposed.

FISCAL IMPACTS

Fiscal impact associated with this action will be minimal so no additional appropriations are required..

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

List of surplus equipment

Item:	Quantity	Price
Dell Server R2 Standard	1	0
Cisco Catalyst 2960G	1	0
Cisco Catalyst 3750G	1	0
Samsung TV	1	0
Dell Monitors	9	0
Dell Speakers Set	1	0
Keyboards	5	0
Dell Optiplex GX 620	1	0
Dell Optiplex 755	2	0
Dell Optiplex 760	2	0
Dell Optiplex 745	3	0
Dell Switch	1	0
Barracuda Spam Filter	1	0
HP Switch	1	0
Projector	1	0
Mics cables and mice		0
Mics PD cars docking stations and cables		0



STAFF REPORT

ITEM NO. 11.D.

DATE: January 27, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, INTERIM CITY MANAGER
PREPARED BY: STEVE NIX, INTERIM PUBLIC WORKS DIRECTOR
BOB CRITCHFIELD, ENGINEERING MANAGER
SUBJECT: ACCEPTANCE OF WORK FOR THE 3RD AVENUE PAVEMENT
REHABILITATION AND WATER IMPROVEMENTS PROJECT

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 the 3rd Avenue Pavement Rehabilitation and Water Improvements Project.

GOAL STATEMENT

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

BACKGROUND

On September 24, 2018, the City Council awarded the 3rd Avenue Pavement Rehabilitation and Water Improvements Project to Vido Samarzich, Inc., in the amount of \$3,000,000 (including contingencies). The project work occurred on 3rd Avenue, between "A" Street and 11th Street, and consisted of the installation of a new potable water main and service laterals, fire hydrant upgrades, reconstruction of asphalt concrete pavement, replacement of concrete curbs, gutters, rock curbs, sidewalks, curb ramps, and spandrels; and, replacement of pavement markings and 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%. The City will retain the Labor Materials Bond for six (6) months and release it thereafter, provided that no liens or stop notices are filed against the project.

FISCAL IMPACTS

The final construction cost of \$2,787,878.94 is within the original authorized appropriation amount of \$3,000,000.00, therefore, no additional appropriation is necessary.

ALTERNATIVES

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

ATTACHMENTS:

NOC for 3rd Avenue

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 **3rd Avenue Pavement Rehabilitation and Water Improvements** for the undersigned City of Upland, a Municipal Corporation, on the **6th** day of **November, 2019**.

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

The Contractor on said job was **Vido Samarzich, Inc.** of **Rancho Cucamonga**, California.

The improvement(s) consisted of **installation of a new potable water main and service laterals, fire hydrant upgrades, reconstruction of asphalt concrete pavement; replacement of concrete curbs, gutters, rock curbs, sidewalks, ADA curb ramps, and spandrels; replacement of brick sewer manholes and manhole adjustments; and re-striping**; and the location of the improvements occurred on 3rd Avenue, from "A" Street to 11th Street, in Upland, California.

The surety was **Fidelity and Deposit Company of Maryland**.

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 **January, 2020** at Upland, California.

City of Upland, a Municipal Corporation

Rosemary Hoerning, Interim City Manager



STAFF REPORT

ITEM NO. 11.E.

DATE: January 27, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, INTERIM CITY MANAGER
PREPARED BY: ROBERT D. DALQUEST, DEVELOPMENT SERVICES DIRECTOR
JOSHUA WINTER, ASSOCIATE PLANNER
SUBJECT: INTENTION TO VACATE A PORTION OF THE FRONTAGE ROAD ON THE NORTH SIDE OF FOOTHILL BOULEVARD RIGHT-OF-WAY PER APPLICATION FOR STREET VACATION 19-01, AND IN RELATION TO A PROPOSED STARBUCKS LOCATED AT 275 EAST FOOTHILL BOULEVARD

RECOMMENDED ACTION

It is recommended that the City Council declare its intention to vacate 3,983 square feet of a portion of the frontage road on the north side of Foothill Boulevard right-of-way, located approximately 175 linear feet east of the intersection of Foothill Boulevard and Second Avenue, per application for Street Vacation 19-01. It is further recommended the City Council set a Public Hearing for February 24, 2020 concerning the vacation.

GOAL STATEMENT

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

BACKGROUND

The applicant, Upland Village Center, LLC., has applied to construct a new Starbucks coffee house at 275 E. Foothill Boulevard. As part of the application for the proposed Starbucks, the applicant has also requested a street vacation, which includes a portion of the frontage road on Foothill Boulevard adjacent to the Upland Village Center. The proposed street vacation consists of an approximately 3,983 square foot portion of the existing frontage road (See Exhibit A - Legal Description and Vacation Map). Typically, a drive-through coffee shop would only require Planning Commission approval of the Conditional Use Permit, but, due to the requested street vacation, the entire project must be approved by the City Council, as the street vacation requires Council approval (Upland Municipal Code Section 17.43.050 E.).

At its December 11, 2019 meeting, the Planning Commission heard the request, held a public hearing, and ultimately voted to recommend approval of the project, including making a finding of General Plan Conformity required for approval of the street vacation (See Exhibit B - Planning Commission Resolution No. 4909).

The next step in the process is to bring the project, in its entirety, to the City Council for a public hearing. But first, the Council must declare its intention to vacate a portion of the frontage road on the north side of Foothill Blvd, and set a Public Hearing for the street vacation.

ISSUES/ANALYSIS

In scheduling a Public Hearing for the project, the City is required publish and post notices required by the California Streets and Highways Code 8320. These requirements include:

- A description of the street, highway, or public service easement proposed to be vacated and a reference to a map or plan, that shows the portion or area to be vacated and includes a statement that the vacation proceeding is conducted under this chapter. In the case of a street or highway, the description shall include its general location, its lawful or official name or the name by which it is commonly known, and the extent to which it is to be vacated.
- The date, hour, and place for hearing all persons interested in the proposed vacation. The date shall not be less than 15 days after the initiation of proceedings.
- The notice of the hearing on the proposed vacation shall be published for at least two successive weeks prior to the hearing in a daily, semiweekly, or weekly newspaper.
- At least two weeks before the day set for the hearing, the legislative body shall post conspicuously notices of vacation along the line of the street, highway, or public service easement proposed to be vacated.

The public hearing notice will also include the noticing information needed for the entirety of the project (i.e. Conditional Use Permit, Site Plan and Design Review) . As mentioned above, The City Council is required to take action on the whole project, and the public hearing will be for the approval of the project as a whole.

Approval of this action by City Council will declare the City's intention to vacate a portion of the street, as well as setting the public hearing date/time/location. Following the public hearing, the City Council can adopt a resolution ordering the vacation of the right-of-way.

FISCAL IMPACTS

The street vacation may result in a minor reduction to annual street maintenance costs. Any property owned in fee by the City within the area to be vacated will be purchased by the developer at fair market value.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Exhibit A - Legal Description and Vacation Map

Exhibit B - Planning Commission Resolution No. 4909

Notice of Public Hearing

EXHIBIT "A"
FOOTHILL BOULEVARD VACATION (V-)

LEGAL DESCRIPTION

THAT PORTION OF LOT 516, ONTARIO COLONY LANDS, CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, MAP RECORDED ON PAGE 6 OF BOOK 11 OF MAPS, OFFICIAL RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF PARCEL 4, OF PARCEL MAP NO. 213, IN SAID CITY, COUNTY AND STATE, AS FILED IN BOOK 6, PAGE 2 OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY; THENCE SOUTH ALONG THE PROLONGATION OF THE EAST LINE OF SAID PARCEL 4 A DISTANCE OF 0.95 FEET, TO A LINE THAT IS PARALLEL WITH AND 52.00 FEET NORTH OF THE SOUTH LINE OF SAID LOT 516 AND BEING THE **TRUE POINT OF BEGINNING**; THENCE SOUTH $00^{\circ} 01' 05''$ WEST A DISTANCE OF 20.00 FEET, TO A LINE THAT IS PARALLEL WITH AND 32.00 FEET NORTH OF THE SOUTH LINE OF SAID LOT 516; THENCE NORTH $89^{\circ} 58' 55''$ WEST ALONG SAID PARALLEL LINE A DISTANCE OF 126.58 FEET; THENCE NORTH $00^{\circ} 01' 05''$ EAST 20.00 FEET TO THE POINT OF INTERSECTION WITH A NON-TANGENT CURVE CONCAVE SOUTHERLY, HAVING A 65.00 FOOT RADIUS, A RADIAL LINE TO SAID CURVE BEARS NORTH $46^{\circ} 52' 37''$ WEST, SAID POINT ALSO BEING ON THE NORTH RIGHT-OF-WAY LINE OF FOOTHILL BOULEVARD; THENCE NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $46^{\circ} 53' 43''$ AN ARC DISTANCE OF 49.11 FEET TO A POINT OF COMPOUND CURVE, SAID CURVE BEING CONCAVE SOUTHERLY, HAVING A 104.00 FOOT RADIUS; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF $21^{\circ} 16' 01''$ AN ARC DISTANCE OF 38.60 FEET TO A POINT OF REVERSE CURVATURE, SAID REVERSE CURVE BEING CONCAVE NORTHESTERLY, HAVING A 175.00 FOOT RADIUS: THENCE SOUTHEASTERLY ALONG SAID REVERSE CURVE THROUGH A CENTRAL ANGLE OF $15^{\circ} 16' 55''$ AN ARC DISTANCE OF 46.68 FEET, MORE OR LESS, TO THE **TRUE POINT OF BEGINNING**.

AREA OF SAID PROPERTY IS APPROXIMATELY 3,983 SQ. FT.

THE PLAT LABELED EXHIBIT "B" IS ATTACHED HERETO AND MADE A PART HEREOF THIS LEGAL DESCRIPTION.

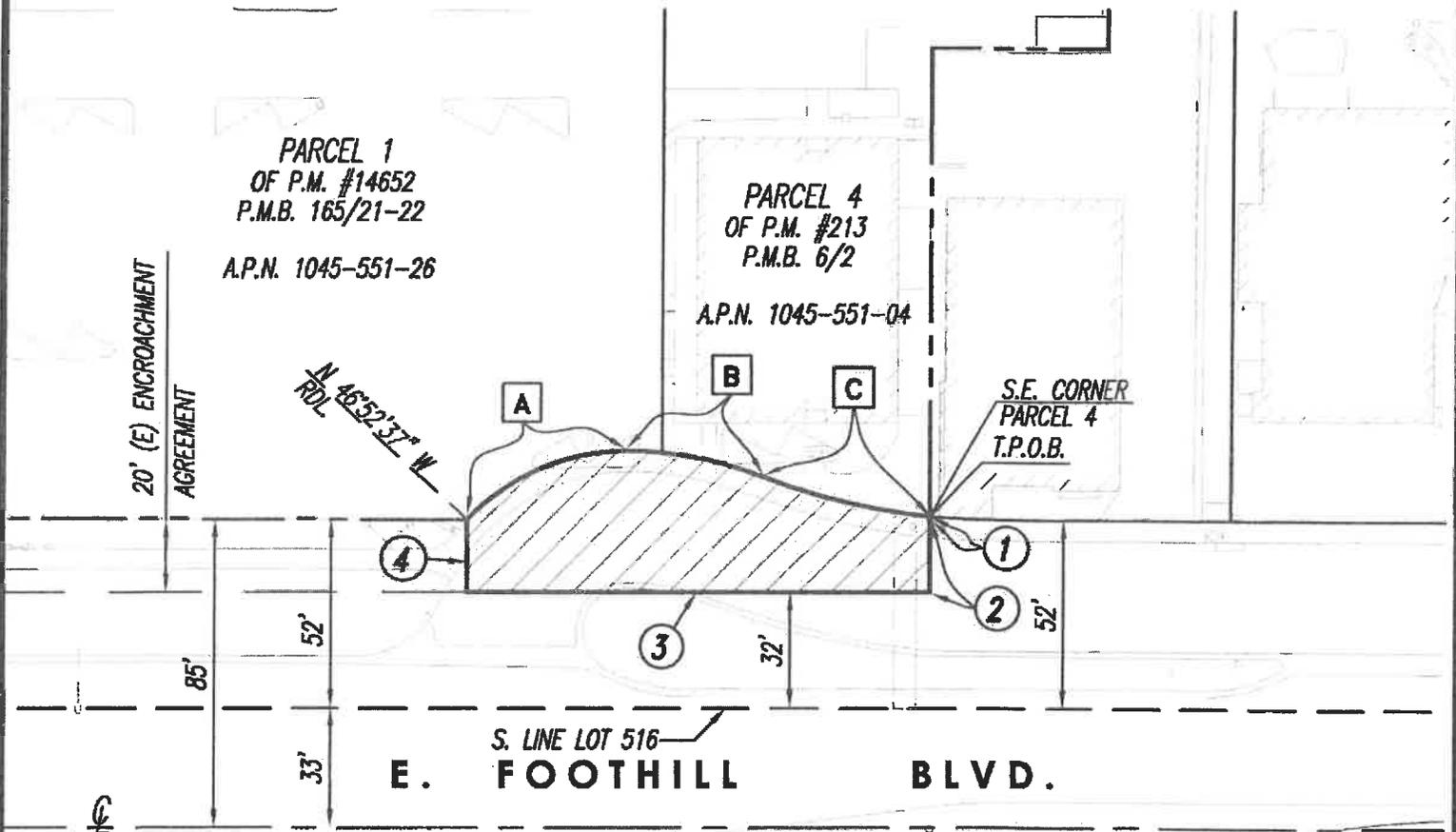
THIS LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION IN ACCORDANCE WITH THE REQUIREMENTS OF THE PROFESSIONAL LAND SURVEYORS' ACT.

ERIC J. ANDREASEN, L.S. 8256 (LIC EXP. 12-31-20)
ANDREASEN ENGINEERING, INC.
580 NORTH PARK AVENUE
POMONA, CALIFORNIA 91768
909-623-1595

RECEIVED
JUL 24 2019
DEVELOPMENT SERVICES

EXHIBIT "B"

FOOTHILL BOULEVARD VACATION (V -)



DISTANCE TABLE

#	BEARING	DISTANCE
①	SOUTH	0.95'
②	S 00°01'05" W	20.00'
③	N 89°58'55" W	126.58'
④	N 00°01'05" E	20.00'

CURVE TABLE

#	RADIUS	DELTA	LENGTH
A	65.00'	46°53'43"	49.11'
B	104.00'	21°16'01"	38.60'
C	175.00'	15°16'55"	46.68'



LEGEND:

- — — — — CENTER LINE
- - - - - RIGHT OF WAY LINE/
PROPERTY LINE



APPLICANT:
 WOOD INVESTMENTS, INC.
 580 BROADWAY, SUITE 117
 LAGUNA BEACH, CA 92651
 CONTACT: MATTHEW BUSH
 (949)497-8580



PREPARED BY:
ANDREASEN ENGINEERING, INC.

Civil Engineering • Land Surveying • Municipal Engineering
 580 North Park Avenue, Pomona, California 91768
 (909) 633-1595 Fax (909) 620-0016

***** Closure: Foothill Blvd. Vacation - APN 1045-551-04 & 26 *****

Start Point	Bearing	Distance	End Point	End Point Stored Coordinates	
				North	East
			59	10000.0262	9916.7134
59	S 00 01 05 W	20.00	60	9980.0262	9916.7071
60	N 89 58 55 W	126.76	61	9980.0659	9789.9502
61	N 00 01 05 E	20.00	58	10000.0659	9789.9565
58	S 46 52 38 E (R)	60.00	57	9959.0521	9833.7500
57	N 00 01 05 E (R)	60.00	56	10019.0521	9833.7689
56	S 00 01 05 W (R)	104.00	55	9915.0521	9833.7361
55	N 21 17 06 E (R)	104.00	54	10011.9579	9871.4889
54	N 21 17 06 E (R)	175.00	52	10175.0205	9935.0152
52	S 06 00 11 W (R)	175.00	53	10000.9801	9916.7134
53	S 00 00 00 E	0.95	59	10000.0262	9916.7134

Closure ERROR: S 37 20 23 E 0.0052 ft. 10000.0304 9916.7102
 Closure Precision: 1 / 58095 -0.0042 0.0032

Arc Start Point	Delta	Arc Length	Tangent Length	Arc Center Point	Arc End Point	Radius Length
58	046 53 43	49.11	26.02	57	56	60.00
56	021 16 01	38.60	19.53	55	54	104.00
53	015 16 55	46.68	23.48	52	54	175.00

MSC PERIMETER is 302.10 feet.

AREA of Foothill Blvd. Vacation - APN 1045-551-04 & 26 is
 3982.10 SF.....or 0.0914 Acres

***** Report Summary *****

MSC Area = 3987.90 SF.....or 0.0915 Acres

END OF REPORT

RESOLUTION NO. 4909

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF UPLAND MAKING A FINDING OF GENERAL PLAN CONFORMITY FOR STREET VACATION NO. SV-19-01 AND RECOMMENDING THAT THE CITY COUNCIL OF THE CITY OF UPLAND APPROVE CONDITIONAL USE PERMIT NO. CUP-19-08, SITE PLAN REVIEW NO. SP-19-05, DESIGN REVIEW NO. DR-19-08, ENVIRONMENTAL ASSESSMENT REVIEW NO. EAR-0082 FOR THE ESTABLISHMENT OF A NEW 2,049 SQUARE FOOT DRIVE-THROUGH COFFEE SHOP WITH OUTDOOR SEATING (STARBUCKS) WITHIN AN EXISTING SHOPPING CENTER LOCATED AT 275 E. FOOTHILL BLVD (APN: 1045-551-04).

Intent of the Parties and Findings:

WHEREAS, Upland Village Center, LLC. (Applicant) has filed applications requesting approval of the Project;

WHEREAS, The State of California Government Code Section 8320-8325 allows the legislative body of a local agency to vacate Public Streets, highways and service easements;

WHEREAS, California Government Code Section 65402 requires the City to determine that the location, purpose and extent of the proposed street vacation is in conformance with the General Plan. The Planning Commission is the review authority tasked with making the General Plan Conformity Determination.

WHEREAS, Upland Municipal Code Section 17.43.050 E. Requires that if one or more permit application is submitted concurrently for a single proposed project, each application shall be acted upon concurrently by the highest review authority. In this case, the highest review authority is the City Council, therefore the Planning Commission shall make a recommendation to the City Council;

WHEREAS, Upland Municipal Code Section 17.44 provides that the Planning Commission may attach conditions to the approval of the project as needed to ensure compliance with the Zoning Ordinance, other City Ordinances, the General Plan, and any other applicable community or specific plan, previously approved subdivisions and parcel maps and easements;

WHEREAS, The project is considered a project as defined by the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq.;

WHEREAS, The Development Services Director determined that the that finding for General Plan Conformity of the Street Vacation (SV-19-01) is Categorically Exempt from environmental proceedings pursuant to *Article 5, Section 15061(b)(3)* and the project qualifies for a Categorical Exemption from the provisions of CEQA per Section 15332, Class 32, In-Fill Development Projects, of the CEQA Guidelines;

WHEREAS, The City of Upland Planning Division on November 27, 2019, posted two (2) true and correct copies of the legal notice at the Upland City Hall Bulletin Board and at the Upland Public Library in accordance with the Upland Municipal Code Section 17.46.020;

WHEREAS, The City of Upland Planning Division on November 27, 2019, mailed the public hearing notice to each property owner within a 300-foot radius of the project site indicating the date and time of the public hearing in compliance with state law concerning the Project;

WHEREAS, The City of Upland Planning Division on November 29, 2019, published a legal notice in the Inland Valley Daily Bulletin, a local paper of general circulation, indicating the date and time of the public hearing in compliance with state law concerning the Project; and

WHEREAS, The City of Upland Planning Commission conducted a duly noticed public hearing on December 11, 2019, at which time it received public testimony concerning the Project, and considered the CEQA Exemption for the proposed project and the project itself.

NOW, THEREFORE, the Planning Commission hereby finds, determines and resolves and recommends as follows:

Section 1. Actions taken by the Planning Commission:

- A. Find that finding for General Plan Conformity of the Street Vacation (SV-19-01) is Categorical Exempt from environmental proceedings pursuant to *Article 5, Section 15061(b)(3)*, The activity is covered by the common sense exemption that The CEQA Guidelines apply only to projects which have the potential for causing a significant effect on the environment.
- B. Find that the Street Vacation (SV-19-01) is in conformance with the City of Upland General Plan.
- C. Recommend that the City Council of the City of Upland find that the project is Categorical Exempt from environmental proceedings pursuant to Article 19, Section 15332, In-Fill Development Projects, Class 32 (a-e), of the California Environmental Quality Act, since the proposed project is consistent with applicable general plan designations and policies as well as applicable zoning designation and regulations; occurs within city limits on a property that is no more than five acres substantially surrounded by urban uses; has no value as habitat for endangered, rare or threatened species; approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site can be adequately served by all required utilities and public services;
- D. Recommend the City Council move to approve a reduction of thirty-seven (37) parking spaces in the required parking based on the following findings:

1. The peak hours of use will not overlap or coincide to the degree that peak demand for parking spaces from all uses will be greater than the total supply of spaces;
 2. The proposed shared parking provided will be adequate to serve each use;
 3. A parking demand study prepared by an independent traffic engineering professional approved by the City supports the proposed reduction; and
 4. In the case of a shared parking facility that serves more than one property, a parking agreement has been prepared consistent with the provisions of off-site parking facilities.
- E. Recommend the City Council of the City of Upland approve Street Vacation No. SV-19-01, Conditional Use Permit No. CUP-19-08, Site Plan Review No. SP-19-05, Design Review No. DR-19-08 for a new 2,049 square foot drive-through coffee shop with outdoor seating.

Section 2. FINDINGS. The Planning Commission hereby makes the following findings and determinations in connection with the recommendation for approval of the Project:

- A. The above Recitals are true and correct.
- B. The project is consistent with the following General Plan Policies:
 1. Policy: Policy LU-3.1 Economic Development. Retain and attract land uses that generate revenue to the City, provide employment for residents while balancing other community needs such as housing, parks and open space, and public facilities”

Fact - The proposed use will provide a tax generating business and provide employment for residents.
 2. Policy LU-3.2 Economic Revitalization. Promote the development of vacant and underutilized parcels with higher intensity commercial and industrial land uses.

Fact - The proposed project will result in the demolition of a blighted building, and the construction of a new higher intensity drive-through coffee shop.
 3. Policy LU-3.5 Commercial Revitalization. Encourage the revitalization of aging commercial centers to improve the tax base and provide improved commercial services for the community.

Fact - The proposed project is the latest project intended for the revitalization of the Upland Village Center.

4. Policy FA-1.1 Economic Development. Focus economic development efforts on attracting and retaining desirable commercial uses along Foothill Boulevard.

Fact - The proposed project results in the construction of a desirable use along the Foothill Corridor.

C. The Street Vacation is consistent with the following General Plan Policies:

1. Policy FA-2.1 Service Roads. Coordinate the removal of service roads over time to allow for a wider, more pedestrian-oriented public realm consisting of landscaped parkways and a multi-use path.

Fact - The vacation will result in improved landscaping and improved pedestrian and vehicle circulation onto the project site, and the adjacent right-of-way.

2. Policy CIR-1.6 Intersection Improvements. Evaluate impacts of intersection improvements on all modes of travel including bicyclists, pedestrians, and transit.

Fact - The vacation will result in improved pedestrian and vehicle circulation onto the project site, and the adjacent right-of-way.

3. Policy CIR-1.7 Driveway Access Points. Require that driveway access points onto arterial roadways be minimized and located to ensure the smooth and safe flow of vehicles and bicycles"

Fact - The Street Vacation will result in the elimination of a currently poorly design intersection, in which the shopping center entrance is located off of a curved frontage road that then has access onto Foothill Blvd. The new design will create typical intersection with clearly defined paths of travel for those entering and exiting the Shopping Center.

D. Per Section 17.44.040(F) the Planning Commission may approve an application for a Conditional Use Permit only if the proposed project complies with applicable standards in the Zoning Ordinance, other City ordinances, the General Plan, and any other applicable community or specific plans, and as supported by all of the following findings:

1. Finding - The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and future land uses near the subject property.

Evidence - The surrounding area is already developed with uses permitted in zone, and the proposed use will not negatively affect the

overall character of the area. The proposed use will bring employees and customers into the area, and compliment the commercial center by offering additional services, in close proximity to an existing residential neighborhood. A traffic analysis was included with the project, which found the Project will not have a significant impact on traffic. Additionally a parking analysis was prepared for the site, which found the site will have adequate parking for the project and existing land uses.

2. Finding - The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g. fire and medical) access and public services and utilities.

Evidence - The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency (e.g. fire and medical) access and public services and utilities because the existing site and building provides sufficient space to accommodate the proposed use, and the center's parking lot provides an adequate number of parking spaces to accommodate the proposed use. Further, circulation on site will largely remain as existing, and is sufficient for public and emergency vehicle (e.g. fire and medical) access.

3. Finding - The proposed use will not be detrimental to the public health, safety, and welfare of the persons residing or working in the neighborhood of the proposed use.

Evidence - No evidence exists to suggest that the proposed use will be detrimental to or endanger the public health, safety, or general welfare. Substantial investment in the area is proposed and the use will draw employees and some customers who will support other businesses in the area. The use has been reviewed, and appropriate conditioned by Police and Fire Services, ensuring the public health, safety, and welfare of the community.

- E. Upland Municipal Code Section 17.44.030(H) provides that the approval body, before it may approve a Development Plan (Site Plan and Design Review), shall make a determination to allow the activity based upon the following findings:

1. Finding: The design and layout of the proposed project will not interfere with the use and enjoyment of existing and future neighboring properties and structures.

Evidence: The design and layout of the proposed project will not interfere with the use and enjoyment of existing development and structures. The layout provides adequate parking and circulation, as well

as stacking area in the drive-through lane. The driveway access adjacent to the new building will be largely improved. Additionally, conditions of approval, regulating the operation of the use, including the drive-through and Police Department Safety Conditions, are including to ensure that the operation of the site is not detrimental to the existing and future neighboring properties and structures.

2. Finding: The proposed architectural design makes use of appropriate materials, texture, and color, and will remain aesthetically appealing and appropriately maintained.

Evidence: The new building is designed to reflect a clean, contemporary aesthetic through the use of varying parapet heights, varied building wall setbacks and multiple exterior materials. A modern color scheme will compliment cantilever metal entry canopies and stacked-stone veneer. The architectural design visual impact with additional design elements around all sides of the building for a full 360 degree architecture design. Conditions of Approval are included, such a graffiti removal and general maintenance requirements, to ensure the structure will remain aesthetically appealing and appropriately maintained.

3. Finding: The proposed landscaping design, including color, location, size, texture, type, and coverage of plant materials, as well as provisions for irrigation, maintenance, and protection of landscaping elements, will complement structures and provide an attractive environment.

Evidence: As conditioned, the proposed landscaping design will meet the requirements of the Zoning Code. Landscaping shown on the preliminary landscape plan exhibits, including color, location, size, texture, type, and coverage of plant materials, as well as provisions for irrigation, maintenance, and protection of landscaping elements, will complement structures and provide an attractive environment.

4. Finding: The proposed design will not be materially detrimental to the public health, safety, or welfare, or be injurious to the property or improvements in the vicinity of the proposed project.

Evidence: The design of the project complies with all applicable development standards, which includes an aesthetic design that is compatible with the surrounding environment, adequate emergency vehicle access, security lighting, and adequate landscaping. Therefore the project will not be detrimental to public health and welfare.

Section 3. DETERMINATION. In light of the evidence presented at the hearing on this application, and based on the findings set forth above, the Planning Commission hereby finds that the requirements necessary for the recommendation of approval of the Project, subject to all applicable provisions of the Upland Municipal Code, and the following conditions of approval:

10.0 General Conditions

- 10.1. All Ordinances, Policy Resolutions, and Standards of the City in effect at the time this project is approved shall be complied with as a condition of this approval.
- 10.2. Prior to issuance of permits, the development plans shall be subject to plan check with the Planning Division, Building Division, Engineering Division, Public Works Department and Fire Department.
- 10.3. No building permits shall be issued until rough grading has been certified by the Engineer of Record, and a building permit has been issued by the Building Division.
- 10.4. All landscaped areas shall be maintained in a healthy and thriving condition, free from weeds, trash, and debris at all times. Dead, damaged, and/or missing landscaping shall be replaced/replanted, subject to the satisfaction of the Planning Division.
- 10.5. To the fullest extent permitted by law, the Applicant shall indemnify, defend and hold the City, its elected officials, officers, contractors serving as City officers, agents, and employees ("Indemnitees") free and harmless from: (i) any and all claims, liabilities and losses whatsoever occurring or resulting to any and all persons, firms, entities, or corporations furnishing or supplying work, services, materials, or supplies in connection with, or related to, the performance of work or the exercise of rights authorized by approval of the Conditional Use Permit No. CUP-19-08, Site Plan Review No. SP-19-05, Design Review No. DR-19-08 (project); and (ii) any and all claims, lawsuits, liabilities, and/or actions arising out of, or related to the approval of this Project and/or the granting or exercise of the rights authorized by said approval; and (iii) from any and all claims, liabilities and losses occurring or resulting to any person, firm, entity, corporation for property damage, personal injury, or death, arising out of or related to the approval of, or exercise of rights granted by, this Project. Applicant's obligation to indemnify, defend, and hold the Indemnitees free and harmless as required hereinabove shall include, but is not limited to, paying all fees and costs incurred by legal counsel of the Indemnitees' choice in representing the Indemnitees in connection with any such claims, losses, lawsuits, or actions, and any award of damages, judgments, verdicts, court costs or attorneys' fees in any such lawsuit or action.
- 10.6. The applicant and recorded property owner of the property shall submit to the Development Services Department written evidence of agreement with all conditions of this approval before the approval becomes effective.

- 10.7. Expansion of project beyond the scope and nature of the project, which would increase the projected scale of the project, shall not be permitted except upon application for and approval of modification to this Approval.
- 10.8. The developer shall not engage in any construction activities other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety or as otherwise approved by the Development Services Director.
- 10.9. Termination of approval if either: (1) development has not been diligently commenced and actively pursued to completion thereafter within a two (2) year period from the date of approval (i.e. December 11, 2021); or, (2) if the use approved hereunder is discontinued for a period of one hundred and eighty days or longer; or, (3) non-compliance with any provision of the Upland Municipal (UMC) not specifically waived in compliance with City procedures.

20.0 Planning Division Conditions

- 20.1 Prior to the issuance of building permits, the applicant is required to submit a final landscape and irrigation plan for review and approval by the Planning Division. Landscape plans will include all open space areas, common landscaped area and right-of-way landscaping.
- 20.2 Operation of the drive-through shall be managed, to the satisfaction of the Development Services Director, to ensure, to the greatest extent feasible, traffic does not spill onto the Public right-of-way.
- 20.3 Prior to issuance of the first building permit, the applicant shall prepare a Shared Parking Agreement site that allows all business on site to utilize non-exclusive parking spaces.
- 20.4 Prior to the issuance of building permits the applicant shall include, on the plans submitted for building permits, additional architectural enhancements (i.e. stone wainscoting, trellis, screening, etc.) on the facade facing onto Foothill Boulevard to the satisfaction of the Development Services Director.
- 20.5 The applicant shall comply with a maintenance requirements in Upland Municipal Code Section 17.16.
- 20.6 Structures and paved areas shall be structurally sound and maintain a clean and orderly appearance.
- 20.7 Structures or paved areas displaying any, but not limited to, evidence of the following shall be considered substandard and in violation of this Condition:

- a. Broken or missing foundation.
- b. Warping, bowing, or sagging of headers, sills, beams, eaves, doorways, doorjambs, or other similar structural members.
- c. Inadequate site drainage and/or standing water adjacent to building foundations.
- d. Broken or inoperable sanitary and plumbing facilities and/or fixtures.
- e. Faulty, sagging, or leaking roof or rain gutter.
- f. Missing roof tiles or other visible roofing material(s).
- g. Broken or missing windows.
- h. Holes in siding.
- i. Peeling or cracking paint.
- j. Damaged or deteriorating structures shall be repaired immediately.

20.8 During construction, the applicant shall comply with the following Best Management Practices for noise management during construction.

- a. Re-route truck traffic away from residential streets, if possible. Select streets with fewest homes, if no alternatives are available.
- b. Locate equipment on the construction lot as far away from noise sensitive receivers as possible.
- c. Combine noisy operations to occur in the same time period. The total noise will not increase significantly and the duration of the noise impact will be less.
- d. It is unlawful for any person to engage in or permit the erection (including excavation), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector, which permit may be granted for a period not to exceed three days or less while the emergency continues, and which permit may be renewed for periods of three days or less while the emergency continues. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration or repair of any building or the excavation of streets and highways within the hours of 6:00 p.m. and 7:00 a.m., and if he or she shall further determine that loss or inconvenience would result to any party in interest, he or she may grant permission

for such work to be done within the hours of 6:00 p.m. and 7:00 a.m., upon application being made at the time the permit for the work is awarded or during the progress of the work.

- e. Use specially quieted equipment when possible, such as quieted and enclosed air compressors, residential or critical grade mufflers on all engines.
- f. Stationary equipment will be located as far away from sensitive receptors as possible. Loud, disrupting construction activities in noise sensitive areas will be conducted during hours that are least disturbing to adjacent and nearby residents.
- g. If noise above the stated regulation will be generated for long periods of time, construct barriers to block the line of sight to noise sensitive receivers.

20.9 During construction, the applicant shall comply with the following Best Management Practices for air quality management during construction. Prior to issuance of any Grading Permit, the Development Services Director and the Engineering/Land Development Division shall confirm that the Grading Plan, Building Plans, and specifications stipulate that, in compliance with SCAQMD Rule 403, excessive fugitive dust emissions shall be controlled by regular watering or other dust prevention measures, as specified in the SCAQMD's Rule and Regulations. In addition, SCAQMD Rule 402 requires implementation of dust suppression techniques to prevent fugitive dust from creating a nuisance offsite. Implementation of the following measures would reduce short-term fugitive dust impacts on nearby sensitive receptors:

- a. All active portions of the construction site shall be watered twice daily to prevent excessive amounts of dust;
- b. Non-toxic soil stabilizers shall be applied to all inactive construction areas (previously graded areas inactive for 20 days or more, assuming no rain), according to manufacturers' specifications;
- c. All excavating and grading operations shall be suspended when wind gusts (as instantaneous gust) exceed 25 miles per hour;
- d. On-site vehicle speed shall be limited to 15 miles per hour; on-site roads shall be paved as soon as feasible, watered twice daily, or chemically stabilized;
- e. Visible dust shall not cross the property line;

- f. All material transported off-site shall be either sufficiently watered or securely covered to prevent excessive amounts of dust prior to departing the job site;
- g. Track-out devices shall be used at all construction site access points;
- h. All delivery truck tires shall be watered down and/or scraped down prior to departing the job site;
- i. A construction relations officer shall be appointed to act as a community liaison concerning on-site construction activity including resolution of issues related to fugitive dust generation;
- j. Streets shall be swept at the end of the day if visible soil material is carried onto adjacent paved public roads and use of SCAQMD Rule 1186 and 1186.1 certified street sweepers or roadway; and
- k. Replace ground cover in disturbed areas as quickly as possible.

30.0 Public Works Conditions

I GENERAL ENGINEERING

- 30.1 Owner/Developer is required to arrange for a PRE-CONSTRUCTION MEETING with the Public Works Department 72 hours in advance before any permitted work can commence.
- 30.2 Public improvement plans and grading plans shall be submitted for plan check to the Public Works Department as a complete package. A complete package includes street; sewer, water, grading, drainage, and any appropriate reports and back up documents. Incomplete submittals shall be rejected.
- 30.3 All plans (including Landscaping Plans) depicting any work to be plan checked by Public Works shall be prepared on 24"x36" on City Standard title block. This includes street, sewer, water grading, storm drain, grading, erosion control, private street design, and landscape plans. "Cut and paste," "sticky-backs," "zip a-tone," "Kroy lettering," or other tape will not be permitted on mylars.
- 30.4 As-built plans (including street, sewer, water, and storm drain and grading plans) shall be submitted. Electronic drawing files on compact disc (CD's) shall be submitted to the City for file in the format acceptable by the City.
- 30.5 All Ordinances, Policy Resolutions, and Standards of the City in effect at the time this project is approved shall be complied with as a condition of this approval.

- 30.6 No certificate of occupancy, or any other final clearance needed prior to occupancy, shall be given until all other conditions are met.
- 30.7 A trash bin for organic waste is required and must be provided by this project.
- 30.8 Prior to the issuance of any permit, the Applicant shall submit improvement plans to the Public Works Department for review and approval. The improvements shall be consistent with the proposed traffic/circulation modifications submitted by the Applicant and approved by the Planning Commission on December 11, 2019.
- 30.9 Prior to the issuance of a Certificate of Occupancy the required traffic/circulation improvements shall be completed to the satisfaction of the Public Works Department.
- 30.10 All deficient public improvements shall be upgraded to current City Standards and to the satisfaction of the Public Works Director.
- 30.11 Main access to the project site is from Foothill Boulevard. The developer shall dedicate or cause to dedicate permanent access easement to the project from Foothill Blvd. Developer shall submit to construct five-foot concrete sidewalk along Foothill Blvd. that is in compliance with ADA Standards. This ADA path shall ensure continuity of such ADA path and shall connect to existing ADA path before and after the project.
- 30.12 Asphalt paving and other existing public improvements damaged during construction shall be replaced to the City's satisfaction.
- 30.13 All public improvements (interior streets, drainage facilities, landscaped areas, etc.) shown on the plans and/or tentative map shall be constructed to City Standards. Interior street improvements shall include, but are not limited to, curb and gutter, AC pavement, drive approaches, sidewalks, streetlights, and street trees.
- 30.14 Improvement along Foothill Blvd. shall include removal of existing paved frontage road and shall be replaced with landscaping and irrigation in compliance with latest State landscaping code. Landscaping and irrigation plans shall be submitted for City review and approval. Drought tolerant and water efficient irrigation system shall be required. Parkway landscaping shall be maintained by the Owner/Developer. Landscape maintenance may be embodied in the encroachment license agreement. Developer shall replace deficient concrete curb and gutter to the satisfaction of the Public Works Director.
- 30.15 In accordance with California Building Code, Title 24 and the requirements of the Americans with Disabilities Act (ADA), handicap facilities shall be constructed and existing facilities shall be

reconstructed within the project limits, as necessary, in locations specified by the Director of Public Works/City Engineer and the Development Services Director. No work may commence without a valid permit. For work within the City right-of-way or encroachment area, a separate encroachment is required.

II UTILITY (WATER – SEWER – ENVIRONMENTAL)

Utility General

- 30.16 All utility companies (for non-City owned utilities) shall be contacted to establish appropriate easements to provide services to each parcel.
- 30.17 All lots shall be served by utilities, allowing each parcel/lot to function separately and independent from one another.
- 30.18 The Owner/Developer is responsible for research on private utility lines (Gas, Edison, Telephone, Cable, Irrigation, etc.) to ensure there are no conflicts with the site.
- 30.19 All existing on-site utility lines, if any, that conflict with this project shall be relocated, removed, or sealed to the satisfaction of the Public Works Director.
- 30.20 Composite Utility Plans shall be submitted before the issuance of a Grading Permit. Any easements will be dedicated to the appropriate Utility Company as required to accommodate the location and maintenance of each facility.

Undergrounding

- 30.21 All parcel/lots shall be served by underground utilities. All utility plans (Edison, Telephone, and Cable TV, among others) shall be submitted to the Public Works Department for review and approval prior to the issuance of any permits for utility work within public right-of-way or public easements.
- 30.22 Existing overhead utilities along Foothill Blvd. (including telephone, cable and SCE distribution lines) on the project site and frontage shall be underground in accordance with Upland Municipal Code. This shall be accomplished prior to issuance of the first building occupancy. Since ALTA was not submitted and if it's reviewed by submittal that the existing overhead line along the western alley is within this project, it shall be relocated underground.

Environmental

- 30.23 This project is subject to the General Construction Permit for Storm Water Discharges. The Owner/Developer is required to file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB) for construction activities. A Storm Water Pollution Prevention Plan (SWPPP) shall be prepared and be available at the job site at all times. A copy of the Waste Discharger's Identification Number (WDID) from the SWRCB shall be provided to the City before the issuance of grading or building permits.
- 30.24 This project is required to submit a Water Quality Management Plan (WQMP) (reference City Of Upland "Construction Stormwater Guidelines" and the County of San Bernardino "Guidelines for New Development and Redevelopment") for review and approval by the City Of Upland, Public Works Department Environmental Division. The WQMP shall include a description and map of the project along with an outline of structural and non-structural Best Management Practices (BMPs), which apply to the project pursuant to the "New Development and Redevelopment Guidelines." The subject WQMP shall be approved prior to the issuance of grading permit.

Sewer

- 30.25 Sanitary sewer system(s) shall be constructed pursuant to the City's Master Plan and subsequent studies applicable to the project site, to the satisfaction of the Public Works Director.
- 30.26 All proposed on-site sewer mains and water mains shall be a public system maintained by the City. A 26 foot wide easement is required to be dedicated to the City. Drainage facilities shall be maintained by the owner/ property owners association which shall be established in the Center's Covenant, Conditions & Restrictions (CC&R).
- 30.27 City staff will inspect all newly installed sewer mains with the TV camera before acceptance of the line for public improvements.
- 30.28 Extend any sanitary sewer and water line facilities as necessary to serve the entire development, including the payment of any sewer and water connection fees as determined by the Public Works Director.
- 30.29 The Owner/Developer shall provide the necessary Sewer Service Backflow Prevention Device as required by the City.

Water

- 30.30 A separate water meter shall be provided for each building (including any necessary easements to provide such services) prior to the occupancy.
- 30.31 All new and upgraded developments shall meet the requirements of Chapter 13 titled Public Services of the Upland Municipal Code. This Code pertains to water service regulations, water conservation, water conservation retrofit and regulations for the availability and use of recycled water.
- 30.32 Appropriate water utility easements for water facility locations shall be shown on water plans. Underground utilities shall maintain a minimum seven-foot setback from the face of the curb and shall not encroach into the water utility easement, excepting as may be authorized by the Public Works Director subject to special construction methods. As-built plans of all underground utilities, including water facilities, shall be submitted prior to final approval of the development.
- 30.33 The provision of fire protection water systems, hydrants, and appropriate easements shall be in conformance with the Upland Fire and Public Works Department Standards.
- 30.34 Public on-site protection hydrant(s) and water systems shall be installed in accordance with the San Bernardino County Fire Department and Public Works Department Standards.
- 30.35 All landscape meter(s) and approved Backflow Device(s) shall be installed and inspected, in accordance with the Public Works Department Standards.
- 30.36 All water facilities shall be installed outside any driveways and drive approaches, and shall be in accordance with the Public Works Department Standards.

III GRADING - STORM DRAIN - EROSION CONTROL

- 30.37 Storm drain system(s) shall be constructed in accordance with the City's Master Plan applicable to the project site and to the satisfaction of the Public Works Director.
- 30.38 A hydrology/hydraulics analysis is required to the satisfaction of the Public Works Director. Any offsite drainage, which may impact this development, or additional drainage created by this development, shall be addressed in accordance with the mitigation measures required in the hydrology report before issuance of any permits.

- 30.39 Each parcel/lot shall drain to the street or other approved drainage facility. Cross lot drainage is not allowed.
- 30.40 All drainage shall be directed on-site at the points so indicated upon the subject map/plan (any deviation will require resubmittal to the Technical Review Committee for approval).
- 30.41 Location, direction, and devices for conveying site drainage directed to a street shall be subject to review and approval by the Public Works Director.
- 30.42 Temporary drainage controls may be required during construction phases as directed by the Public Works Director.
- 30.43 All catch basins and Storm Drain Inlet Facilities shall be stenciled with the appropriate "No Dumping" message.
- 30.44 A notarized off-site grading letter(s) from the adjacent property owner(s) shall be required before issuance of grading permits. Said requirement shall be noted on the grading plans.
- 30.45 Grading plan shall be prepared and shall conform to the requirements of California Building Code (CBC), latest edition. Said grading plan shall propose all recommendations contained in the project's geotechnical report.
- 30.46 An erosion control plan shall be required as directed by the Public Works Director.
- 30.47 No permanent building construction shall commence until the final grading and improvement plans have been approved, rough grading certified and a building permit issued by the Building Division.
- 30.48 ALTA Map shall be submitted with grading plan.
- 30.49 Owner/Developer shall submit design and calculations and obtain permit and inspection for all development perimeter and retaining walls from the Building Division. Construction of any masonry/retaining wall shown on the plans or reference thereto shall require separate permit from Building Division.
- 30.50 Owner/Developer is required to prepare Water Conservation Plan for its grading and construction operations in compliance to water conservation mandate by the State of California. Use of reclaimed water is highly encouraged.
- 30.51 Dust Control operations shall be performed by the Contractor at the time, location and in the amount required and as often as necessary to

prevent the excavation or fill work, demolition operation, or other activities from producing dust in amounts harmful to people or causing a nuisance to persons living nearby or occupying buildings in the vicinity of the work. The Contractor is responsible for compliance with Fugitive Dust Regulations issued by the Air Quality Management District (AQMD).

- 30.52 Control of dust shall be by sprinkling of water, use of approved dust preventatives, modifications of operations or any other means acceptable to the Engineer, City of Upland, the Regional Water Quality Control Board (RWQCB), the AQMD, and any Health or Environmental Control Agency having jurisdiction over the facility. The Engineer shall have the authority to suspend all construction operations if, in their opinion, the Contractor fails to adequately provide for dust control.
- 30.53 In compliance to water conservation mandate of the State of California, before or at submission of grading plans, Owner/Developer shall submit/develop Water Conservation Plan. Among others, said plan encourages the use of reclaimed water and use of any/all water conservation measures during construction.
- 30.54 A project specific Water quality Management Plan (WQMP) shall be submitted with the grading plan, drainage plan, and geotechnical report.

IV LANDSCAPING

- 30.55 Any landscaping proposed within a City utility easement is subject to approval by the Public Works Director and Community Development Director.
- 30.56 All landscape and irrigation systems, located in the public parkways, shall be connected to a water supply system that is metered to the property owner.
- 30.57 All developments require a tree-planting scheme.
- a. If planting in an area without sidewalk, plant the trees four feet to six feet from the existing or planned curb or street
 - b. Plant trees a minimum of five feet from other utilities, a minimum of ten feet from driveways, water meters, water lines, sewer lines, traffic and directional signs, and fire hydrants, a minimum of fifteen feet from street lights, and a minimum of thirty feet from street corners.
- 30.58 The project frontage shall be fully landscaped, including an automatic irrigation system in accordance with a plan subject to review and approval by the Community Development Director and the Public Works Director. Drought tolerant and water efficient irrigation system shall be

required. Parkway landscaping shall be maintained by the Owner/Developer.

- 30.59 Before the final approval of streetscape plans (landscaping, irrigation systems, walls and/or fences, etc.), the hardscape portion of the plan(s) shall be designed by a registered engineer, and submitted to the Community Development Director for review and approval.
- 30.60 After City approval of the landscaping plan, the Owner/Developer shall provide 180-day maintenance during the plant establishment period.

V GENERAL ENGINEERING

- 30.61 Owner/Developer is required to arrange for a PRE-CONSTRUCTION MEETING with the Public Works Department 72 hours in advance before any permitted work can commence.
- 30.62 Public improvement plans and grading plans shall be submitted for plan check to the Public Works Department as a complete package. A complete package includes street; sewer, water, grading, drainage, and any appropriate reports and back up documents. Incomplete submittals shall be rejected.
- 30.63 All plans (including Landscaping Plans) depicting any work to be plan checked by Public Works shall be prepared on 24"x36" on City Standard title block. This includes street, sewer, water grading, storm drain, grading, erosion control, private street design, and landscape plans. "Cut and paste," "sticky-backs," "zip a-tone," "Kroy lettering," or other tape will not be permitted on mylars.
- 30.64 As-built plans (including street, sewer, water, and storm drain and grading plans) shall be submitted. Electronic drawing files on compact disc (CD's) shall be submitted to the City for file in the format acceptable by the City.
- 30.65 All Ordinances, Policy Resolutions, and Standards of the City in effect at the time this project is approved shall be complied with as a condition of this approval.
- 30.66 No certificate of occupancy, or any other final clearance needed prior to occupancy, shall be given until all other conditions are met.
- 30.67 A trash bin for organic waste is required and must be provided by this project.
- 30.68 Prior to the issuance of any permit, the Applicant shall submit improvement plans to the Public Works Department for review and approval. The improvements shall be consistent with the proposed

traffic/circulation modifications submitted by the Applicant and approved by the Planning Commission on December 11, 2019.

- 30.69 Prior to the issuance of a Certificate of Occupancy the required traffic/circulation improvements shall be completed to the satisfaction of the Public Works Department.

VI STREET VACATION

- 30.70 The applicant shall submit a grading plan for review and approval prior to the notice of vacation being recorded.
- 30.71 All utilities within the area of the vacation shall be relocated or an easement shall be provided to the satisfaction of the responsible public utility prior to the notice of vacation being recorded. The City may reserve an easement for Public Utility Purposes over the entire area to be vacated with the right to grant the same to Utility Companies requiring an easement.
- 30.72 The applicant shall guarantee completion of all improvements within the street vacation area through faithful performance bonds or other acceptable means should the improvements not be completed prior to the notice of vacation being recorded.
- 30.73 The applicant shall provide a 30-foot wide easement for vehicular and pedestrian access to the property to the north.
- 30.74 The applicant shall obtain a Building Permit approval from Building and Safety prior to the notice of vacation being recorded.
- 30.75 That the City will process the vacation to the point of recordation, but will withhold recording the notice of vacation until all conditions have been met. If the applicant does not complete the conditions then the City will not proceed with the recordation of the notice of vacation and the City will retain the interest in the street and the vacation will be rescinded.
- 30.76 That once all of the conditions of vacation have been met, the vacated area becomes the property of the applicant, and the applicant shall adhere to all City rules, regulations and ordinances regarding the use and development of the property

40.0 Police Department

- 40.1 The approved conditions shall be retained on the premises at all times and produced immediately upon request of the Upland Police Department, and City Planning.

- 40.2 A 6-month review/inspection shall be conducted to ensure permittee's compliance with all operating conditions.
- 40.3 Prior to the issuance of building permits the project must be enclosed with a 6-ft. high chain link fence to prevent access to construction areas by the public and to minimize theft of building materials and equipment.
- 40.4 Graffiti abatement by the business owner/licensee shall be immediate and ongoing on the licensed premises, but in no event shall graffiti be allowed unabated on the premises for more than 48 hours. Abatement shall take the form of removal or shall be covered/painted over with a color reasonably matching the color of the existing building, structure, or other surface being abated. Additionally, the business owner/licensee shall notify the City within 24 hours of any graffiti elsewhere on the property not under the business owner/licensee's control so that it may be abated by the property owner.
- 40.5 The Developer, builder, contractors, sub-contractors, and any other persons associated with this project shall adhere to the Upland Municipal Code (UMC) dealing with unnecessary noises under section 9.40.100. Furthermore, prior to the beginning of construction, a sign shall be posted at the entrance of the property educating everyone entering as to the authorized construction times and failure to comply with such requirements will result in an immediate citation for violating the aforementioned UMC section.
- 40.6 The Building shall include address numbering/lettering in a conspicuous location, free from plant obstruction, and readily visible to emergency services personnel on both front and rear accesses.
- 40.7 Each building that has a flat roof shall be required to have the address numbering painted on the roof, as close to the center of the roof as possible, and at least 15 feet (or as far as possible if less than 15 feet) from roof mounted equipment or exhaust stacks, to assist helicopter patrols in quick location of the building. Numbering must be at least 12 inches wide, 48 inches tall, and be painted in contrast to the background on which it is affixed.
- 40.8 Hinges for outwardly swinging doors or hatchway covers shall be equipped with non-removable hinge pins or a mechanical interlock system to prevent removal of the door from the exterior by removal of the hinge pins.
- 40.9 All hatchways shall be secured from the interior of the building with a sliding bolt or bar mechanism.
- 40.10 If the hatchway cover is of a wooden material, it shall be reinforced with at least 16-gauge U.S. sheet steel, or its equivalent, on the interior face

of the cover and shall be attached with screws no more than six inches apart around the entire perimeter of the interior face cover.

- 40.11 Building design and window placement shall facilitate high visibility to the public and police patrol vehicles as well as enabling employees to make periodic visual inspections of the premises.
- 40.12 All exterior lighting lower than 12 feet from the ground level shall be enclosed in vandal-resistant covers.
- 40.13 Lighting shall be required in all area of public access.
- 40.14 Public parking areas and access thereto shall be provided with a maintained minimum of 2 foot candle power of light on the parking surface, from dusk to dawn, or as modified by the Chief of Police, based on documented proof that meeting the 2 foot candle power standard is impractical. Lighting shall be provided through the use of photo cells; use of low pressure sodium fixtures and bulbs is prohibited.
- 40.15 At a minimum, internally illuminated address signs/numbers are required for each building, to the satisfaction of the Deputy Fire Marshal and the Chief of Police.
- 40.16 Signs prohibiting loitering shall be installed to the satisfaction of the Chief of Police. They shall be mounted between six and ten feet above ground. The following must be printed on the sign in letters at least two inches tall: "PC647 (h), UMCI0.72.010." and "NO LOITERING IS ALLOWED ON OR IN FRONT OF THESE PREMISES." The signs shall be posted on the front, rear, and sides of the building, and shall be clearly visible to patrons of the licensee. Signs shall comply with all City of Upland sign requirements (UMC 17. 15 et seq.). No more than 50% of the total window area and clear doors shall bear advertising or signs of any sort. Window signs shall be placed and maintained in a manner so that there is a clear and unobstructed view of the interior of the premises from the public sidewalk or entrance to the premises (this applies to all windows of this location).
- 40.17 A digital video surveillance system is required at the premise. It is recommended to have a surveillance video/visual media that shall be maintained for a minimum of sixty (60) days and upon request, shall be accessible to law enforcement personnel for viewing, copying and collection purposes during regular business hours. The system shall be able to make license plates discernable. The video system shall cover all ingress and egress points of the businesses parking lots, the building itself, drive-thru area, and the rear perimeter of the building.
- 40.18 Provide UPD with contact information of person responsible for maintaining video equipment/system and who has access to retrieve

and copy surveillance video. The surveillance video/visual media shall be remotely accessible to the Upland Police Department.

- 40.19 All landscaping must adhere to the 2' 6' rule (all ground cover landscaping must be maintained no higher than 2' from ground level and all lower tree canopy must be maintained no lower than 6' in height from the ground level).
- 40.20 Any vehicles not parked legally may be cited and/or towed if it is in violation of the California Vehicle Code and/or Upland Municipal Code.

50.0 Building and Safety

- 50.1 Full Design to be in compliance with City of Upland Construction Codes.
- 50.2 Soils report is required at the time of plan check submittal.
- 50.3 Provide full compliance ADA parking, Site Accessibility, and Parking.
- 50.4 If kitchen is provided, applicant will need approval of mechanical hood and grease interceptor.
- 50.5 Demolition permit of existing building will only be issued after new building plan submittal.
- 50.6 Abatement reports required prior to building demolition.

60.0 San Bernardino County Fire

- 60.1 The Fire Hydrant shall be within 300-feet of proposed structure.

70.0 Trash Services

- 70.1 The use is required to participate in a food waste recycling program under AB1826. Therefore, the enclosure shall be sized to accommodate at least three commercial bins. No other equipment or uses shall be permitted within the trash enclosure.
- 70.2 Prior to issuance of grading permits, the developer or their contractor shall contact Burrtec to coordinate the preparation and implementation of a Construction Waste Management Plan.

80.0 Review/Compliance

- 80.1 The Planning Commission may review the use 90 days, 180 days, and on an annual basis following the date of final inspection, or as needed at the discretion of the Development Services Director, to determine whether the applicant and operators are operating the use in a manner that is compatible with the community. The Planning Commission may

establish additional conditions of approval that are necessary to eliminate any issues that arise from the operation of the use that adversely impact the public health, welfare, and safety, or may direct staff to initiate revocation proceedings. The conditional use permit may be revoked if the permittee, his agents or assigns, or employee(s) of the establishment, or any other person connected or associated with the permittee or his business establishment, or any person who is exercising managerial authority of the business establishment has:

- a. Violated any rule, regulation, or condition of approval adopted by the Planning Commission relating to the conditional use permit or contained in the Upland Municipal Code, or state or federal regulations. Violation of any provision of the Upland Municipal Code (UMC) or the conditions of approval set forth in this resolution, shall be deemed to constitute an infraction of the Upland Municipal Code, and shall be subject to the applicable fines and penalties, including the possibility of revocation of this permit.
- b. Conducted the operation permitted hereunder in a manner contrary to the peace, health, safety, and general welfare of the public, or in a manner which either generates or contributes to noise and/or health/sanitation nuisances, or which results in undesirable activities that negatively affects adjacent properties or creates an increased demand for public services.

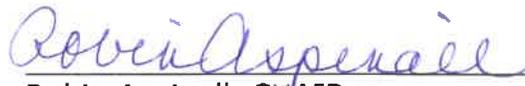
Section 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA). The finding for General Plan Conformity of the Street Vacation (SV-19-01) is Categorically Exempt from environmental proceedings pursuant to *Article 5, Section 15061(b)(3)*. The activity is covered by the common sense exemption that The CEQA Guidelines apply only to projects which have the potential for causing a significant effect on the environment. Further, the project is Categorically Exempt from environmental proceedings pursuant to Article 19, Section 15332, In-Fill Development Projects, Class 32 (a-e), of the California Environmental Quality Act, since the proposed project is consistent with applicable general plan designations and policies as well as applicable zoning designation and regulations; occurs within city limits on a property that is no more than five acres substantially surrounded by urban uses; has no value as habitat for endangered, rare or threatened species; approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site can be adequately served by all required utilities and public services.

Section 5. APPEAL. Pursuant to Upland Municipal Code Section 17.47.040, the decision of the Planning Commission may be appealed to the City Council provided that written notice of the appeal is filed with the City Clerk within ten (10) days following the date the decision was rendered, unless a longer appeal period is specified as part of the project approval. Failure to file a timely appeal shall constitute a waiver of the right of appeal, and the decision of the Planning Commission shall be final.

Section 6. INCONSISTENCY. If any section, division, sentence, clause, phrase or portion of this resolution or the document in the record in support of this resolution is determined by a court of competent jurisdiction to be invalid, unenforceable, unconstitutional or otherwise void, that determination shall not affect the validity of the remaining sections, divisions, sentences, clauses, phrases of this resolution.

Section 7. CERTIFICATION. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this Resolution, and shall cause this Resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

PASSED, APPROVED and ADOPTED this 11th day of December, 2019.



Robin Aspinall, CHAIR

ATTEST:



Robert D. Dalquest, SECRETARY

I HEREBY CERTIFY that the foregoing Resolution was duly and regularly passed and adopted by the Planning Commission of the City of Upland at a regular adjourned meeting thereof held on the 11th day of December, 2019, by the following vote:

AYES: Chair Aspinall, Commissioners Anderson, Novikov and Walker.

NAYS: Vice Chair Schwary

ABSENT: Commissioner Brouse

ABSTAIN: None


Robert D. Dalquest, SECRETARY

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City Council of the City of Upland will hold a public hearing on Monday, February 24, 2020, at 7:00 p.m., in the Council Chambers of the Upland City Hall, 460 North Euclid Avenue, Upland, CA 91786, to consider the item described herein:

STREET VACATION SV-19-01 to vacate 3,983 square feet of a portion of the frontage road on the north side of Foothill Boulevard right-of-way, located approximately 175 linear feet east of the intersection of Foothill Boulevard and Second Avenue, and CONDITIONAL USE PERMIT NO. CUP-19-08, SITE PLAN REVIEW NO. SP-19-05, DESIGN REVIEW NO. DR-19-08 AND ENVIRONMENTAL ASSESSMENT REVIEW NO. EAR-0082 for the development of a new 2,049 square foot drive-through coffee shop (Starbucks) within the existing shopping center, having a General Plan Designation of Commercial/Residential Mixed-Use (C/R-MU) and within the Commercial/Residential Mixed-Use (C/R-MU) Zone located at 275 E. Foothill Boulevard (APN: 1045-551-04)

ENVIRONMENTAL ASSESSMENT: This project is Categorically Exempt from environmental proceedings pursuant to Article 19, Section 15332, In-Fill Development Projects, Class 32 (a-e), of the California Environmental Quality Act, since the proposed project is consistent with applicable general plan designations and policies as well as applicable zoning designation and regulations; occurs within city limits on a property that is no more than five acres substantially surrounded by urban uses; has no value as habitat for endangered, rare or threatened species; approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site can be adequately served by all required utilities and public services.

Notice and conduct of public hearing will be in accordance with all pertinent provisions of Chapter 2.7 (Planning and Zoning) of the Government Code of the State of California and Upland Municipal Code Title 17 (Planning and Zoning).

All plans, environmental information, and other data pertinent to the proposed project are filed in the City of Upland's Development Services Department and will be available for inspection prior to the public hearing. All interested persons are invited to attend this public hearing and express their opinions for or against the proposal.

If you challenge this project, 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.

If you have any questions, please contact Joshua Winter, Associate Planner, at jwinter@ci.upland.ca.us or by phone at (909) 931-4143.

Keri Johnson
Upland City Clerk

Publish: February 7 and 14, 2020



STAFF REPORT

ITEM NO. 12.A.

DATE: January 27, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, INTERIM CITY MANAGER
PREPARED BY: DARREN L. GOODMAN, POLICE CHIEF
DON DODT, POLICE LIEUTENANT
SUBJECT: PROPOSED AMENDMENT TO THE ADMINISTRATIVE CITATION
ORDINANCE AND THE ADMINISTRATIVE CITATION FINE
SCHEDULE

RECOMMENDED ACTION

It is recommended that the City Council hold first reading by title only, waive further reading, and introduce an Ordinance repealing Upland Municipal Code Chapter 1.10 regarding administrative fines and adding Chapter 1.22 regarding administrative citations to create and implement a comprehensive and transparent process for the issuance, collection, and appeals of administrative citations; and adopt a Resolution amending the master fee schedule and establishing administrative fines for certain violations of the Upland Municipal Code.

GOAL STATEMENT

The proposed action supports the City's goal to protect property values and eliminate blight in the City of Upland.

BACKGROUND

The City of Upland has an adopted Municipal Code with a stated purpose, among other things, to promote and protect public peace, health, safety, and welfare, and to guide growth and development in keeping with the City's General Plan. Code Enforcement is the process by which the City gains compliance with the laws and regulations of the Upland Municipal Code ("UMC").

On April 8, 2013, the City Council adopted Ordinance 1892, establishing Chapter 1.10 of the UMC, creating a process for imposing administrative fines for violation of the UMC, and developing procedures for such fines.

On October 24, 2017, the City Council adopted Ordinance 1914, amending Chapter 1.10 of the UMC, and set fines for UMC Administrative Violations at \$500 per day for residential violations and \$1,000 per day for commercial violations.

At a special meeting of the Police and Fire Committee held on December 16, 2019, the Committee reviewed the proposed Ordinance and provided input to staff regarding the proposed changes.

ISSUES/ANALYSIS

In the three years since the adoption of Ordinance 1914, Code Enforcement has utilized the Administrative Citation process with mixed success. The major problems are the excessive fine amounts and the daily compounding of fines for violation(s) that go uncorrected. Many times homeowners, and small business owners, have faced overdue fines ranging from the tens of thousands to hundreds of thousands of dollars. To resolve these exorbitant fine amounts, staff often holds settlement conferences where the fines are reduced to a fine commensurate to the seriousness of the violation.

FISCAL IMPACTS

Staff anticipates that the proposed ordinance will result in an overall savings to the City by increasing collections and reducing staff time and legal costs.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Admin Citation Ordinance
Administrative Citation Fine Resolution
Exhibit A to Resolution - Fine Schedule

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UPLAND, REPEALING UPLAND MUNICIPAL CODE CHAPTER 1.10 REGARDING ADMINISTRATIVE FINES AND ADDING CHAPTER 1.22 REGARDING ADMINISTRATIVE CITATIONS TO CREATE AND IMPLEMENT A COMPREHENSIVE AND TRANSPARENT PROCESS FOR THE ISSUANCE, COLLECTION, AND APPEALS OF ADMINISTRATIVE CITATIONS

THE CITY COUNCIL OF THE CITY OF UPLAND DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Findings.

A. California Constitution, article XI, section 7, authorizes the City of Upland ("City") to adopt and enforce local police, sanitary, and other ordinances and regulations that are not in conflict with the general laws.

B. Government Code section 53069.4(a)(1) authorizes the City to make any violation of its ordinances subject to an administrative fine or penalty and to set forth procedures for the imposition, enforcement, collection, and review of such administrative fine or penalty.

C. The City has previously adopted Upland Municipal Code ("UMC") Chapter 1.10 (Administrative Fines) to regulate issues related to administrative citations and fines within the City; however, the City now desires to streamline and update the processes in UMC chapter 1.10 to conform with recent changes in State law.

D. The City now desires to adopt this Ordinance to create and implement an effective, streamlined, transparent, and fair process to issue, collect, and appeal administrative citations that complies with all State laws concerning the imposition of administrative fines and penalties.

E. This Ordinance will also enhance the operational efficiency of the City's code enforcement and nuisance abatement efforts and provide for a greater level of public trust in the administrative citation process by providing individuals the ability to correct violations before administrative fines are imposed and the opportunity to conveniently appeal administrative citations.

SECTION 2. UMC chapter 1.10 (Administrative Fines) is hereby repealed in its entirety.

SECTION 3. UMC chapter 1.22 (Administrative Citations) is hereby added, and is to read in its entirety as follows:

Chapter 1.22

ADMINISTRATIVE CITATIONS

Sections:

- 1.22.010 Applicability**
- 1.22.020 Definitions**
- 1.22.030 Administrative Citations**
- 1.22.040 Administrative Fines and Fees**
- 1.22.050 Payment of Administrative Fines**
- 1.22.060 Hearing Request**
- 1.22.070 Hearing Officer**
- 1.22.080 Hearing Procedure**
- 1.22.090 Hearing Officer's Decision**
- 1.22.100 Recovery of Administrative Fines and Costs**
- 1.22.110 Right to Judicial Review**
- 1.22.120 Service of Notice**

1.22.010 Applicability

This Chapter provides for administrative citations, which are in addition to all other legal penalties and remedies, whether administrative, criminal, or civil, that may be imposed in connection with any violation of this Code. Any person violating, or who has violated, any provision of this Code may be issued an administrative citation by an Enforcement Official as provided for in this Chapter.

1.22.020 Definitions

For purposes of this Chapter, the following definitions shall apply, unless the context clearly indicates otherwise:

A. "City Manager's Designee" means and includes the City Manager or the person designated by the City Manager to fulfill the responsibilities required by this Chapter.

B. "Continuing Violation" means a violation of this Code that persists for more than 24 hours.

C. "Decision" means the decision of the Hearing Officer at the conclusion of an administrative hearing held in accordance with this Chapter.

D. "Enforcement Agency" means and includes any agency, department, or unit authorized to enforce any provision of this Code.

E. "Enforcement Official" means and includes any City employee or agent of the City authorized by this Code, the City Council, or the City Manager to issue administrative citations to enforce any provision of this Code.

F. "Grace Period" means the reasonable timeframe provided to a Responsible Party to correct a violation of this Code in accordance with this Chapter.

G. "Grace Period Exception" mean a code violation that is any of the following:

1. Not a Continuing Violation.
2. An Immediate Danger.
3. The result of, or used to facilitate, the illegal cultivation of cannabis, unless all the following are true:
 - a. The Nuisance Property is a rental property.
 - b. The relevant Responsible Party is the Nuisance Property owner or owner's agent.
 - c. A tenant is in possession of the Nuisance Property.
 - d. The relevant Responsible Party can provide evidence that the rental or lease agreement prohibits the cultivation of cannabis.
 - e. The relevant Responsible Party did not know the tenant was illegally cultivating cannabis and no complaint, property inspection, or other information caused the Responsible Party to have actual notice of the illegal cannabis cultivation.

H. "Hearing Officer" means the neutral and impartial hearing officer appointed to hold and conduct an administrative hearing in accordance with this Chapter.

I. "Immediate Danger" means that the cited condition poses a reasonable risk of causing immediate harm or damage to the health or safety of a person or property.

J. "Nuisance Property" means the parcel of real property upon which the violations cited in an administrative citation occurred.

K. "Person" means any natural person, business, organization, corporation, or other legal entity.

L. "Responsible Party" or "Responsible Parties" means and includes any of the following:

1. Any person or entity that causes, maintains, permits, or allows a violation of this Code.
2. Any person or entity that owns, possesses, or controls any parcel of real property in the City upon which a violation of this Code is maintained.
3. Any trustee of any trust that holds legal title to any parcel of real property in the City upon which a violation of this Code is maintained.
4. Any person or entity that owns, possesses, operates, manages, or controls any business within the City that is responsible for causing or maintaining a violation of this Code.

1.22.030 Administrative Citations

A. Whenever an Enforcement Official determines that a violation of this Code has occurred, the Enforcement Official shall have the authority to issue an administrative citation to each Responsible Party for that violation.

B. Each administrative citation shall contain the following information:

1. The date of the violations.
2. The address or a description of the location where the violations occurred.
3. The names of the Responsible Parties.
4. The Code sections violated and a description of the violations.
5. Designation per cited violation whether it poses an Immediate Danger.
6. Designation per cited violation whether it is a Continuing Violation.
7. Designation per cited violation whether it is the result of, or used to facilitate, the illegal cultivation of cannabis.
8. Grace Period (if any) to cure each cited violation in order to avoid the administrative fine.

9. The amount of the administrative fine for each cited violation that will be imposed if the cited violation is not cured within the Grace Period (if any). If there is no Grace Period, the administrative fine shall be immediately imposed.
 10. The amount (if any) of the Administrative Fee.
 11. An order prohibiting the continuation or repeated occurrence of the cited violations.
 12. A notice that the administrative fine amount may automatically re-accrue and double each day beyond the Grace Period (if any) that the cited violation persists, up to the statutory maximum per day.
 13. An order to the Responsible Parties that they must report to the relevant Enforcement Agency when each cited violation is cured, along with the necessary contact information for the relevant Enforcement Agency to verify.
 14. A description of the administrative citation review process, including the timeframe within which the administrative citation may be contested and the place to obtain a hearing request form.
 15. A description of the administrative fine payment process, including the timeframe to pay the administrative fine and Administrative Fee, the Late Fee for failure to pay on time, and any other consequences of failing to pay as required.
 16. The name and signature of the citing Enforcement Official.
- C. If a cited violation is a Grace Period Exception, then the administrative fine for that cited violation shall be immediately imposed.
- D. If a cited violation is not a Grace Period Exception, then the Responsible Parties shall be given a reasonable Grace Period to cure that cited violation in order to avoid the administrative fine for that cited violation.
- E. The Responsible Parties must cure each cited violation and must report to the relevant Enforcement Agency when each cited violation is cured within 24 hours of curing the violation. When reporting to the Enforcement Agency, the Responsible Parties must provide their contact information and make accommodations for the Enforcement Agency to verify compliance within 72 hours, unless further delay is permitted by the Enforcement Agency.

1.22.040 Administrative Fines and Fees

A. Administrative Fine. The administrative fines imposed pursuant to this Chapter for violations of this Code shall be in the amount set forth in this Code or an Administrative Fine Schedule established by resolution of the City Council.

B. Infractions.

1. For any infraction violation of a building and safety code pertaining to a property that is a commercial property that has an existing building at the time of the violation and the violation is due to failure by the owner to remove visible refuse or failure to prohibit unauthorized use of the property, and no lesser specific administrative fine is established in this Code or by the City Council, the maximum administrative fine shall be \$130 for the first offense and \$2,500 for each subsequent offense within 12 months.
2. For any other infraction violation of a building and safety code, for which no specific administrative fine is established in this Code or by the City Council, the maximum administrative fine shall be \$130 for the first offense, \$700 for the second offense within 12 months, and \$1,300 for each subsequent offense within 12 months.
3. For any other violation of this Code that is expressly punishable only as an infraction, and for which no specific administrative fine is established in this Code or by the City Council, the maximum administrative fine shall be \$100 for the first offense, \$200 for the second offense within 12 months, and \$500 for each subsequent offense within 12 months.

C. Misdemeanors. All violations of this Code are misdemeanors unless expressly stated otherwise. For any violation of this Code that is punishable as a misdemeanor, and for which no specific administrative fine is established in this Code or by the City Council, the maximum administrative fine shall be \$1,000 for each offense.

D. Continuing Violations. Each day a violation persists is a separate offense.

E. Grace Period. The Responsible Parties for any violations that are not a Grace Period Exception shall be given a reasonable Grace Period to cure the violation of not less than three calendar days, or as otherwise set by resolution of the City Council, in order to avoid the administrative fine for that violation.

F. Re-accruing Administrative Fines. The administrative fine for a cited violation shall automatically re-accrue and double, up to the statutory maximum (unless a lesser maximum has been expressly established by this Code or by resolution of the City Council), each day beyond the Grace Period (if any) that a cited violation persists.

G. Administrative Fee. The City may adopt an Administrative Fee to recover the administrative expenses associated with the issuance, enforcement, processing, and collection of administrative citations. The Administrative Fee shall be established by resolution of the City Council. The Administrative Fee shall be assessed on each administrative citation and collected in the same manner and at the same time as the administrative fine; however, the Administrative Fee shall be assessed only once per administrative citation.

H. Late Fee. Any person who fails to pay any administrative fine and Administrative Fee imposed pursuant to the provisions of this Chapter shall be liable for the payment of a Late Fee. The Late Fee shall be in an amount established by resolution of the City Council.

I. Nuisance Abatement Costs. In addition to the Administrative Fee, the City is entitled to recover all other code enforcement and nuisance abatement costs associated with enforcing this Code or abating any nuisances ("Nuisance Abatement Costs"). However, Nuisance Abatement Costs shall not include salary, fees, and hourly rates paid to attorneys, law enforcement, and inspectors for hours spent either investigating or enforcing a charged crime in relation to any criminal investigation, criminal prosecution, or criminal appeal in a criminal action pursuant to Penal Code section 688.5, unless specifically authorized by statute or ordered by a court.

J. Collection Costs. In addition to the Administrative Fee and Late Fee, the City is entitled to recover all costs, expenses, fees, and attorneys' fees associated with collecting upon any administrative fines, fees, or costs authorized by this Chapter.

1.22.050 Payment of Administrative Fines

A. Administrative fines shall be paid to the City within 30 days from the date of service of the administrative citation, unless a hearing is properly requested.

B. If a hearing is properly requested, and the fine is upheld or modified at that administrative hearing, then the confirmed fine amount shall be paid to the City within 30 days from the date of service of the Decision.

C. Payment of an administrative fine under this Chapter shall not excuse or discharge the obligation to cure the underlying violations.

1.22.060 Hearing Request

A. Any recipient of an administrative citation identified as a Responsible Party may contest the administrative citation by completing a hearing request form and returning it to the City, or the City's designated agent as specified on the administrative citation, within 15 days from the date of service of the administrative citation.

B. A hearing request form may be obtained from the City Clerk, the department specified on the administrative citation, or the City's designated agent as specified on the administrative citation. The request may be for an in-person hearing or a hearing by written declaration.

C. If an in-person hearing is requested, then the City shall set the date and time for the administrative hearing. The Responsible Party requesting the in-person hearing shall be served written notice of the time and place set for the administrative hearing at least 10 days prior to the date of the administrative hearing.

D. If a request for hearing by written declaration is made, then the written declaration must be made under penalty of perjury and attached to the hearing request form. The written declaration must establish all defenses the contesting party may have and must attach all evidence the contesting party wishes the Hearing Officer to consider. The written declaration may not be augmented or supplemented unless permission to do so is obtained from the Hearing Officer prior to the issuance of the Decision.

E. Other than coordinating and scheduling the administrative hearing, no ex parte communications may occur with the Hearing Officer. Any other communications with the Hearing Officer must be in writing and submitted to all parties either prior to, or contemporaneously with, the written communication to the Hearing Officer.

F. The Enforcement Agency may submit a written report concerning the administrative citation to the Hearing Officer for consideration. If an in-person hearing is requested, then the report may be submitted at any time prior to the in-person hearing. If a hearing by written declaration is requested, then the report may be submitted within 30 days to the Hearing Officer.

G. Failure to timely and properly request a hearing as required by this Chapter, including the proper submission of a written declaration under penalty of perjury when a hearing by declaration is requested, shall constitute an admission to the existence of the cited violations, an admission to the cited party's liability for the cited violations, a waiver of the right to contest the administrative citation, and a failure to exhaust administrative remedies. The administrative citation, along with any imposed administrative fines and fees, shall be deemed final.

H. Upon the proper filing of a hearing request, the administrative fines and the Administrative Fee associated with the contested administrative citation shall be stayed pending the outcome of the administrative hearing.

1.22.070 Hearing Officer

The City Manager's Designee shall establish procedures for the selection of a Hearing Officer required in this Chapter. A Hearing Officer shall be a neutral third party contracted by the City and selected in a manner that avoids the potential for any bias against any parties to the hearing. The Hearing Officer's compensation, if any, shall be paid by the City; however, the non-prevailing party shall be liable to the City for the costs of the hearing and the Hearing Officer's compensation. The Hearing Officer's compensation shall not be directly or indirectly conditioned upon the outcome of the hearing.

1.22.080 Hearing Procedure

A. An in-person hearing before the Hearing Officer shall be set for a date that is not less than 15 days and not more than 60 days from the date that the request for an in-person hearing is submitted in accordance with the provisions of this Chapter. This timeframe may be extended by necessity or stipulation of the parties. Failure to hold the hearing within this timeframe shall not invalidate the administrative citation, shall not preclude proceeding with the hearing at a later date, and shall not invalidate the Hearing Officer's Decision.

B. If the Responsible Party requesting the in-person hearing fails to attend the scheduled hearing, it shall constitute an admission to the existence of the cited violations, an admission to that Responsible Party's liability for the cited violations, a waiver of the right to contest the administrative citation, and a failure to exhaust administrative remedies.

C. If an in-person hearing is requested, the Hearing Officer may continue the hearing and request additional evidence from the Enforcement Agency or the Responsible Party that requested the hearing prior to issuing a Decision. The Hearing Officer shall issue a Decision within 30 days from the date all necessary evidence is obtained. Failure by the Hearing Officer to strictly comply with this provision shall not invalidate the administrative citation nor the Hearing Officer's Decision.

D. If a hearing by written declaration is requested, the Hearing Officer shall review the requesting Responsible Party's written declaration and the enforcement agencies' report within 30 days of receipt. Within those 30 days, the Hearing Officer may request additional evidence from the Enforcement Agency or the requesting Responsible Party as necessary to render a Decision. Failure by the requesting Responsible Party to respond or produce additional evidence requested by the Hearing Officer may be deemed by the Hearing Officer as an abandonment of the hearing request. Failure by

the Enforcement Agency to respond or produce additional evidence requested by the Hearing Officer may be deemed by the Hearing Officer as admissions in the relevant Responsible Party's favor. The Hearing Officer shall issue a Decision within 30 days from the date all necessary evidence is obtained. Failure by the Hearing Officer to strictly comply with this provision shall not invalidate the administrative citation nor the Hearing Officer's Decision.

E. Administrative hearings are informal, and formal rules of evidence and discovery shall not apply. Each party shall have the opportunity to present evidence in support of that party's case and to cross-examine witnesses. The City bears the burden of proof at an administrative hearing to establish a violation of this Code by a preponderance of the evidence. The administrative citation, and any additional reports submitted by the Enforcement Agency, shall constitute prima facie evidence of the facts contained in those documents.

1.22.090 Hearing Officer's Decision

A. Not later than 30 days after the date on which the administrative hearing concludes—or in the case of a hearing by written declaration, not later than 30 days after all necessary evidence is received—the Hearing Officer shall issue a written Decision to uphold, modify, or dismiss the contested administrative citation. Failure by the Hearing Officer to strictly comply with this provision shall not invalidate the administrative citation nor the Decision.

B. The Decision shall set forth the reasons for the Decision along with notice of the right to appeal pursuant to this Chapter. The Decision shall be final.

C. The Decision shall be served by first-class mail to all parties and shall be deemed to be served on the date the Decision is deposited with the United States Postal Service. Failure to receive a properly addressed Decision shall not invalidate the administrative citation nor the Decision.

D. If the administrative citation is upheld, the Hearing Officer shall award the City reimbursement of the Hearing Costs, including the Hearing Officer's compensation. If the administrative citation is only partially upheld, the Hearing Officer may reduce the reimbursement for Hearing Costs that the City is awarded as the Hearing Officer deems appropriate. If the administrative citation is dismissed entirely, then the City shall bear the Hearing Costs.

E. All upheld and awarded administrative fines, Administrative Fees, and Hearing Costs shall be paid by the Responsible Parties to the City within 30 days from the date the Decision is served.

F. If the Hearing Officer determines that an administrative citation should be dismissed, the City shall retain the authority to issue additional

administrative citations for additional violations, or to take any other enforcement action authorized by law.

1.20.100 Recovery of Administrative Fines and Costs

The City may collect any past due administrative fines, Administrative Fees, Late Fees, Nuisance Abatement Costs, Collection Costs, and Hearing Costs by use of all available legal means, including, but not limited to, personal collection from the Responsible Parties and special assessment against the Nuisance Property if the Responsible Parties have or control title to the Nuisance Property. The procedures provided in this Section are in addition to all other remedies and cost recovery options available to the City by law or in equity, including, but not limited to, those provided in Chapter 1.20 of this Code.

1.22.110 Right to Judicial Review

Within 20 days after service of the Decision upon a Responsible Party, that Responsible Party may seek review of the Decision by filing an appeal with the Superior Court of the State of California, in the County of San Bernardino, in accordance with Government Code section 53069.4. That Responsible Party shall serve upon the City Clerk, either in person or by first-class mail, a copy of the notice of appeal. If a Responsible Party fails to timely file a notice of appeal, the Hearing Officer's Decision shall be final and that Responsible Party's right to appeal shall be deemed waived and terminated.

1.22.120 Service of Notice

A. The administrative citation and all notices required to be given by this Chapter may be served on the Responsible Parties in accordance with any of the following methods:

1. Personal service to the Responsible Parties.
2. First-class or certified mail to the Responsible Parties at each Responsible Parties' last known address.
3. For any Responsible Parties that reside at, or occupy, the Nuisance Property, by posting the administrative citation in a conspicuous place on the Nuisance Property, and then mailing a copy of the administrative citation to those Responsible Parties by first-class mail at that address.
4. If any Responsible Parties are an entity registered with the Secretary of State, then by certified mail to those Responsible Parties' agents for service of process at the address registered with the Secretary of State, or as otherwise permitted by law.

5. If a valid address for any Responsible Parties cannot be determined, then by posting the administrative citation in a conspicuous place on the Nuisance Property, and then mailing a copy of the administrative citation to those Responsible Parties at the Nuisance Property's address by first-class mail.

B. Service by posting shall be deemed effective at the time of posting. Service by mail in any manner described in this Section shall be deemed effective upon deposit in the mail.

C. The failure of any Responsible Party, or any other person with a legal or equitable interest in the Nuisance Property, to receive any administrative citation or notice served in accordance with this Section shall not affect the validity of the notice nor any proceeding conducted under this Code.

SECTION 4. Compliance with California Environmental Quality Act. The Upland City Council ("City Council") finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to California Code of Regulations, title 14, chapter 3 ("CEQA Guidelines"), sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) because it has no potential for resulting in physical change to the environment, directly or indirectly. Further, if the activity is deemed a project, the City Council finds that this Ordinance is exempt pursuant to CEQA Guidelines section 15061(b)(3).

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

SECTION 6. Effective Date. This Ordinance shall become effective 30 days from its adoption.

SECTION 7. Publication. The City Clerk shall certify to the adoption of this Ordinance and cause it, or a summary of it, to be published in a newspaper of general circulation printed and published within the City, pursuant to all legal requirements.

PASSED, APPROVED, and ADOPTED this ___th day of _____, 2020.

Debbie Stone, Mayor

Ordinance No. ____

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

AYES:

NOES:

ABSENT:

ABSTAINED:

ATTEST:

Keri Johnson, City Clerk

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
UPLAND AMENDING THE MASTER FEE SCHEDULE AND
ESTABLISHING ADMINISTRATIVE FINES FOR CERTAIN
VIOLATIONS OF THE UPLAND MUNICIPAL CODE

Intent of the Parties and Findings

(i) Upland Municipal Code ("UMC") chapter 1.22 (Administrative Citations) authorizes the imposition of fines for violations of the UMC through the issuance of administrative citations.

(ii) UMC section 1.22.040(A) provides that the amount of the administrative fine may be set forth in an Administrative Fine Schedule established by resolution of the City Council.

NOW, THEREFORE, the City Council hereby finds, determines and resolves as follows:

Section 1. The Administrative Fee authorized by UMC section 1.22.040(G) is hereby set to be \$50 per administrative citation.

Section 2. The Administrative Fine Schedule for certain violations of the UMC as set forth in Exhibit A attached hereto and incorporated herein is hereby approved.

Section 3. The Grace Period, as defined in UMC section 1.22.020(E), for certain violations of the UMC as set forth in Exhibit A attached hereto and incorporated herein is hereby approved. Notwithstanding, the Grace Period may be extended on a case-by-case basis at the discretion of the Enforcement Official or the Enforcement Agency based on the complexity of correcting the violation and the propensity for harm posed by the continued existence of the violation.

Section 4. Compliance with California Environmental Quality Act. The Upland City Council ("City Council") finds that this Resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to California Code of Regulations, title 14, chapter 3 ("CEQA Guidelines"), sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) because it has no potential for resulting in physical change to the environment, directly or indirectly. Further, if the activity is deemed a project, the City Council finds that this Resolution is exempt pursuant to CEQA Guidelines section 15061(b)(3).

Section 5. This resolution shall prevail over any existing resolution in the event of a conflict.

Section 6. The fees adopted by this resolution shall become effective thirty days after adoption and shall remain in effect until repealed or amended.

Resolution No. ____

Page 2

Section 7. 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 January, 2020.

Debbie Stone, Mayor

I, Keri Johnson, City Clerk of the City of Upland, California, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Council of the City of Upland held on the 27th day of January, 2020, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

ATTEST:

Keri Johnson, City Clerk

EXHIBIT A

Administrative Fine Schedule

Pursuant to Upland Municipal Code (“UMC”) section 1.22.040, and subject to Government Code section 36900, each UMC violation designated below is subject to a fine of not more than the initial fine amounts and maximum daily fine amounts specified herein. Each subsequent violation of the same UMC section shall be subject to double the fine of the previous violation up to a maximum of \$1,000 per violation. Any violation of the UMC not otherwise identified below is subject to a fine of no more than the maximum amount authorized in UMC section 1.22.040.

Pursuant to UMC section 1.22.040, a party is entitled to a reasonable opportunity to correct continuing or ongoing violations that do not constitute a continuing violation, that do not create an immediate danger, and that are not the result of the illegal cultivation of cannabis as designated herein (“Grace Period”). Any violation of the UMC entitled to a Grace Period that is not otherwise designated herein shall be entitled a Grace Period of at least three days.

Code	Brief Description of Violation	Grace Period	Initial Fine Amount	Maximum Daily Fine Amount
5.02.010	Business License—Illegal Businesses	10 Days	\$500	\$1,000
5.04.090(A)	Business License—Failure to Procure License	30 Days	\$25	\$1,000
5.28.010	Solicitor, Canvasser or Peddler—Failure to Procure License	5 Days	\$25	\$1,000
5.40.020	Outdoor Festival—Failure to Procure License	N/A	\$500	\$1,000
5.44.020	Dwelling Unit Construction—Failure to Procure License	5 Days	\$250	\$1,000
5.48.030	Residential Property Transactions—Failure to Deliver Report of Residential Property	N/A	\$200	\$1,000
5.60.210(A)–(C)	Massage—Prohibited Services	N/A	\$500	\$1,000
5.60.050(A)–(Q)	Massage—Failure to Abide by Operating Requirements	5 Days	\$250	\$1,000
6.04.120(A)	Animals—Without A Leash	N/A	\$100	\$500
6.04.140	Animals—Causing Noise Disturbance	N/A	\$100	\$100
8.12.020(A)	Nuisance—Improper Drainage	15 Days	\$50	\$50
8.12.020(B)(1)	Nuisance—Accumulation of Discards and Rubbish	15 Days	\$50	\$50
8.12.020(B)(2)	Nuisance—Accumulation of Building Materials	15 Days	\$50	\$50
8.12.020(B)(3)	Nuisance—Accumulation of Firewood	15 Days	\$50	\$50
8.12.020(C)	Nuisance—Commercial Vehicles Stored on Residential Property	15 Days	\$50	\$50
8.12.020(D)(1)	Nuisance—Dead or Hazardous Vegetation	15 Days	\$50	\$50

EXHIBIT A

8.12.020(D)(2)	Nuisance—Overgrown Weeds	15 Days	\$50	\$50
8.12.020(D)(3)	Nuisance—Inadequate Landscaping	15 Days	\$50	\$50
8.12.020(D)(4)	Nuisance—Unmaintained Landscaping	15 Days	\$50	\$50
8.12.020(E)(1)	Nuisance—Partially Destroyed or Incomplete Construction	15 Days	\$50	\$50
8.12.020(E)(3)	Nuisance—Deteriorating Paint or Unpainted Surface	15 Days	\$50	\$50
8.12.020(E)(4)	Nuisance—Roofs with Loose Shingles	15 Days	\$50	\$50
8.12.020(E)(5)	Nuisance—Broken Windows and Doors	15 Days	\$50	\$50
8.12.020(E)(6)	Nuisance—Defective Steps, Rails, Walls, Driveways	15 Days	\$50	\$50
8.12.020(E)(7)	Nuisance—Defective Garage Doors	15 Days	\$50	\$50
8.12.020(E)(8)	Nuisance—Premise Detrimental to Health and Safety	15 Days	\$50	\$50
8.12.020(E)(9)	Nuisance—Graffiti on Premises	15 Days	\$50	\$50
8.12.020(E)(10)	Nuisance—Blight	15 Days	\$50	\$50
8.12.020(F)	Nuisance—Parking of Vehicles	15 Days	\$50	\$50
8.12.020(G)	Nuisance—Inoperative Vehicles	15 Days	\$50	\$50
8.12.020(H)	Nuisance—Unmaintained Swimming Pools and Ponds	15 Days	\$50	\$50
8.12.020(I)	Nuisance—Accumulation of Dirt and Debris	15 Days	\$50	\$50
8.20.010(A)(1)	Attractive Nuisance—Abandoned Vehicles	3 Days	\$100	\$1,000
9.04.070	Human Waste—Bodily Waste in Public Place	N/A	\$100	\$1,000
9.04.110(C)	Trespass Upon Private Property	N/A	\$75	\$1,000
9.08.020	Gambling—Betting	N/A	\$100	\$1,000
9.12.030(A)	Juvenile Curfew Violations	N/A	\$100	\$500
9.12.060	Juvenile Curfew Violations—Responsibility of Guardian	N/A	\$100	\$1,000
9.12.080(C)	Distribution of Harmful Materials to Minor	N/A	\$100	\$1,000
9.16.020(A)	Alcoholic Beverages—Drinking in Public	N/A	\$100	\$1,000
9.16.020(B)	Alcoholic Beverages—Intoxication in Public	N/A	\$100	\$1,000
9.16.030	Alcoholic Beverages—Possession or Consumption in Public Park	N/A	\$100	\$1,000
9.24.020	Firearms—Discharge of Firearm or Weapon	N/A	\$1,000	\$1,000

EXHIBIT A

9.24.030	Firearms—Minor in Possession of Firearm or Weapon	N/A	\$1,000	\$1,000
9.28.020	Live Entertainment—Without Obtaining Permit	3 Days	\$250	\$1,000
9.36.040	Graffiti—Application thereof	N/A	\$250	\$1,000
9.36.050	Defacing Public Buildings	N/A	\$250	\$1,000
9.36.060	Graffiti—Possession of Graffiti Implements	N/A	\$150	\$1,000
9.36.090	Maintaining Graffiti Unlawful—Public Nuisance	15 Days	\$150	\$1,000
9.40.060	Unnecessary Noise—Excessive	N/A	\$200	\$1,000
9.40.100	Noises Prohibited—Unnecessary Noise Standard	N/A	\$150	\$1,000
9.48.040	Marijuana—All Prohibited Marijuana Use and Activity	N/A	\$100	\$1,000
9.48.050	Marijuana—Unlawful Use of Structure or Property	N/A	\$100	\$1,000
9.52.030	Synthetic Drug—Sale and Distribution Thereof	N/A	\$100	\$1,000
9.52.050	Synthetic Drug—Possession Thereof	N/A	\$100	\$1,000
10.36.050	Vehicles and Traffic—Use of Street for Storage of Vehicles	5 Days	\$50	\$1,000
10.36.060	Vehicles and Traffic—Repairing or Maintaining Vehicles on Public Street	N/A	\$50	\$1,000
10.68.010	Vehicles and Traffic—Vegetation that Obstructs View of Vehicular Traffic	10 Days	\$75	\$1,000
10.72.010(A)	Vehicles and Traffic—Use of Skateboard or Similar Device to Travel on Roadway	N/A	\$100	\$500
10.72.010(B)	Vehicles and Traffic—Use of Skateboard or Similar Device on Property with Signs Prohibiting Such Acts	N/A	\$50	\$1,000
12.08.010(A)	Street Excavations—Failure to Obtain Permit	N/A	\$100	\$1,000
12.08.060(A)	Street Closures—Failure to Obtain Permit	N/A	\$100	\$1,000
12.16.010	Sidewalk or Street—Use for Display of Goods	N/A	\$100	\$1,000
12.16.040	Sidewalk or Street—Pool Discharge into Streets	N/A	\$150	\$1,000
12.16.050	Sidewalk or Street—Encroaching Vegetation	15 Days	\$150	\$1,000
12.16.060	Sidewalk or Street—Animals Tethered in Public Place	N/A	\$50	\$1,000
12.16.070	Sidewalk or Street—Riding Bicycle in Street	N/A	\$50	\$1,000
12.16.080	Sidewalk or Street—Littering	N/A	\$200	\$1,000
12.24.060	Allowable Objects and Plantings in the Public-Right-of-Way	15 Days	\$50	\$1,000
12.24.110	Sidewalk or Street—Maintenance of Trees in the Public Right of Trees	10 Days	\$50	\$1,000

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12.24.130	Sidewalk or Street—Maintenance of Property Landscaping	10 Days	\$50	\$1,000
12.36.050(A-Q)	Sidewalk or Street—Failure to Abide by Skateboard Park Regulations	N/A	\$100	\$500
12.40.030(A)	Sidewalk or Street—Camping in Public Areas	N/A	\$100	\$1,000
12.44.040	Sidewalk or Street—Permit Required for Use of Park Facilities	N/A	\$100	\$500
13.16.020(A)(1)	Public Services—Failure to Conserve Water	N/A	\$100	\$500
13.24.130	Public Services—Failure to Obtain Permit to Connect to Public Sewer	30 Days	\$100	\$1,000
13.28.510	Public Services—Garbage Containers in Public View	10 Days	\$50	\$1,000
13.32.190	Community Sewer System—Nondomestic Wastewater Discharge	10 Days	\$100	\$1,000
13.32.280	Community Sewer System—Compliance Monitoring, Sampling, & Inspection	10 Days	\$100	\$1,000
15.08.010	Building Code—Violation of Building Codes	30 Days	\$50	\$1,000
15.08.070	Building Code—Failure to Enclose Swimming Pools	30 Days	\$50	\$1,000
15.12.010	Mechanical Code—Unpermitted Mechanical Work	30 Days	\$50	\$1,000
15.14.010	Residential Code—Violation of Residential Codes	30 Days	\$50	\$1,000
15.16.010	Housing Code—Violation of Housing Codes	30 Days	\$50	\$1,000
15.20.010	Abatement of Dangerous Buildings Code—Violation of the Codes	30 Days	\$50	\$1,000
15.24.010	Plumbing Code—Unpermitted Plumbing Work	30 Days	\$50	\$1,000
15.28.010	Electrical Code—Unpermitted Electrical Work	30 Days	\$50	\$1,000
15.40.080	Address Numbering of Curb and Structures—Size, Color, and Location	15 Days	\$50	\$1,000
15.52.030	Building Code—Failure to Obtain Grading Permits	30 Days	\$50	\$1,000
15.56.080	Building Code—Failure to Obtain Development Permit	30 Days	\$50	\$1,000
17.13.040	Height Limits	15 Days	\$50	\$1,000
17.40.030	Light Trespass	15 Days	\$50	\$1,000
17.15.030	Signs—Failure to Obtain Permits	30 Days	\$50	\$1,000
17.15.050(C)	Signs—Prohibited Vehicle Signs	30 Days	\$50	\$1,000
17.15.050(E)	Signs—Prohibited Roof Signs	30 Days	\$50	\$1,000
17.15.050(D)	Signs—Temporary Signs	30 Days	\$50	\$1,000
17.15.060(A)	Signs—Prohibited On-Premise Signs	30 Days	\$50	\$1,000
17.15.060(B)	Signs—Prohibited Off-Premise Signs	30 Days	\$50	\$1,000

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17.15.080(E)	Signs—Prohibited Signs Over Rights of Way	30 Days	\$50	\$1,000
17.15.110	Temporary Real Estate Signs	N/A	\$50	\$1,000
17.15.130	Political Campaign Signs	N/A	\$50	\$1,000
17.15.150	Flags, Banners, Pennants, Balloons, Window and Interior Signs	N/A	\$50	\$1,000
17.16.030	Zoning Ordinance—Excessive Storage in Yards	30 Days	\$50	\$1,000
17.16.050(B)(1-9)	Zoning Ordinance—Unmaintained Structures	30 Days	\$50	\$1,000
17.16.050(C)	Zoning Ordinance—Damaged Structures	30 Days	\$50	\$1,000
17.16.060	Zoning Ordinance—Fence and Wall Maintenance	30 Days	\$50	\$1,000
17.16.080	Zoning Ordinance—Unmaintained Landscaping	30 Days	\$50	\$1,000
17.19.050	Zoning Ordinance—Accessory Uses and Structures in Residential Zones	30 Days	\$50	\$1,000
17.34.040	Parking, Storage, and Screening	3 Days	\$50	\$1,000



STAFF REPORT

ITEM NO. 12.B.

DATE: January 27, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, INTERIM CITY MANAGER
PREPARED BY: ROSEMARY HOERNING, INTERIM CITY MANAGER
SUBJECT: PROPOSED SOLID WASTE RATE ADJUSTMENT

RECOMMENDED ACTION

It is recommended that the City Council approve a resolution adopting revisions to the schedule of solid waste rates.

GOAL STATEMENT

The proposed action supports the City's goal of establishing equitable fees that encourage participation in recycling, generate the necessary revenue for cost recovery, and provide high quality cost effective services to the community.

BACKGROUND

The City has a service contract with Burrtec Waste Industries, Inc. to provide solid waste collection and disposal services as an exclusive franchise. The current solid waste contract provides for collection and disposal of refuse, recycling, and organics (green waste and food waste) for both residential and commercial customers. The customer service charge is currently based upon their refuse container size. The customer solid waste service charge is composed of the Burrtec Service Collection fee, the disposal fee or tipping fee, and the City Program fee.

The City collects the solid waste service charge, which is placed in a separate fund (641) specifically established for managing revenue and expenditures associated with the City Solid Waste Program. The City pays Burrtec actual disposal charges and its Service Collection fee which covers the costs of labor, equipment and materials required to provide the City with trash collection services. The actual amount paid to Burrtec is net of the franchise fee due to the City per the franchise agreement. The rate includes the cost of trash, recyclables, green and organic solid waste handling, and disposal or resale. The balance of the charges collected and deposited into fund 641 are used to pay for program related costs.

These program related costs include funds for Household Hazardous Waste & SHARPS programs, landfill post closure regulatory requirements, commercial and residential billing expenses, City personnel, utility billing expenses, and City administrative expenses.

The solid waste program revenues are adjusted by the CPI. The CPI for the January through December 2018 period was 3.8%. This CPI is applied to the Burrtec service and City program fees as provided for in the agreement. Burrtec has cited uncontrollable circumstances related to changes in the regulations and tipping fees resulting in an increase above the 4% maximum annual adjustment per the agreement. The rate adjustment includes addressing the CPI and the higher than anticipated tipping fees.

As part of the solid waste rate review, the City retained R3 Consulting Group, Inc. (R3) to assist the City in evaluating Burrtec's request for an adjustment related to uncontrollable circumstances. R3's review included evaluating the financial information, site visits to review Burrtec's operations, discussions with Burrtec financial staff, and a comparison of tipping fee costs for other methods of disposal. R3 determined that the issues affecting the tipping fee increases, such as, the effect of China's National Sword policy which has reduced recyclable commodity revenue and regulatory mandates are affecting the costs associated with organics/green waste.

This rate adjustment proposal is for a single year as a multi-year rate review was too difficult to address at this time given the future unknown factors. An additional Proposition 218 rate review is anticipated in the future, to address the pending regulatory requirements of SB1383.

On November 26, 2019, and on December 9, 2019, the solid waste rate adjustment proposal was presented to the Public Works Committee and City Council respectively. The City Council approved the circulation of the proposition 218 notification of the proposed solid waste rate adjustment. As required by law, on or about December 13, 2019, a public notification of the proposed rate adjustment and public hearing date of January 27, 2020 were provided in (English and Spanish) to all affected customers and property owners. Additionally, supplemental notice information was provided to those customers and property owners in the Downtown area using solid waste, recycling and organic waste collection bins located on City Parking lots (five service block areas) in order to provide notification of the method and anticipated property related solid waste service fees.

ISSUES/ANALYSIS

R3 determined tipping rates Burrtec is providing for refuse are approximately 30% less and the for green waste are 24% lower than the industry average. R3 has confirmed the tipping fee increases included in Burrtec cost of service rates are reasonable given the market conditions and regulatory requirements. Burrtec handles and manages the disposal and resale of recycling materials through their Material Recoveries Facilities.

The rate adjustment is necessary to provide the resources needed to cover Burrtec's service expenses, the extraordinary increase to solid waste processing and disposal as well as the City's cost for this service.

Since the tipping fees are a pass through processing and disposal cost, not adjusting the rates in a timely manner may cost the customer more in the future as Burrtec will need to recoup the costs in excess of current collections for tipping fees. Furthermore, additional regulatory requirements may result in additional increases in the future. Staff believes it is preferred to address these adjustments timely to smooth the needed adjustments to customer rates.

FISCAL IMPACTS

The actual cost for the solid waste tipping fees (the cost of processing and disposing of the solid waste products) is a pass through fee. What is collected from the waste customer is remitted to Burrtec. As such, there is no fiscal impact for this Proposition 218 review.

If adopted, the rates would become effective February 1, 2020. It is anticipated revenues and expenditures would increase approximately \$600,000 beyond the approved budget as a result of the implementation of the new rate schedule.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Resolution - Solid Waste Rates

Attachment "A" - Rate Schedule

Prop 218 Notice - Citywide

Prop 218 Additional Notice - Downtown

R3 Review - 2019 Burrtec Solid Waste Rate Adjust dated 11-22-19

R3 City Comparison Review dated 11-22-19

R3 updated City Comparison Review dated 1-22-20

2019 Burrtec Rate Adjustment Request 3-15-19

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL ADOPTING REVISIONS TO THE SCHEDULE OF SOLID WASTE RATES

Intent of the Parties and Findings

(i) On or about November 27, 2000, the City entered into an agreement with Burrtec Waste Industries Inc. (Burrtec) to provide Solid Waste Collection, Processing and Disposal Services ("Agreement") as authorized by Section 13.28.040 of the Upland Municipal Code; and

(ii) On or about May 27, 2014 the City and Burrtec entered into a Third Amendment to the Agreement modifying Burrtec's service fee for providing solid waste collection, processing and disposal services; and

(iii) Section 13.28.160 of the Upland Municipal Code authorizes the City Council to place limits on the rates, fees and charges collectors may charge to residential owners and commercial/industrial businesses for the collection of solid waste ("Solid Waste Rates"); and

(iv) On February 19, 2018, the City submitted a compliance plan for the Mandatory Commercial Recycling Program (MCR) to CalRecycle in response to their request to address gaps in the commercial and multi-family mandatory recycling programs in order to increase participation by regulated customers to meet the CalRecycle diversion goals; and

(v) On August 13th, 2018, the City Council held a public hearing and adopted rate adjustments for multi-family, commercial and industrial bin and compactor service property owners; and

(vi) On March 15, 2019 the City received notice from Burrtec of a request to increase service rates by 3.8% in accordance with the Consumer Price index for calendar year 2018 and a request for an uncontrollable circumstances including changes in law and tipping fee increases that resulted in increases that exceed the maximum annual cap of 4%; and

(vi) As a part of the rate review and validation of requested uncontrollable cost, the City retained an outside consultant. This consultant confirmed the request of an increase above the maximum annual percentage amount was validated and reasonable; and

(vii) The City Council finds and determines that the proposed Solid Waste Rates to property owners not exceed the estimated reasonable amounts for which they are to be imposed; and

(viii) On or about December 13, 2019, notice of the public hearing was mailed to property owners and tenants pursuant to Article XIIID Section 6 of the California Constitution; and

(ix) On January 27, 2020, the City Council held a public hearing wherein

written and oral testimony was presented regarding the proposed adjustments to the Solid Waste Rates; and

(x) Less than a majority of owners of the identified parcels and users of the City's solid waste service made a written protest against the adjustments to the Solid Waste Rates; and

(xi) On the basis of the evidence presented during the public hearing, the City Council hereby adjusts the Solid Waste Rates as set forth hereafter.

NOW, THEREFORE, the Upland City Council hereby finds, determines and resolve as follows:

Section 1. All of the facts set forth in the recitals part of this Resolution, are true and correct.

Section 2. Users of the City's solid waste collection and disposal service shall be charged no greater than the amounts set forth in Attachment A hereto.

Section 3. Effective February 1, 2020, the City's solid waste rates, fees and charges, as specified in Section 13.28.160 of the Upland Municipal Code, shall be superseded pursuant to Attachment A.

Section 4. The rates, fees or charges set forth above, in Attachment A, will remain in effect until amended by subsequent resolution(s) of the City Council.

Section 5. The City Council finds that the California Environmental Quality Act of 1970, as amended, does not apply to the adoption of this Resolution, pursuant to Section 15273 of Article 18 of Chapter 3 of Title 14 of the California Code of Regulations. The City Council expressly finds based on the evidence before it that the increase is for the purposes of:

- a. Meeting the operating expenses, including employee wage rates;
- b. Purchasing supplies, equipment and materials;
- c. Payment of solid waste processing and disposal; and
- d. Meeting the financial reserves.

Section 6. If any section, subsection, sentence, clause, phrase or portion of this Resolution is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Resolution. The City Council hereby declares that it would have adopted this Resolution, and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 7. Certification. The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 27th day of January, 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 January, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

ATTEST:

Keri Johnson, City Clerk

CITY OF UPLAND PROPOSED 218 RATE INCREASE NOTICE
Rates Effective February 1, 2020

Dear Valued Customer,

The State of California has imposed stringent requirements for solid waste diversions and management of the solid waste disposal requirements. In addition, the world market (China) for recycleable material has changed and has resulted in increased cost and reduced revenue. Thus, the disposal pass-through cost has significantly increased. This rate adjustment provides for a 2018 consumer price index adjustment of 3.8% on the service cost to Burretec Waste Industries. The rate adjustment also includes a pass-through adjustment to address the 2018 increase in solid waste disposal costs.

Service Type		Current Rate	Proposed Rate	Service Type		Current Rate	Proposed Rate
Residential Service				Commercial and Multi-Family Bin Service ⁽¹⁾			
35-gallon trash barrel		\$ 17.61	\$ 21.17	Size	Freq		
65-gallon trash barrel		\$ 21.79	\$ 25.65	1	1	\$ 80.67	\$ 86.51
95-gallon trash barrel		\$ 26.23	\$ 30.23	1.5	1	\$ 95.77	\$ 102.89
Extra 35-gallon trash		\$ 9.26	\$ 9.59	2	1	\$ 111.09	\$ 119.48
Extra 65-gallon trash		\$ 10.62	\$ 11.06	2	2	\$ 210.16	\$ 226.18
Extra 95-gallon trash		\$ 12.11	\$ 12.60	2	3	\$ 309.24	\$ 332.86
Exchange/replace damaged/stolen bbl		\$ 17.57	\$ 18.71	2	4	\$ 404.06	\$ 435.03
Extra pick-up - barrel		\$ 16.32	\$ 17.34	2	5	\$ 502.05	\$ 540.59
Temporary Bins (7 day usage)		\$ 124.57	\$ 132.04	2	6	\$ 574.10	\$ 618.49
Temporary Bin - Extra Empty		\$ 124.57	\$ 132.04	3	1	\$ 149.61	\$ 161.10
				3	2	\$ 287.19	\$ 309.38
				3	3	\$ 424.78	\$ 457.69
				3	4	\$ 562.38	\$ 605.98
				3	5	\$ 700.00	\$ 754.31
				3	6	\$ 837.55	\$ 902.56
				4	1	\$ 188.05	\$ 202.63
				4	2	\$ 364.20	\$ 392.56
				4	3	\$ 540.30	\$ 582.45
				4	4	\$ 716.35	\$ 772.32
				4	5	\$ 892.44	\$ 962.21
				4	6	\$ 1,068.49	\$ 1,152.06
				5	1	\$ 226.61	\$ 244.29
				5	2	\$ 441.18	\$ 475.73
				5	3	\$ 655.77	\$ 707.21
				5	4	\$ 870.36	\$ 938.69
				5	5	\$ 1,084.92	\$ 1,170.13
				5	6	\$ 1,299.52	\$ 1,401.60
				6	1	\$ 265.09	\$ 285.83
				6	2	\$ 518.15	\$ 558.88
				6	3	\$ 771.19	\$ 831.90
				6	4	\$ 1,024.26	\$ 1,104.94
				6	5	\$ 1,277.32	\$ 1,377.97
				6	6	\$ 1,530.41	\$ 1,651.03
				Commercial Compactor Trash Service ⁽¹⁾			
				3	1	\$ 276.78	\$ 303.88
				3	2	\$ 541.72	\$ 595.11
				3	3	\$ 806.64	\$ 886.33
				3	4	\$ 1,071.59	\$ 1,177.61
				3	5	\$ 1,336.54	\$ 1,468.86
				3	6	\$ 1,601.45	\$ 1,760.10
				4	1	\$ 361.80	\$ 397.39
				4	2	\$ 711.58	\$ 782.01
				4	3	\$ 1,061.40	\$ 1,166.65
				4	4	\$ 1,395.69	\$ 1,534.89
				4	5	\$ 1,741.66	\$ 1,915.46
				4	6	\$ 2,087.61	\$ 2,296.02
				Commercial/Multi-Family Green Waste Bin Service			
				Size	Freq		
				2	1	\$ 87.80	\$ 100.71
				2	2	\$ 163.59	\$ 188.60
				2	3	\$ 239.39	\$ 276.53
				2	4	\$ 315.18	\$ 364.45
				2	5	\$ 390.95	\$ 452.29
				2	6	\$ 466.75	\$ 540.22
				3	1	\$ 114.70	\$ 132.94
				3	2	\$ 217.34	\$ 253.04
				3	3	\$ 320.01	\$ 373.17
				3	4	\$ 422.66	\$ 493.27
				3	5	\$ 525.34	\$ 613.41
				3	6	\$ 628.00	\$ 733.53
				4	1	\$ 141.52	\$ 165.10
				4	2	\$ 271.04	\$ 317.42
				4	3	\$ 400.55	\$ 469.72
				4	4	\$ 530.08	\$ 622.04
				4	5	\$ 659.60	\$ 774.39
				4	6	\$ 789.09	\$ 926.67
Commercial Recycling Bin Service							
Size	Freq						
2	1	\$ 80.30	\$ 84.85				
2	2	\$ 148.60	\$ 156.92				
2	3	\$ 216.88	\$ 228.98				
2	4	\$ 280.91	\$ 296.52				
2	5	\$ 348.13	\$ 367.46				
2	6	\$ 389.39	\$ 410.73				
3	1	\$ 103.43	\$ 109.15				
3	2	\$ 194.83	\$ 205.50				
3	3	\$ 286.25	\$ 301.86				
3	4	\$ 377.67	\$ 398.22				
3	5	\$ 469.11	\$ 494.61				
3	6	\$ 560.48	\$ 590.92				
4	1	\$ 126.49	\$ 133.38				
4	2	\$ 241.05	\$ 254.06				
4	3	\$ 355.59	\$ 374.70				
4	4	\$ 470.07	\$ 495.30				
4	5	\$ 584.58	\$ 615.93				
4	6	\$ 699.07	\$ 736.53				
Commercial Food Waste Service - Stand Alone							
Size	Freq						
1.5	1	\$ 168.35	\$ 206.50				
1.5	2	\$ 296.15	\$ 369.81				
1.5	3	\$ 415.78	\$ 524.41				
1.5	4	\$ 533.66	\$ 677.18				
1.5	5	\$ 650.82	\$ 829.15				
1.5	6	\$ 768.28	\$ 981.44				
2	1	\$ 209.73	\$ 259.61				
2	2	\$ 382.39	\$ 479.77				
2	3	\$ 543.10	\$ 687.20				
2	4	\$ 704.01	\$ 894.84				
2	5	\$ 888.45	\$ 1,127.53				
2	6	\$ 1,025.47	\$ 1,309.73				
65-gallon Barrel	1	\$ 66.60	\$ 56.37				
65-gallon Barrel	2	\$ 123.40	\$ 102.59				
65-gallon Barrel	3	\$ 177.06	\$ 145.53				
65-gallon Barrel	4	\$ 230.56	\$ 188.31				
65-gallon Barrel	5	\$ 290.42	\$ 237.69				
65-gallon Barrel	6	\$ 337.78	\$ 274.09				
⁽¹⁾ Service provides for an optional Recycle bin of equal or lesser size, while funds for this program are available. Note: "size" refers to the number of cubic yards of the bin and the "Freq." is the frequency of pick ups per week.							

Service Type	Current Rate	Proposed Rate	Service Type	Current Rate	Proposed Rate
Roll-Off Service			Miscellaneous Charges		
40 yd compactor - trash	\$ 904.16	\$ 1,001.58	Pull-out (0-25 ft) - All services	N/C	N/C
40 yd roll-off box - trash	\$ 729.33	\$ 805.73	Pull-out (26-50 ft) - 1 x Week	\$ 16.65	\$ 17.29
19 yd roll-off box - trash	\$ 729.33	\$ 805.73	Pull-out (26-50 ft) - 2 x Week	\$ 21.41	\$ 22.23
Demo box - Inerts Clean	\$ 398.29	\$ 655.73	Pull-out (26-50 ft) - 3 x Week	\$ 25.86	\$ 26.84
C&D box	\$ 730.50	\$ 948.16	Pull-out (26-50 ft) - 4 x Week	\$ 30.92	\$ 32.10
Rolloff 40-Y Recyc. (6 tons max)	\$ 212.26	\$ 226.06	Pull-out (26-50 ft) - 5 x Week	\$ 35.68	\$ 37.04
Rolloff 40-Y Comp Recyc. (8 tons max)	\$ 214.75	\$ 228.70	Pull-out (26-50 ft) - 6 x Week	\$ 40.44	\$ 41.98
Rolloff 40-Y Greenwaste (6 tons max)	\$ 471.12	\$ 551.52	Pull-out (51-75 ft) - 1 x Week	\$ 19.03	\$ 19.75
40 yd roll-off box - clean wood/green	\$ 654.97	\$ 742.37	Pull-out (51-75 ft) - 2 x Week	\$ 26.17	\$ 27.17
Dry run charge	\$ 61.97	\$ 66.00	Pull-out (51-75 ft) - 3 x Week	\$ 33.30	\$ 34.57
Daily roll-off rental	\$ 30.32	\$ 32.30	Pull-out (51-75 ft) - 4 x Week	\$ 40.44	\$ 41.98
Miscellaneous Charges			Pull-out (51-75 ft) - 5 x Week	\$ 47.58	\$ 49.39
Extra pick-up - bin	\$ 59.89	\$ 63.47	Pull-out (51-75 ft) - 6 x Week	\$ 54.74	\$ 56.80
Extra pick-up - compactor bin	\$ 110.42	\$ 117.04	Pull-out (76-100 ft) - 1 x Week	\$ 21.41	\$ 22.23
Temporary bin (7 day usage)	\$ 124.57	\$ 132.04	Pull-out (76-100 ft) - 2 x Week	\$ 30.92	\$ 32.10
Temporary bin - extra empty	\$ 124.57	\$ 132.04	Pull-out (76-100 ft) - 3 x Week	\$ 40.44	\$ 41.98
Contamination fee			Pull-out (76-100 ft) - 4 x Week	\$ 49.95	\$ 51.85
- All Barrels	N/A	\$ 27.92	Pull-out (76-100 ft) - 5 x Week	\$ 59.48	\$ 61.75
- All Bins	\$ 59.89	\$ 63.47	<u>Pull-out (76-100 ft) - 6 x Week</u>	<u>\$ 67.25</u>	<u>\$ 69.81</u>
Locking bin	\$ 13.21	\$ 14.01	Pull-out (101-125 ft) - 1 x Week	\$ 23.79	\$ 24.69
Steam cleaning	\$ 46.28	\$ 49.06	Pull-out (101-125 ft) - 2 x Week	\$ 35.68	\$ 37.04
Bulky Charge per Item	\$ 15.00	\$ 15.97	Pull-out (101-125 ft) - 3 x Week	\$ 47.58	\$ 49.39
Bulky Item Trip Charge	\$ 40.00	\$ 42.59	Pull-out (101-125 ft) - 4 x Week	\$ 59.48	\$ 61.75
Steam Cleaning - Compactor	\$ 158.73	\$ 169.05	Pull-out (101-125 ft) - 5 x Week	\$ 71.37	\$ 74.09
Dump and Destroy Fee	N/A	\$ 105.00	<u>Pull-out (101-125 ft) - 6 x Week</u>	<u>\$ 83.27</u>	<u>\$ 86.44</u>
			Pull-out (126-150 ft) - 1 x Week	\$ 26.17	\$ 27.17
			Pull-out (126-150 ft) - 2 x Week	\$ 40.44	\$ 41.98
			Pull-out (126-150 ft) - 3 x Week	\$ 54.71	\$ 56.80
			Pull-out (126-150 ft) - 4 x Week	\$ 68.99	\$ 71.62
			Pull-out (126-150 ft) - 5 x Week	\$ 83.27	\$ 86.44
			<u>Pull-out (126-150 ft) - 6 x Week</u>	<u>\$ 97.54</u>	<u>\$ 101.25</u>
			Pull-out (over 150 ft) - 1 x Week	\$ 28.55	\$ 29.64
			Pull-out (over 150 ft) - 2 x Week	\$ 45.19	\$ 46.91
			Pull-out (over 150 ft) - 3 x Week	\$ 61.86	\$ 64.21
			Pull-out (over 150 ft) - 4 x Week	\$ 78.52	\$ 81.51
			Pull-out (over 150 ft) - 5 x Week	\$ 95.16	\$ 98.79
			Pull-out (over 150 ft) - 6 x Week	\$ 111.81	\$ 116.07



CITY OF UPLAND
NOTICE OF PUBLIC HEARING
ON
SOLID WASTE RATE ADJUSTMENTS

JANUARY 27, 2020 at 7:00 P.M.

Upland City Hall
460 N. Euclid Avenue, Upland

Notice of Public Hearing in conformance with Article XIIIID of the California State Constitution and the Proposition 218 Omnibus Implementation Act.

In compliance with Article XIIIID of the California State Constitution and the Proposition 218 Omnibus Implementation Act, the City of Upland is hereby notifying all affected rate payers of the proposed Solid Waste Service rate adjustments.

Public Hearing Information

A Public Hearing will be held on January 27, 2020, at 7:00 p.m., at Upland City Hall, located at 460 N. Euclid Avenue, Upland. The City Council will conduct a Public Hearing for the Solid Waste Service proposed rate adjustments. At the time of the Public Hearings, the City Council will hear and consider all protests and objections concerning these matters, and will consider and may adopt the adjusted rates and charges.

The record owner of any parcel upon which the proposed fees or charges are proposed to be imposed or any tenant directly responsible for the payment of solid waste charges (i.e., customer of record) may submit a written protest to the proposed rate increase; however, only one protest will be counted per identified parcel. Any written protest must: (1) state the protest is being submitted in opposition to the proposed rate increase; (2) provide the location of the identified parcel (by assessor's parcel or street address); and, (3) include the name and signature of the property owner or tenant directly responsible for the payment of the solid waste charges submitting the protest. Written protests may be submitted by mail or in person to the City Clerk at City of Upland, 460 N. Euclid Ave., Upland, CA 91786, by January 27, 2020.

Explanation of the Rate Adjustments

Burrtec Waste Industries submitted a request for an increase for their normal consumer price index adjustment for services and an additional increase for “uncontrollable circumstances” associated with regulatory laws and significant increase solid waste management and disposal fees. The City performed a review of the claimed “uncontrollable circumstances” and found the extraordinary expense request to be reasonable. Many agencies in the region and throughout the State are experiencing this significant increase in disposal management costs. Solid Waste disposal charges are a pass through cost to the customer.

Further details and supplemental information on the cost of service studies are available for review at the City’s Web Site <https://www.uplandca.gov/> under “Featured” see “Burrtec “We’ll Take Care of It” Solid Waste Rate Adjustment. Additionally, this information is available for review at the City Library, located at 450 N. Euclid Ave., Upland, CA 91786.

If any rate increase(s) is approved at the January 27, 2020 Public Hearing, all revised rates will become effective February 1, 2020.

CITY OF UPLAND PROPOSED 218 RATE INCREASE NOTICE
Rates Effective February 1, 2020

Dear Valued Customer,

The State of California has imposed stringent requirements for solid waste diversions and management of the solid waste disposal requirements. In addition, the world market (China) for recycleable material has changed and has resulted in increased cost and reduced revenue. Thus, the disposal pass-through cost has significantly increased. This rate adjustment provides for a 2018 consumer price index adjustment of 3.8% on the service cost to Burretec Waste Industries. The rate adjustment also includes a pass-through adjustment to address the 2018 increase in solid waste disposal costs.

Service Type		Current Rate	Proposed Rate	Service Type		Current Rate	Proposed Rate
Residential Service				Commercial and Multi-Family Bin Service ⁽¹⁾			
35-gallon trash barrel		\$ 17.61	\$ 21.17	Size	Freq		
65-gallon trash barrel		\$ 21.79	\$ 25.65	1	1	\$ 80.67	\$ 86.51
95-gallon trash barrel		\$ 26.23	\$ 30.23	1.5	1	\$ 95.77	\$ 102.89
Extra 35-gallon trash		\$ 9.26	\$ 9.59	2	1	\$ 111.09	\$ 119.48
Extra 65-gallon trash		\$ 10.62	\$ 11.06	2	2	\$ 210.16	\$ 226.18
Extra 95-gallon trash		\$ 12.11	\$ 12.60	2	3	\$ 309.24	\$ 332.86
Exchange/replace damaged/stolen bbl		\$ 17.57	\$ 18.71	2	4	\$ 404.06	\$ 435.03
Extra pick-up - barrel		\$ 16.32	\$ 17.34	2	5	\$ 502.05	\$ 540.59
Temporary Bins (7 day usage)		\$ 124.57	\$ 132.04	2	6	\$ 574.10	\$ 618.49
Temporary Bin - Extra Empty		\$ 124.57	\$ 132.04	3	1	\$ 149.61	\$ 161.10
Commercial Barrel				3	2	\$ 287.19	\$ 309.38
65-gallon trash barrel		\$ 21.79	\$ 25.65	3	3	\$ 424.78	\$ 457.69
95-gallon trash barrel		\$ 26.23	\$ 30.23	3	4	\$ 562.38	\$ 605.98
Exchange/replace damaged/stolen bbl		\$ 17.57	\$ 18.71	3	5	\$ 700.00	\$ 754.31
Extra pick-up - barrel		\$ 16.32	\$ 17.34	3	6	\$ 837.55	\$ 902.56
Commercial Recycling Bin Service				4	1	\$ 188.05	\$ 202.63
Size	Freq			4	2	\$ 364.20	\$ 392.56
2	1	\$ 80.30	\$ 84.85	4	3	\$ 540.30	\$ 582.45
2	2	\$ 148.60	\$ 156.92	4	4	\$ 716.35	\$ 772.32
2	3	\$ 216.88	\$ 228.98	4	5	\$ 892.44	\$ 962.21
2	4	\$ 280.91	\$ 296.52	4	6	\$ 1,068.49	\$ 1,152.06
2	5	\$ 348.13	\$ 367.46	5	1	\$ 226.61	\$ 244.29
2	6	\$ 389.39	\$ 410.73	5	2	\$ 441.18	\$ 475.73
3	1	\$ 103.43	\$ 109.15	5	3	\$ 655.77	\$ 707.21
3	2	\$ 194.83	\$ 205.50	5	4	\$ 870.36	\$ 938.69
3	3	\$ 286.25	\$ 301.86	5	5	\$ 1,084.92	\$ 1,170.13
3	4	\$ 377.67	\$ 398.22	5	6	\$ 1,299.52	\$ 1,401.60
3	5	\$ 469.11	\$ 494.61	6	1	\$ 265.09	\$ 285.83
3	6	\$ 560.48	\$ 590.92	6	2	\$ 518.15	\$ 558.88
4	1	\$ 126.49	\$ 133.38	6	3	\$ 771.19	\$ 831.90
4	2	\$ 241.05	\$ 254.06	6	4	\$ 1,024.26	\$ 1,104.94
4	3	\$ 355.59	\$ 374.70	6	5	\$ 1,277.32	\$ 1,377.97
4	4	\$ 470.07	\$ 495.30	6	6	\$ 1,530.41	\$ 1,651.03
4	5	\$ 584.58	\$ 615.93	Commercial Compactor Trash Service ⁽¹⁾			
4	6	\$ 699.07	\$ 736.53	3	1	\$ 276.78	\$ 303.88
Commercial Food Waste Service - Stand Alone				3	2	\$ 541.72	\$ 595.11
Size	Freq			3	3	\$ 806.64	\$ 886.33
1.5	1	\$ 168.35	\$ 206.50	3	4	\$ 1,071.59	\$ 1,177.61
1.5	2	\$ 296.15	\$ 369.81	3	5	\$ 1,336.54	\$ 1,468.86
1.5	3	\$ 415.78	\$ 524.41	3	6	\$ 1,601.45	\$ 1,760.10
1.5	4	\$ 533.66	\$ 677.18	4	1	\$ 361.80	\$ 397.39
1.5	5	\$ 650.82	\$ 829.15	4	2	\$ 711.58	\$ 782.01
1.5	6	\$ 768.28	\$ 981.44	4	3	\$ 1,061.40	\$ 1,166.65
2	1	\$ 209.73	\$ 259.61	4	4	\$ 1,395.69	\$ 1,534.89
2	2	\$ 382.39	\$ 479.77	4	5	\$ 1,741.66	\$ 1,915.46
2	3	\$ 543.10	\$ 687.20	4	6	\$ 2,087.61	\$ 2,296.02
2	4	\$ 704.01	\$ 894.84	Commercial/Multi-Family Green Waste Bin Service			
2	5	\$ 888.45	\$ 1,127.53	Size	Freq		
2	6	\$ 1,025.47	\$ 1,309.73	2	1	\$ 87.80	\$ 100.71
65-gallon Barrel	1	\$ 66.60	\$ 56.37	2	2	\$ 163.59	\$ 188.60
65-gallon Barrel	2	\$ 123.40	\$ 102.59	2	3	\$ 239.39	\$ 276.53
65-gallon Barrel	3	\$ 177.06	\$ 145.53	2	4	\$ 315.18	\$ 364.45
65-gallon Barrel	4	\$ 230.56	\$ 188.31	2	5	\$ 390.95	\$ 452.29
65-gallon Barrel	5	\$ 290.42	\$ 237.69	2	6	\$ 466.75	\$ 540.22
65-gallon Barrel	6	\$ 337.78	\$ 274.09	3	1	\$ 114.70	\$ 132.94
⁽¹⁾ Service provides for an optional Recycle bin of equal or lesser size, while funds for this program are available.				3	2	\$ 217.34	\$ 253.04
Note: "size" refers to the number of cubic yards of the bin and the "Freq." is the frequency of pick ups per week.				3	3	\$ 320.01	\$ 373.17
				3	4	\$ 422.66	\$ 493.27
				3	5	\$ 525.34	\$ 613.41
				3	6	\$ 628.00	\$ 733.53
				4	1	\$ 141.52	\$ 165.10
				4	2	\$ 271.04	\$ 317.42
				4	3	\$ 400.55	\$ 469.72
				4	4	\$ 530.08	\$ 622.04
				4	5	\$ 659.60	\$ 774.39
				4	6	\$ 789.09	\$ 926.67

Service Type	Current Rate	Proposed Rate	Service Type	Current Rate	Proposed Rate
Roll-Off Service			Miscellaneous Charges		
40 yd compactor - trash	\$ 904.16	\$ 1,001.58	Pull-out (0-25 ft) - All services	N/C	N/C
40 yd roll-off box - trash	\$ 729.33	\$ 805.73	Pull-out (26-50 ft) - 1 x Week	\$ 16.65	\$ 17.29
19 yd roll-off box - trash	\$ 729.33	\$ 805.73	Pull-out (26-50 ft) - 2 x Week	\$ 21.41	\$ 22.23
Demo box - Inerts Clean	\$ 398.29	\$ 655.73	Pull-out (26-50 ft) - 3 x Week	\$ 25.86	\$ 26.84
C&D box	\$ 730.50	\$ 948.16	Pull-out (26-50 ft) - 4 x Week	\$ 30.92	\$ 32.10
Rolloff 40-Y Recyc. (6 tons max)	\$ 212.26	\$ 226.06	Pull-out (26-50 ft) - 5 x Week	\$ 35.68	\$ 37.04
Rolloff 40-Y Comp Recyc. (8 tons max)	\$ 214.75	\$ 228.70	Pull-out (26-50 ft) - 6 x Week	\$ 40.44	\$ 41.98
Rolloff 40-Y Greenwaste (6 tons max)	\$ 471.12	\$ 551.52	Pull-out (51-75 ft) - 1 x Week	\$ 19.03	\$ 19.75
40 yd roll-off box - clean wood/green	\$ 654.97	\$ 742.37	Pull-out (51-75 ft) - 2 x Week	\$ 26.17	\$ 27.17
Dry run charge	\$ 61.97	\$ 66.00	Pull-out (51-75 ft) - 3 x Week	\$ 33.30	\$ 34.57
Daily roll-off rental	\$ 30.32	\$ 32.30	Pull-out (51-75 ft) - 4 x Week	\$ 40.44	\$ 41.98
Miscellaneous Charges			Pull-out (51-75 ft) - 5 x Week	\$ 47.58	\$ 49.39
Extra pick-up - bin	\$ 59.89	\$ 63.47	Pull-out (51-75 ft) - 6 x Week	\$ 54.74	\$ 56.80
Extra pick-up - compactor bin	\$ 110.42	\$ 117.04	Pull-out (76-100 ft) - 1 x Week	\$ 21.41	\$ 22.23
Temporary bin (7 day usage)	\$ 124.57	\$ 132.04	Pull-out (76-100 ft) - 2 x Week	\$ 30.92	\$ 32.10
Temporary bin - extra empty	\$ 124.57	\$ 132.04	Pull-out (76-100 ft) - 3 x Week	\$ 40.44	\$ 41.98
Contamination fee			Pull-out (76-100 ft) - 4 x Week	\$ 49.95	\$ 51.85
- All Barrels	N/A	\$ 27.92	Pull-out (76-100 ft) - 5 x Week	\$ 59.48	\$ 61.75
- All Bins	\$ 59.89	\$ 63.47	Pull-out (76-100 ft) - 6 x Week	\$ 67.25	\$ 69.81
Locking bin	\$ 13.21	\$ 14.01	Pull-out (101-125 ft) - 1 x Week	\$ 23.79	\$ 24.69
Steam cleaning	\$ 46.28	\$ 49.06	Pull-out (101-125 ft) - 2 x Week	\$ 35.68	\$ 37.04
Bulky Charge per Item	\$ 15.00	\$ 15.97	Pull-out (101-125 ft) - 3 x Week	\$ 47.58	\$ 49.39
Bulky Item Trip Charge	\$ 40.00	\$ 42.59	Pull-out (101-125 ft) - 4 x Week	\$ 59.48	\$ 61.75
Steam Cleaning - Compactor	\$ 158.73	\$ 169.05	Pull-out (101-125 ft) - 5 x Week	\$ 71.37	\$ 74.09
Dump and Destroy Fee	N/A	\$ 105.00	Pull-out (101-125 ft) - 6 x Week	\$ 83.27	\$ 86.44
			Pull-out (126-150 ft) - 1 x Week	\$ 26.17	\$ 27.17
			Pull-out (126-150 ft) - 2 x Week	\$ 40.44	\$ 41.98
			Pull-out (126-150 ft) - 3 x Week	\$ 54.71	\$ 56.80
			Pull-out (126-150 ft) - 4 x Week	\$ 68.99	\$ 71.62
			Pull-out (126-150 ft) - 5 x Week	\$ 83.27	\$ 86.44
			Pull-out (126-150 ft) - 6 x Week	\$ 97.54	\$ 101.25
			Pull-out (over 150 ft) - 1 x Week	\$ 28.55	\$ 29.64
			Pull-out (over 150 ft) - 2 x Week	\$ 45.19	\$ 46.91
			Pull-out (over 150 ft) - 3 x Week	\$ 61.86	\$ 64.21
			Pull-out (over 150 ft) - 4 x Week	\$ 78.52	\$ 81.51
			Pull-out (over 150 ft) - 5 x Week	\$ 95.16	\$ 98.79
			Pull-out (over 150 ft) - 6 x Week	\$ 111.81	\$ 116.07



CITY OF UPLAND - SOLID WASTE RATE ADJUSTMENT

DOWNTOWN SERVICE BLOCKS – Shared Bin Services

NOTICE OF PUBLIC HEARING January 27, 2020 at 7:00PM at City Council Chamber 460 N. Euclid Avenue, Upland, CA. 91786

The City provides solid waste services to residents and business within the Upland jurisdictional boundaries. These services are provided through a franchise agreement with Burrtec Waste Industries. In early 2018, CalRecycle notified the City of the need to develop and implement compliance plans to increase participation in both mandatory commercial recycling (MCR, AB341) and Organics recycling (MORe, AB1826) programs.

As a result of CalRecycle's compliance requirements and the community expressed concerns about solid waste collection within the Upland Downtown area, the City performed a focused audit and review of solid waste collection services in this area. This effort identified a need for Solid Waste Compliance and Management Plan for the downtown. In particular, a review of the downtown identified unique service characteristics associated with this older area of the City. Some of the unique characteristics include, limited to zero private property space for trash collection containers (i.e. maximum use of the property for building use), multiple property owners, use of the City owned property/parking lots to host trash collection bins and the lack of trash enclosures within these areas. Based on a review there are five (5) blocks that possess these similar conditions (see attached maps). These five (5) blocks (Solid Waste Service Blocks 1-5) are included in the Downtown Solid Waste Management and Compliance Program.

The Upland Municipal Code (UMC) Article VI. General requirements, Provisions 13.28.290 Mandatory Service, specifies each property will need to be responsible for solid waste services. You are receiving this notification, because you are either a property owner or tenant within the five (5) Service Blocks and will be subject to the Downtown Solid Waste Management and Compliance Program when implemented.

Property owners will be responsible for the payment of solid waste services.

Each Service Block will receive five day per week pick-up services to provide adequate health and safety service and reduce blight in the down town. Each property within a Service Block (unless the property has individual solid waste service through Burrtec, identified as NAP) is assigned at a minimum 1-3cyd times 1 time per week pick service level. The total cubic yards are determined. Based on the total cubic yards, the refuse size and number of bins with a five day pick up frequency is selected. The cost for providing service is per the adopted rate schedule. This amount is divided by the number of parcels to determine the cost per property. This provides for refuse and recycling services. Additional services for compliance with organic food waste will be applied to those properties with restaurant businesses. The monthly cost may be adjusted if the level of service is not adequate to protect the health and safety of the public.

The following are examples for the initial level of service and cost to each Service Block

DOWNTOWN SERVICE BLOCK 1 –

6 Parcels @ 1 – 3 cubic yards per week service = 19 cubic yards

1 – 3 cubic yard bin picked up 5 times per week (15 cubic yards) = \$754.31 per month proposed rate

Each property would have a monthly solid waste fee of \$754.31/6 or \$125.72 per month
(Service provided 1 – 3 cubic yard trash bin & 1 – 3 cubic yard recycle bin both picked up 5 day per week)

DOWNTOWN SERVICE BLOCK 2-

11 Parcels @ 1 – 3 cubic yards per week service = 33 cubic yards

2 -3 cubic yard bins picked up 5 times per week (30 cubic yards) = 2 times \$754.31 per month prop. rate
= \$1,508.62 per month prop. rate

Each property would have a monthly solid waste fee of \$1,508.62/11 or \$137.15 per month

Note: Properties with restaurant uses have an additional charge.

3 Parcels @ 1.5 cubic yards per week = 4.5 cubic yards

1 – 1.5 cubic yard bin picked up 3 times per week (4.5 cubic yards) = \$524.41 per month

Each restaurant property would have an additional charge of \$524.41/3 or \$174.80 per month

Each property without restaurant at \$137.15 per month

Each property with a restaurant at \$137.15 + \$174.80 or \$311.95 per month

(Service provided 2 – 3 cubic yard trash bin & 2 – 3 cubic yard recycle bin both picked up 5 day per week)

(Service provided 1 – 1.5 cubic yard food waste bin picked up 3 days per week)

DOWNTOWN SERVICE BLOCK 3-

17 Parcels @ 1 – 3 cubic yards per week service = 51 cubic yards

2 -3 cubic yard bins picked up 5 times per week (30 cubic yards) = 2 times \$754.31 per month prop. rate
= \$1,508.62 per month prop. rate

Each property would have a monthly solid waste fee of \$1,508.62/17 or \$88.74 per month

(Service provided 1 – 3 cubic yard trash bin & 1 – 3 cubic yard recycle bin both picked up 5 day per week)

DOWNTOWN SERVICE BLOCK 4-

14 Parcels @ 1 – 3 cubic yards per week service = 42 cubic yards

2 -3 cubic yard bins picked up 5 times per week (30 cubic yards) = 2 times \$754.31 per month prop. rate
= \$1,508.62 per month prop. rate

Each property would have a monthly solid waste fee of \$1,508.62/14 or \$107.76 per month

Note: Properties with restaurant uses have an additional charge.

2 Parcels @ 1.5 cubic yards per week = 1.5 cubic yards

1 – 1.5 cubic yard bin picked up 1 times per week (1.5 cubic yards) = \$206.50 per month

Each restaurant property would have an additional charge of \$206.50/2 or \$103.25 per month

Each property without restaurant at \$107.76 per month

Each property with a restaurant at \$107.76 + \$103.25 or \$211.01 per month

(Service provided 2 – 3 cubic yard trash bin & 2 – 3 cubic yard recycle bin both picked up 5 day per week)

(Service provided 1 – 1.5 cubic yard food waste bin picked up 1 day per week)

DOOWNTOWN SERVICE BLOCK 5-

15 Parcels @ 1 – 3 cubic yards per week service = 45 cubic yards

2 -3 cubic yard bins picked up 5 times per week (30 cubic yards) = 2 times \$754.31 per month prop. rate
= \$1,508.62 per month prop. rate

Each property would have a monthly solid waste fee of \$1,508.62/15 or \$100.57 per month

Note: Properties with restaurant uses have an additional charge.

1 Parcels @ 1.5 cubic yards per week = 1.5 cubic yards

1 – 1.5 cubic yard bin picked up 1 times per week (1.5 cubic yards) = \$206.50 per month

Each restaurant property would have an additional charge of \$206.50/1 or \$206.50 per month

Each property without restaurant at \$100.57 per month

Each property with a restaurant at \$100.57 + \$206.50 or \$307.07 per month

(Service provided 2 – 3 cubic yard trash bin & 2 – 3 cubic yard recycle bin both picked up 5 day per week)

(Service provided 1 – 1.5 cubic yard food waste bin picked up 1 day per week)

NOTE: IF THE LEVEL OF SERVICE ADJUSTS OR THE NUMBER OF PARCELS SHARING THE SERVICE CHANGES THE MONTHLY CHARGE WILL GET ADJUSTED ACCORDINGLY.

THE ADOPTED SOLID WASTE RATE SCHEDULE IS THE BASIS FOR DETERMINING THE PER PARCEL MONTHLY SOLID WASTE CHARGE.



Downtown Service Block No. 1



Downtown Service Block No. 2



Downtown Service Block No. 3



Downtown Service Block No. 4



Downtown Service Block No. 5

1512 Eureka Road, Suite 220, Roseville, CA 95661
Tel: 916-782-7821 | Fax: 916-782-7824

2600 Tenth Street, Suite 424, Berkeley, CA 94710
Tel: 510-647-9674

November 22, 2019

Ms. Rosemary Hoerning, PE, PLS, MPA
Public Works Director
City of Upland
460 North Euclid Avenue
Upland, CA 91786

Subject: Review of Burrtec's Solid Waste Rate Adjustment Request

Dear Ms. Hoerning:

R3 Consulting Group, Inc. (R3) was engaged by the City of Upland (City) to review Burrtec Waste Industries, Inc.'s (Burrtec's) request for an annual adjustment to solid waste rates. The following letter report contains findings from our review of Burrtec's Rate Adjustment Request.

Extraordinary Rate Increase Summary

On March 15, 2019, Burrtec requested adjustments to solid waste rates that exceed the annual 4% maximum rate adjustment cap stipulated by Article 10.06.b.(1) of the Franchise Agreement (Agreement), as amended in Amendment 3 to the Agreement. This adjustment is considered a special rate review as described in Section 10.06.b.(1) of the Agreement (amended in Amendment 2).¹ Burrtec requested a special rate review due to "uncontrollable circumstances" including changes in law and tipping fee increases described in Burrtec's 2020 Refuse Rate Adjustment letter dated March 15, 2019.

Based on discussions with Burrtec's Vice President and Chief Financial Officer, R3 concluded that those circumstances include:

- The effect of China's "National Sword" policy significantly increasing costs and reducing commodity revenues at Burrtec's West Valley Material Recovery Facility (West Valley MRF), which is the facility used for tipping and processing City solid waste collected by Burrtec; and
- The effect of increased quantities of collected food scraps driven by state mandates requiring subscription to organics collection service at businesses in the City, which is in turn increasing the tipping fee costs for organic materials.

Based on the review of financial information provided by Burrtec during an on-site review, R3 is able to confirm that these factors are, in fact, increasing Burrtec's operating costs. Furthermore, based upon evaluation of similar rate increase requests and the back-up information provided during these similar reviews, R3 confirmed that these same issues are affecting operating costs for similar companies throughout California. R3 is aware of other public agencies that have approved special rate reviews due to these factors.

¹ Applicable Agreement text provided in Attachment 1 to this letter report.

The City intends to conduct a one-year Proposition 218 notice for the extraordinary increases in tipping fees, and a 5-year Proposition 218 notice for a future rate increase. This is to allow the City adequate time to plan for future legislative compliance, primarily related to Senate Bill (SB) 1383. A brief summary of SB 1383 is provided as Attachment 3 to this memorandum.

While some adjustments were contemplated and discussed with Burrtec and the City, R3 is not recommending any reduction in the rate adjustment proposed by Burrtec for residential customers for most container sizes. In fact, revisions to the catch-up period made by R3 resulted in a slight increase to residential rates due to later rate adoption than expected by Burrtec in its original request. R3 has removed the compliance fee from Burrtec's rate increase request for commercial customers, reducing the rate increase from around 11.5% for most container sizes to around 7.5% for most container sizes in commercial.

Recommendations and Next Steps

- R3 has conducted a preliminary 5-year financial plan to project City expenses and revenue into the solid waste fund. R3 recommends that the plan be conducted with a start date of FY 2021-2022 (effective January 1, 2021). The financial plan may result in recommended changes to the Program Cost component, which is retained by the City. The financial plan may also be affected by the results of the subscription/billing reconciliation process to be completed.
- The City must begin planning for future regulatory compliance in order to determine City's future revenue needs for compliance under SB 1383, the requirements for which are effective January 1, 2022.
- R3 recommends that the City complete negotiations with Burrtec to address a number of key questions and requirements, including:
 - Is Burrtec able to assist the City in future regulatory compliance at a reasonable cost to ratepayers?

If Burrtec is not able to provide a reasonable cost proposal, R3 recommends building reasonable projections of future regulatory compliance costs into the Program Cost component of rates as a part of the 5-year financial plan;
 - The City may consider requiring the solid waste provider pay an additional fee for the privilege of the exclusive right to provide solid waste collection services in the City.

R3 recommends that the City consider adding such a fee as a part of contract negotiations.
 - Amend the Agreement to describe food waste service and rate adjustments for food waste service; bundled recycling service and rate adjustments for bundled recycling service; and describe contamination monitoring and fees;
 - Revise the CPI series ID for future rate adjustment requests to the Riverside-San Bernardino-Ontario, CA (CUURS49CSA0, CUUSS49CSA0) because the geographical area listed in the franchise agreement (Los Angeles-Riverside-Orange County, CA) has been revised; and
 - All rates and charges are required to be included on the City's Proposition 218 notice.

Background

The City holds an exclusive Agreement with Burrtec for Integrated Solid Waste Management Services. The term of the Agreement began on November 27, 2000. The First Amendment provided for an annually-renewing “evergreen” term of seven years. The Third Amendment extended that term temporarily to 12 years until July 1, 2020, at which point the evergreen term extension of seven years would re-activate. As of the date of this letter report, if the City activates the Wind-Down provision prior to June 30, 2020, the Agreement would terminate on July 1, 2027. Implementing the Wind-Down would result in the removal of some fees paid by Burrtec to the City and the discontinuation of street sweeping services.

On May 29, 2007, the City and Burrtec entered into a Second Amendment to the Agreement, which provided a revision to Article 10 of the Agreement pertaining to Burrtec’s customer rates, rate adjustment procedures, and billing practices. As a result, the City’s current solid waste rate structure is based on a three-component system (i.e., Program Cost Component, Service Component, and Tipping Fee Component) where the City collects a portion of the total solid waste collection revenue through the “Program Cost Component” of rates. On May 27, 2014, the City and Burrtec entered into a Third Amendment to the Agreement that added the Street Sweeping, Vehicle Impact Fee components, which are assessed on a per-yard basis to commercial customer rates. The Street Sweeping, Vehicle Impact Fee HHW Fee is also included per-customer basis for residential customer rates. The per-yard fee is increased in Burrtec’s rate application by CPI annually. The Street Sweeping Fee is the only fee paid to Burrtec; the rest is retained by the City.

As part of the Third Amendment, free recycling service under a bundled rate structure was for commercial customers added to assist in compliance with AB 341 requirements, although the mechanism for and rate structure of that service is not described.

The City approved rates effective February 1, 2017 for food waste service. The services provided and the basis of escalation of those rates has not been ratified in an amendment to the Agreement. The rates are currently being increased by the CPI index consistent with the rate adjustment methodology for the rest of the rates.

Under the current system, the Agreement requires Burrtec to bill commercial customers, and the City receives payment. The City directly bills and collects payment from residential customers on the sewer bill. Burrtec then submits a monthly invoice to the City for the service portion of residential and commercial collection services provided and the City pays Burrtec, retaining the portion of revenues received to pay for City “Program Costs.” Following City direction on the 2020 Rate Adjustment, R3 will complete a 5-year financial study to project City expenses, intended for use as a basis for the next Proposition 218 rate notice. The prior Proposition 218 rate notice included rate increases over a five-year period, from 2014 to 2020.

Rate Adjustment Methodology

Per Section 10.06.b of the Agreement, the Service Component and the Program Cost Component of customer rates are subject to annual Consumer Price Index (CPI) adjustments effective July 1st of each Agreement year. The Third Amendment added the following Program Costs: City fees of \$200,000 (Vehicle Impact Fee), and \$150,000 (HHW Fee); and Burrtec’s Street Sweeping fees of \$278,000 per year.

As amended in the Third Amendment to the Agreement, the per-yard fee for the Vehicle Impact Fee and HHW Fee components are to be escalated by CPI in accordance with the provision in Section 10.06, which states that the same annual CPI increases are applied to those components.

Special Rate Review

Burrtec is requesting adjustments to solid waste rates that exceed the annual 4% maximum rate adjustment cap stipulated by Section 10.06.b.(1) of the Agreement. This section is excerpted as Attachment 4 to this memorandum. Specifically, *“the rate increase shall be subject to the City Council’s sole judgement, and City Council may grant some, all or none of the requested increase.”*

Burrtec’s request for a special rate review includes changes in tipping fees for refuse disposal, recyclable materials and organics materials processing costs (altogether “tipping fees”). Burrtec’s request, does not include changes due to inaccurate estimates of its anticipated cost of operations, unionization, changes in wage rates or employee benefits, or changes in disposal sites. The Service Component of the rate adjustment was escalated by CPI and did not exceed the 4% cap.

Burrtec’s request for a rate adjustment included a “Compliance Fee” which is not described in the Agreement and has not been reasonably substantiated. In addition, Burrtec has requested a “Catch-Up Fee,” to cover the period between February 1, 2019 and the date of the approved rate adjustment.

Review Methodology

R3 conducted a thorough analysis of Burrtec’s rate request, which included:

- Review and analysis of the terms and conditions of the Agreement and all amendments;
- Interview of Burrtec’s Chief Financial Officer and other staff;
- Review of the requested rate adjustment’s mathematical accuracy and consistency with the terms and conditions of the Agreement and all amendments;
- Review of supporting documentation used as the basis for certain values in the rate adjustment calculations;
- Review and confirmation of the accuracy of the calculated CPI adjustment factor;
- Review and confirmation that rates tie to the City’s approved rate schedule²; and
- Review of West Valley MRF’s (Burrtec’s intercompany) tipping fee charges and calculation methodology.

Rate Adjustment Review

With respect to the annual CPI rate adjustment allowed per Section 10.06 of the Agreement, R3 finds that Burrtec correctly:

- Calculated and applied the CPI adjustment factor;
- Escalated the Service component;
- Applied the refuse, organics and recycling disposal components; and
- Calculated the Program Cost Component (HHW and Vehicle Impact Fees) by multiplying the current fees by CPI.

² Many rate components appear to be new or do not trace back to 2014. R3 confirmed that the total rates represented in Burrtec’s rate application matched the total rates in prior approved rate increases. Please see Limitations section of this memorandum.

R3 has provided an alternative rate adjustment via Attachment 2 to this memorandum, which includes the following changes from Burrtec’s rate application (changes are described in more detail in the following sections):

- Removed the “Compliance Fees” from the calculation, as described in more detail below; and
- Adjusted “pounds per yard” for food waste bins from 300 pounds to 320 pounds, which is the average pounds per cubic yard collected as reported by Burrtec; and the “pounds per barrel” for 65-gallon food waste containers from 200 pounds to 104 pounds based on converting the pounds per yard into the 65-gallon cart size.

Tipping Fees

Burrtec has represented, and R3 has verified, that Burrtec’s tipping fees for refuse, organics and recyclables have increased by more than 10% in the prior two years, as shown in Table 2, below.

Table 2: Burrtec’s Tipping Fees by Year³

Tipping Fee	2017	2019	% Increase 2017-2019
Refuse (Transfer and Disposal)	\$43.83	\$49.00	11.8%
Green Waste (Processing, Transfer, Recycling and Residual Disposal)	\$42.95	\$49.45	15.1%
Food Waste (Processing, Transfer, Recycling and Residual Disposal)	\$70.56	\$84.24	19.4%
Recyclables (Processing, Marketing, Transfer, Recycling and Residual Disposal)	\$9.60	\$34.56	260%

As shown above, Burrtec’s tipping fee for refuse increased by 11.8% since 2017. Tipping fees for green waste increased by 15.1% and food waste by 19.4% since 2017.

All referenced tipping fees are intercompany tipping fees charges by Burrtec’s owned and operated West Valley MRF to the Burrtec hauling operation providing service to the City. Because these tipping fees result in intercompany charges, R3 reviewed the basis for setting the tipping fees to ensure that the fees are fair, reasonable, and accurately calculated. R3 met with Burrtec’s Chief Financial Officer to review the calculation methodology of the tipping fees, and was able to confirm that:

- Tipping fees are set based on actual and projected costs of operation;
- Burrtec’s calculation of tipping fees are based on costs of operation that yield the tipping fees shown in Burrtec’s rate request;
- Burrtec calculates tipping fees using a similar methodology to set tipping fees for all its West Valley MRF customers; and
- Tipping fees were set using reasonable and efficient operating assumptions (for example, Burrtec assumes that green waste tons will go to the lowest available cost option for the maximum number of potential tons).

³ July 1 of each year.

R3 further confirmed the reasonableness of Burrtec's tipping fees by comparing them to other tipping fees within a reasonable haul distance from the City. Based on information available to R3, we determined that Burrtec's tipping rates for refuse are approximately 30% less than the average, with tipping fees for green waste being 24% less than the average.

Comparisons of recyclables tipping fees were not possible given available information; however, R3 has recently reviewed per ton recyclables tipping fees on behalf of other agencies throughout California and can confirm that Burrtec's \$34.56 per ton tipping fee for recyclables is reasonable. R3 has recently seen recyclables tipping fees at other MRFs ranging as high as \$100 to \$180 per ton. To that end, Burrtec has indicated that further increases in recyclables tipping fees are anticipated in coming years, as the current recyclables tipping fee is set based on 2018 financial information; to date Burrtec has projected further losses anticipated in 2020 from the changes in the recyclables marketplace.

The tipping fees are all represented in Burrtec's rate application as applying to the rates via a "pounds per week" or "pounds per cubic yard" factor. Burrtec provided sufficient back-up information and R3 has determined that the factors used for the processing/disposal costs are reasonable and accurate, **except for the commercial organics fee-to-container size factor**. R3 adjusted "pounds per yard" for food waste bins based upon actual data on food waste tons collected and yardage of containers used to collect that food waste (from June to October 2019). This analysis results in an increase in the pounds per yard factor from 300 pounds to 320 pounds. R3 adjusted the "pounds per barrel" for 65-gallon food waste containers from 200 pounds down to 104 pounds based on converting the pounds per yard into the 65-gallon cart size. This adjustment and the increase in the processing fee result in an increase in the rates for most bin sizes for food waste service of around 25%; and a reduction in the barrel rates by about 15%.

City Recyclables Revenue Share: Amendment 2 provides for a 50% share of recyclables revenue between the City and Burrtec. This revenue share results in a lower tipping fee represented on Burrtec's rate application; the tipping fee is lowered by approximately \$10/ton compared to the amounts charged to Burrtec by West Valley MRF at the gate.

Escalation of Program Cost Component, Vehicle Impact Fee, HHW Fee, and Street Sweeping Fee

The per-yard fee for the Vehicle Impact Fee and HHW Fee components was increased in Burrtec's rate application by CPI in accordance with the provision in Section 10.05 (amended in the Third Amendment) which states that the same annual increases are applied to those components. All components are paid out of the Service Component of the rates; R3 has accepted an escalation of each of these fees by CPI, although we were unable to verify that the fees per yard represented in Burrtec's rate model actually results in revenue equal to the fees paid to the City. R3 agrees that the fees per yard are a reasonable mechanism to "hold" city fees in the rate structure. The Street Sweeping, Vehicle Impact Fee, and HHW Fee components are paid by Burrtec out of their portion of the rates, held in the Service Component – the fees are displayed as rate components, but they are all subject to CPI increases as they are truly portions of the Service Component in the rates.

The Program Cost component of the rates was set during the 2014 5-Year Financial Plan and escalated by CPI thereafter. R3 confirmed that the escalation was mathematically correct, although we were unable to confirm the historical Program Cost Components for every rate as some of the historical rate increase documentation only included the Total Rate.

Catch-Up Fee

Burrtec's request for a rate adjustment includes a "Catch-Up Fee", which is not described in the Agreement.

The “Catch-Up Fee” represents rate revenue that would have been captured by Burrtec if rates had been adopted 12 months after February 1, 2018. R3 accepted the Catch-Up Fee as proposed by Burrtec.

The catch-up period has been applied across 17 months (February through the end of June 2021), **after which time that component should drop off the rates**. R3 will build in a component of the 5-year rate study accounting for this adjustment.

Compliance Fee

As part of the adjustment request, Burrtec added a “compliance fee component” to assist the City in future regulatory compliance, mainly for SB 1383. Burrtec has not provided any additional back-up such as a proposal for services to be provided, and **R3 recommends that the City negotiate an amendment to Burrtec’s agreement for additional services to be provided rather than accepting a fee with no commitment or performance standards for performance.**

Schedule of Other Costs

R3 did not request back-up for other costs, as they were not a part of Burrtec’s increase request. They were subject to the scheduled increase at CPI, which was calculated correctly.

The City’s Program Fee is calculated on the basis of a set rate per container size. In future rate-setting years, the City should evaluate collected revenue under that fee component, and assess needed revenue for new programs such as future regulatory compliance.

Bundled Rates Summary

In addition, Burrtec also proposed to expand the provisioning of free recycling service to more businesses through increasing the existing “fund” for recycling, which is collected through refuse rates. Burrtec has also proposed to provide bundled food waste recycling service to customers with an “equalization” factor that supports the food waste rate, bringing it down equal to garbage rates. The mechanism for this equalization assumes nearly a 400% increase in food waste collection service, due to recently passed legislative requirements, from 27 customers currently to 125 commercial businesses.

Providing service under bundled rates has the advantage of encouraging customers to subscribe to what is “free” service; however, the mechanism of a recycling “fund” and food waste collection “fund” should be carefully evaluated and described. While R3 is aware that Burrtec provided a proposal for bundling recycling during negotiations in 2013 (described as Option 2 in the Solid Waste Rate Study Final Report dated August 26, 2013 by R3 Consulting), the mechanism of the fund, basis of calculating the program costs, and number of subscribers that are able to receive free service (whether it is zero, 500, or all customers) should be clearly described and explained in the Agreement such that future evaluations of this fund are more transparent and clear to both Burrtec and the City.

Bundled Recycling Rates Fund

At the same time as Amendment 3 was approved, the City transitioned to a commercial bundled rate system for recyclables which funds free recycling service for a certain number of customers by applying a rate to refuse service for all customers. R3 has reviewed the bundling mechanism for recycling rates and has confirmed that Burrtec’s representation of commercial customer subscription is reasonably accurate based upon a review of Burrtec’s actual subscription data.

As part of the rate adjustment request, Burrtec requested that they be allowed to build in a higher subscription volume assumption for the recycling bundling. They reported that 539 customers currently subscribe to recycling service, which is 31% of customers. The current rates support subscription of up to 50% of customers, or 809. They requested that the City allow for 75% subscription, or 943 customers. **R3**

recommends that the City consider describing the bundling methodology, adjustments over time, and the mechanism for holding recovered recycling program revenue for ratepayer benefit in future year; and consider a roll-out of recycling to a specified base of customers rather than providing revenue to Burrtec for customers not subscribed over time.

The City has requested that the Recycling Fee Bundling rate remain at the level set at the time of the bundling program increase in September 2018, resulting in a reduction in Burrtec's original proposed fee per yard from \$2.15 per yard to \$2.02 per yard for garbage containers.

Bundled Food Rates Fund

Burrtec's request included an option for bundled food waste service under the same model as the bundled recyclables fund, except that the difference between food waste and garbage rates is funded through that mechanism rather than the entire cost of providing organics service. R3 has reviewed the bundling mechanism for organics rates **and recommends that the City consider an alternative bundling approach to achieve its objectives via an amendment negotiation, and not Burrtec's proposal.**⁴

Burrtec proposed Food Waste rates that include the following components:

- Service Component – Burrtec has indicated that this component was developed by a dedicated operations team, and that the basis had been set at the time of the rate proposal. Burrtec indicated that the basis of the fee was a time-and-motion study. The rates have been in place for some time. R3 recommends that the City examine the Service Component, which is 41% higher than the Service Component for Garbage service, at the time that it negotiates for Food Waste bundled rates. ***R3 has requested, but not received, sufficient back-up from Burrtec to make a finding that the service component was calculated correctly. However, the fee (and the organics program rates) are not unreasonable and are comparable to organic collection rates in surrounding cities.***
- Processing Component – R3 adjusted the yardage conversion factor as described more thoroughly in the tipping fee sections of this report.
- Program Cost – The Food Waste standalone rates include a Program Cost component paid to the City, which Burrtec set equal to the Program Cost component for the garbage rates.

Burrtec's rate application included two options for treatment of food waste collection service:

- Option 1: Provide food waste collection service at a separate rate; and
- Option 2: Provide food waste collection service at the same rate as refuse service by increasing refuse service rates to partially pay for food waste service.

Note that Option 2 does not appear to provide for Food Waste service as a bundled rate; customers still are required to pay for the service, but part of those costs are supported by refuse rates. The City may consider requesting that Burrtec provide a bundled rate package similar to that used for recycling which would provide for free service on the part of some proportion of commercial customers.

Push/Pull Service

The Push/Pull Service rates are charged by Burrtec for customers requesting that Burrtec move their containers from a storage location to service them. Burrtec's rate application used rates prior to the

⁴ All businesses that generate organics will be required to subscribe to organics service under State law beginning January 1, 2022. This should significantly reduce the Service Component of food waste collection, which is currently nearly double the Service Component of refuse service.

increase in September 2018; R3 has adjusted the Push/Pull Service “current” rates to match the September 2018 rates.

Limitations

R3 did not review the mathematical accuracy of historical rate requests. More detail on limitations is provided in the Review Methodology section above.

Findings

With respect to Burrtec’s request for special rate review, R3 finds that Burrtec has sufficiently demonstrated that a special adjustment pursuant to Section 10.06.b.(1) of the Agreement is warranted. Specifically, Burrtec has demonstrated special changes in tipping fees, but not any other special costs.

Table 2: Burrtec’s Rate Adjustment Request Compared to R3’s Initial Adjustment Recommendation, Selection of Rates

Residential	Original Rate, 2018	Burrtec's Requested, 2020	R3 Adjusted, 2020
Refuse - 35 gallon	\$17.61	\$20.97	\$21.17
Refuse - 65 gallon	\$21.79	\$25.42	\$25.65
Refuse - 95 gallon	\$26.23	\$30.00	\$30.23
Commercial, Selected			
Refuse - 1 yard/ 1x	\$80.67	\$88.16	\$86.51
Refuse - 2 yards / 1 x	\$111.09	\$122.96	\$119.48
Organics - 2 yard / 1x	\$209.73	\$245.10	\$259.61
Organics - 65 Gallon / 1x	\$66.60	\$78.10	\$56.37

* * * * *

We appreciate the opportunity to be of service to the City. Should you have any questions or need any additional information, please contact me by phone at (510) 647-9674 or by email at rradford@r3cgi.com.

Sincerely,

R3 CONSULTING GROUP



Rose Radford | Project Manager

Attachments:

- 1 Excerpts from Franchise Agreement and Amendments
- 2 Recommended Rates for Rate Period 3 (January 1, 2020 – December 31, 2020) calculated by R3
- 3 Summary of SB 1383 Requirements

Ms. Rosemary Hoerning
November 22, 2019
Page 10 of 12

Attachment 1: Excerpts from Franchise Agreement and Amendments

Section 10.06.b of the Agreement (amended in Amendment 3) describes scheduled rate increases and given below (underline added by R3 for emphasis).

Upon the effective date of this Third Amendment, and annually thereafter during the term of this Agreement, the Collector shall, subject to compliance with all provisions of this Article, and subject to the notice and hearing requirements of Proposition 218, receive an annual adjustment in the Service Fees.

The Service Component and the Program Cost Component of the Service Fees shall be increased or decreased by the percentage change in the published Consumer Price Index (CPI), All Urban Consumers for the Los Angeles-Riverside-Orange County Metropolitan Area. This adjustment shall not exceed four percent (4%) per annum, regardless of the percentage change in the CPI. If the CPI for the previous year was in excess of four percent (4%). The additional percentage may be rolled over to the following year so long as the CPI adjustment for that year does not exceed four percent (4%). The disposal fee (also referred to as the tipping fee) shall be adjusted annually by the lesser of 1) the percent change in the CPI (not to exceed four percent (4%) per annum) or 2) the actual increase in disposal fees paid by Collector to third party disposal facilities, if any, not to exceed four percent (4%) per annum.

Burrtec is requesting adjustments to solid waste rates that exceed the annual 4% maximum rate adjustment cap stipulated by Section 10.06.b.(1) of the Agreement (as described in Amendment 3). This section is excerpted as given below (underline added by R3 for emphasis).

c. Special Rate Review.

(1) Description of the Adjustment. Collector is entitled to apply to City for consideration of a Special Rate Review, or City may initiate such a review, upon the occurrence of (a) an Uncontrollable Circumstance which increases or decreases Collector's Direct Costs and/or Indirect Costs of Services (provided that Collector shall first apply the proceeds of any insurance available to mitigate or eliminate the need for any such adjustment), or (b) a change in the Tipping Fee(s). Any change to the Service Fees resulting from an Uncontrollable Circumstance shall be an adjustment of the Service Component of the Service Fee, as applicable. Any change resulting from an increase or decrease in a Tipping Fee shall be an adjustment of the Tipping Fee Component of the Service Fee. No rate adjustment shall be made pursuant to this paragraph "c" for events or circumstances occurring prior to July 1, 2007.

(2) Procedure. Collector shall seek no more than a single annual adjustment, which adjustment (if approved by City), shall become effective at the time of the CPI adjustment described in paragraph "b" of this Section 10.06. Collector must submit its request for a Special Rate Review and complete cost and operational data in a form and manner specified by City no later than March 15 of the year in which the proposed change in the Service Fee is to take effect. Should Collector request a Special Rate Review, City shall have the right to review any or all costs associated with Collector's Services under this Agreement. For each such request, the Company shall prepare a schedule documenting the extraordinary costs. Such request shall be prepared in a form acceptable to the City with support for assumptions made by the Company in preparing the estimate, and shall include documentation supporting its request.



Additionally, if required by the City, the Company shall also provide a copy of its certified annual financial statements prepared by a Certified Public Accountant or a licensed public accountant, which shall have been prepared in compliance with Rule 58 of the "Rules and Regulations of the State Board of Accountancy," as established by the California Code of Regulations, Title 16, Chapter L. Such Certified Public Accountant or licensed public accountant shall be entirely independent of the Company and shall have no financial interest whatsoever in the business of the Company. The City may specify the form and detail of the financial statements. The City shall have the right to verify the Company's reported changes in costs.

(3) Decision; Remedy. Collector shall bear the burden of justifying to City by Substantial Evidence any entitlement to an increase in the Service Fees under this Section. The City Council shall review Collector's request and, in the City Council's sole judgment (subject to compliance with Article XIID, Sec. 6(a) of the California Constitution, to the extent applicable) make the final determination on the appropriate amount of the adjustment if any.

The City Council may grant some, all or none of the requested increase. If City rejects a special rate adjustment requested by Collector, grants a rate increase less than what was requested by Collector, or fails to act in a timely manner upon all or any part of Collector's special rate adjustment application, then Collector's sole remedies against City are (a) to file a petition for writ of mandate pursuant to Code of Civil Procedure Section 1085; or (b) terminate this Agreement. Collector expressly agrees that it does not have a cause for action for damages against City.

Northern California Office

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To: Rosemary Hoerning and Michelle Madriz, City of Upland
From: Carrie Baxter, R3 Consulting Group, Inc.
Date: November 22, 2019
Subject: Comparative Analysis of Rates and Services for the City of Upland

R3 Consulting Group, Inc. (R3) was engaged by the City of Upland (City) to survey surrounding area jurisdictions with comparable services and rates specifically related to organics collection services. This letter report summarizes our findings based on that survey.

Methodology & Objectives

R3 originally started with a list of over ten (10) jurisdictions within 30 miles of Upland of comparable size and/or interest to the City. Below is a list of the twenty (20) successfully surveyed jurisdictions (including Upland):

- Azusa
- Banning
- Beaumont
- Burbank
- Calabasas
- Carlsbad
- Corona
- Covina
- Fontana
- Glendale
- Hemet
- Irwindale
- Laguna Beach
- Monrovia
- Rancho Cucamonga
- Riverside
- Rolling Hills Estates
- Santa Clarita
- Temple City
- Thousand Oaks
- Upland

Survey results were based on information obtained from jurisdiction websites and/or provided by participating jurisdictions through telephone interviews and/or emails conducted by R3. We collected the following information:

- Hauler, residential and commercial services provided;
- Residential/commercial services rate structures for recycling and organics (Green Waste / food waste / mixed green and food);
- Residential and commercial rates for garbage, recycle, and organics; and
- Services included in bundled rates.
- Rates were compared as listed on each of the surveyed cities' rate schedules. The information gathered includes a comparison of weekly residential cart collection, and commercial bin collection with one and three time per week collection frequencies.

Limitations

Many factors can affect the rates in a given jurisdiction, including the rate structure (e.g., variable can rate or unlimited service), the type, frequency and level of services, and the amount of fees. We have not attempted to adjust rates for any such differences.

R3 had initially included **Chino, Chino Hills, Commerce, Irvine, Mission Viejo, Montclair, Ontario, Oxnard, Palmdale, Pasadena, Pomona, San Bernardino, San Marino, Simi Valley, South El Monte, and Vernon** in our survey. However, due to limited information and/or difficulty in reaching the appropriate jurisdiction contact, we did not include these jurisdictions in our survey.

Findings

Hauler, Residential and Commercial Services Provided

R3 collected information of the hauler and population, as well as the residential and commercial services provided, specifically noting the frequency and type (single-stream, mixed waste) of garbage, recycling, and organics. We also determined if the “organics” service offered included only green waste, and/or food waste. Table 1 covers residential services, and Table 2 covers commercial services.

Table 1: Hauler & Services Comparison – Residential										
City	County	Population Est.	Contract Effective Date (or Last Amendment)	Hauler	Solid Waste Collection	Recycling		Organics		
		2019				Freq.	Type	Freq.	Carts	
									Green Waste	Food Waste
Azusa	Los Angeles	49,954	2017	Athens	weekly	weekly	commingled / MRF	not specified	✓	X
Banning	Riverside	31,282	2011	WM	weekly	weekly	single stream	weekly	✓	X
Beaumont	Riverside	46,967	May 2019	WM	weekly	weekly	single stream	weekly	✓	✓
Burbank	Los Angeles	107,149	N/A	Municipal	weekly	weekly	single stream	weekly	✓	X
Calabasas	Los Angeles	24,202	Feb 2016	WM / G.I. Industries	weekly	weekly	single stream	Weekly	✓	✓
Carlsbad	San Diego	115,330	July 2012	WM	weekly	weekly	single stream	weekly	✓	X
Corona	Riverside	167,836	June 2017	WM	weekly	weekly	single stream	weekly	✓	X
Covina	Los Angeles	49,006	March 2011	Athens	weekly	weekly	single stream	weekly	✓	X
Fontana	San Bernardino	211,815	Jan 1997	Burrtec	weekly	weekly	single stream	weekly	✓	X
Glendale	Los Angeles	203,054	Municipal	Municipal	weekly	weekly	single stream	weekly	✓	X

Table 1: Hauler & Services Comparison – Residential										
City	County	Population Est.	Contract Effective Date (or Last Amendment)	Hauler	Solid Waste Collection	Recycling		Organics		
		2019				Freq.	Type	Freq.	Carts	
									Green Waste	Food Waste
Hemet	Riverside	85,160	Sept 2015	CR&R	weekly	weekly	single stream	weekly	✓	✓
Hemet	Riverside	85,160	Sept 2015	CR&R	weekly	weekly	single stream	weekly	✓	✓
Irwindale	Los Angeles	1,450	Jan 2014	Athens	weekly	weekly	mixed waste	weekly	✓	✓
Laguna Beach	Orange	23,147	July 2013	WM	weekly	weekly	single stream	weekly	✓	X
Monrovia	Los Angeles	38,787	7/1/2016	Athens	weekly	weekly	single stream	weekly	✓	✓
Rancho Cucamonga	San Bernardino	177,452	2016	Burrtec	weekly	weekly	single stream	weekly	✓	X
Riverside	Riverside	327,728	Oct 2018	Municipal, Burrtec	weekly	weekly	single stream	weekly	✓	X
Rolling Hills Estates	Los Angeles	8,226	July 2018	WM	weekly	weekly	single stream	weekly	✓	✓
Santa Clarita	Los Angeles	210,888	May 2012	WM	weekly	weekly	single stream	weekly	✓	X
Temple City	Los Angeles	36,411	August 2008	Athens	twice weekly	twice weekly	mixed waste	twice weekly	✓	X
Thousand Oaks	Ventura	128,995	June 2013	WM, EJ Harrison	weekly	weekly	single stream	weekly	✓	X
Upland	San Bernardino	76,999	May 2007	Burrtec	weekly	weekly	single stream	weekly	✓	X

Table 2: Hauler & Services Comparison – Commercial									
City	County	Population Est.	Contract Effective Date (or Last Amendment)	Service Provider (Commercial)	Solid Waste Collection	Recycling		Organics	
		2019				Offered/Mandatory	Type	Green Waste	Food Waste
Azusa	Los Angeles	49,954	2011	Athens	weekly	Mandatory	MW	✓	✓
Banning	Riverside	31,282	May 2019	WM	weekly	Mandatory	SS	✓	✓
Beaumont	Riverside	46,967	N/A	WM	weekly	Mandatory	SS	✓	✓
Burbank	Los Angeles	107,149	Feb 2016	Municipal, multiple haulers	weekly	offered	MW	✓	X
Calabasas	Los Angeles	24,202 (2017)	July 2012	WM / G.I. Industries	weekly	mandatory	SS	✓	✓
Carlsbad	San Diego	115,330	June 2017	WM	weekly	mandatory	SS	✓	X
Corona	Riverside	167,836	March 2011	WM	weekly	Offered	SS	✓	✓
Covina	Los Angeles	49,006	Jan 1997	Athens	weekly	Mandatory	MW	✓	✓
Fontana	San Bernardino	211,815	Municipal	Burrtec	weekly	Mandatory	SS	✓	✓
Glendale	Los Angeles	203,054	Sept 2015	Municipal	weekly	Offered?	SS	✓	X
Hemet	Riverside	85,160	Sept 2015	CR&R	weekly	mandatory	SS	✓	✓
Irwindale	Los Angeles	1,450	Jan 2014	Athens	weekly	mandatory	MW	X	X
Laguna Beach	Orange	23,147	July 2013	WM	weekly	mandatory	SS	✓	✓
Monrovia	Los Angeles	38,787	7/1/2016	Athens	weekly	mandatory	SS	✓	✓
Rancho Cucamonga	San Bernardino	177,452	2016	Burrtec	weekly	mandatory	SS	✓	✓
Riverside	Riverside	327,728	Oct 2018	Athens, Burrtec and CR&R	weekly	mandatory	SS	✓	✓
Rolling Hills Estates	Los Angeles	8,226	July 2018	WM	weekly	mandatory	SS	✓	✓
Santa Clarita	Los Angeles	210,888	May 2012	Burrtec	weekly	mandatory	SS	✓	✓
Temple City	Los Angeles	36,411	August 2008	Athens	weekly	mandatory	MW	✓	✓
Thousand Oaks	Ventura	128,995	June 2013	WM	weekly	mandatory	SS	X	X
Upland	San Bernardino	76,999	May 2007	Burrtec	weekly	mandatory	SS	✓	✓

SS = Single Stream
 MW = Mixed Waste Processing

Residential and Commercial Rates for Garbage, Recycle, and Organics, and Extra Fees

Table 3 provides an overview of the residential rates in each of the jurisdictions surveyed. Upland’s current residential refuse rate is between 10% – 24% lower than the average of nearby jurisdictions depending

on the container size. Burrtec has proposed an average increase to rates of 17%; revisions to the catch-up period made by R3 resulted in a slight increase to residential rates due to later rate adoption than expected by Burrtec in its original request.

Table 3¹				
Residential Rates				
City	Effective Date	30-35 Gal	60-64 Gal	90-96 Gal
Upland (current)	2018	\$17.61	\$21.79	\$26.23
Burbank	2019	\$17.97	\$32.84	\$51.88
Calabasas	2018	\$18.33	\$26.96	\$32.74
Glendale	2010	\$18.34	\$18.34	\$18.34
Laguna Beach	2019	\$18.53	\$18.53	\$18.53
Carlsbad	2019	\$19.96	\$22.03	\$22.03
Upland (Burrtec Proposed)	2020	\$20.97	\$25.42	\$30.00
Upland (R3 Revised)	2020	\$21.17	\$25.65	\$30.23
Monrovia	2019	\$23.18	\$27.30	\$33.03
Beaumont	2019	\$24.99	\$24.99	\$24.99
Covina	2018	\$26.95	\$29.28	\$31.58
Rolling Hills Estates	2019	\$30.98	\$36.50	\$44.91
Temple City	2018	\$35.91	not offered	not offered
Banning	2018	not offered	not offered	\$21.71
Santa Clarita	2018	not offered	not offered	\$22.71
Hemet	2019	not offered	\$25.08	\$28.61
Thousand Oaks	2019	not offered	\$33.52	not offered
Corona	2019	not offered	not offered	\$24.50
Riverside	2019	not offered	not offered	\$26.85
Azusa	2019	not offered	not offered	\$27.72
Fontana	2019	not offered	not offered	\$29.71
Irwindale	2019	not offered	not offered	\$32.71
Rancho Cucamonga	2020	not offered	not offered	\$27.63
Average without Upland		\$23.51	\$23.51	\$26.18
Percent Difference (current)		-25%	-25%	-17%
Percent Difference (Burrtec proposed)		-11%	-11%	-3%
Percent Difference (R3 Revised)		-10%	-10%	-2%

¹Sorted by 30-25 gallon size.

Table 4, on the following page, indicates that Upland's current commercial customer garbage rates are between 18% lower and 9% higher than the average of nearby jurisdictions depending on the container size. Burrtec proposed an average increase to commercial customer garbage rates of 19%.

Many jurisdictions surveyed bundle recycling and garbage collection rates; however, it should be noted that the cities of Banning, Beaumont, Carlsbad, Corona, Fontana, and Thousand Oaks charge a separate rate to commercial customers for recycling collection. This recycling rate is not included in this comparison.

Table 4¹									
Commercial Garbage Rates									
City	Effective Date	2 YD Bin		3 YD Bin		4 YD Bin		6 YD Bin	
		1x / Week	3x / Week						
Santa Clarita	2018	\$79.56	\$230.72	\$87.01	\$252.32	\$109.32	\$317.07	\$139.84	\$405.49
Carlsbad	2019	\$83.91	\$211.46	\$113.99	\$301.67	\$152.01	\$415.78	not offered	not offered
Riverside	2019	\$83.92	\$218.61	\$118.20	\$297.91	\$150.84	\$391.45	\$201.32	\$520.58
Glendale	2010	\$88.72	\$202.87	\$109.26	\$269.95	not offered	not offered	not offered	not offered
Banning	2018	\$93.41	\$273.09	\$122.34	\$358.10	\$163.70	\$478.65	\$230.44	\$675.33
Corona	2019	\$105.85	\$295.73	\$139.88	\$391.51	\$186.49	\$522.00	\$251.33	\$703.04
Rolling Hills Estates	2019	\$107.15	\$321.51	\$127.63	\$382.93	\$145.11	\$435.38	\$185.43	\$556.28
Upland (current)	2018	\$111.09	\$309.24	\$149.61	\$424.78	\$188.05	\$540.30	\$265.09	\$771.19
Beaumont	2019	\$112.59	\$337.76	\$153.43	\$460.29	\$223.45	\$670.36	\$303.42	\$910.28
Upland (R3 Revised)	2020	\$119.48	\$332.86	\$161.10	\$457.69	\$202.63	\$582.45	\$285.83	\$831.90
Azusa	2019	\$124.54	\$238.24	\$140.94	\$282.83	not offered	not offered	not offered	not offered
Thousand Oaks	2019	\$126.80	\$226.45	\$168.00	\$300.40	\$217.25	\$393.70	\$336.00	\$600.80
Hemet	2019	\$127.64	\$325.04	\$185.01	\$459.88	\$231.64	\$570.40	\$345.57	\$895.34
Upland (Burrtec Proposed)	2020	\$130.50	\$366.01	\$177.70	\$507.58	\$224.81	\$649.08	\$319.17	\$931.97
Laguna Beach	2018	\$141.41	\$256.88	\$158.49	\$301.11	\$211.32	\$401.47	not offered	not offered
Covina	2018	\$141.69	\$336.75	\$174.98	\$427.89	not offered	not offered	not offered	not offered
Fontana	2019	\$152.00	\$375.30	\$192.65	\$506.35	\$259.52	\$702.09	not offered	not offered
Rancho Cucamonga	2020	\$156.63	\$348.23	\$197.51	\$452.65	\$237.98	\$565.08	\$302.28	\$771.24
Monrovia	2019	\$172.24	\$333.22	\$192.71	\$491.31	\$235.05	\$569.46	\$342.94	\$814.87
Temple City	2018	\$189.83	\$403.93	\$214.01	\$438.89	\$250.73	\$503.17	not offered	not offered
Irwindale	2019	\$214.19	\$467.01	\$243.99	\$554.69	\$306.42	\$681.65	\$397.19	\$882.98
Burbank	2019	\$259.22	\$690.18	\$304.09	\$802.79	\$349.28	\$916.92	\$442.25	\$1,147.09
Calabasas	2018	not offered	not offered	\$93.22	\$257.24	\$101.09	\$275.79	\$116.87	\$322.55
Average without Upland		\$134.81	\$320.68	\$161.87	\$399.54	\$207.72	\$518.26	\$276.53	\$708.14
Percent Difference (current)		-18%	-4%	-8%	6%	-9%	4%	-4%	9%
Percent Difference (Burrtec proposed)		-3%	14%	10%	27%	8%	25%	15%	32%
Percent Difference (R3 Revised)		-11%	4%	0%	15%	-2%	12%	3%	17%

¹ Sorted by 3 cubic yard containers pulled once weekly.

Table 5, below, provides an overview of the commercial organic collection rates in each of the jurisdictions surveyed. As shown, the current rate charged to Upland commercial organic customers is between 9% and 37% less than the average of surrounding jurisdictions. R3’s adjustments resulted in rates between 5% higher and 23% lower than the average of surrounding jurisdictions. More details on this adjustment can be found in the draft letter report entitled “Review of Burrtec’s 2020 Solid Waste Rate Adjustment Request” dated November 22, 2019.

Table 5 Commercial Organics Rates				
City	Effective Date	60/90 Gallon	2 YD Bin	
			1x / Week	3x / Week
Fontana	2019	\$38.78	\$152.00	\$375.30
Corona	2019	\$45.44	\$242.28	\$725.62
Banning	2018	\$47.05	\$263.27	\$789.87
Calabasas	2016	\$48.34	\$129.34	\$388.00
Beaumont	2019	\$51.79	\$277.99	\$833.98
Upland (R3 Revised)	2020	\$56.37	\$259.61	\$687.20
Hemet	2019	\$63.13	\$263.69	\$733.20
Upland (current)	2018	\$66.60	\$168.35	\$415.78
Rancho Cucamonga	2020	\$76.11	\$297.47	\$782.10
Upland (Burrtec proposed)	2020	\$78.10	\$195.57	\$491.97
Rolling Hills Estates	2019	\$88.73	not offered	not offered
Santa Clarita	2018	\$107.81	\$207.40	\$610.27
Covina	2018	\$120.50	not offered	not offered
Azusa	2019	\$120.57	not offered	not offered
Laguna Beach	2018	bundled rate with garbage		
Monrovia	2019	bundled rate with garbage		
Burbank	2018	not offered	not offered	not offered
Glendale	2010	not offered	not offered	not offered
Thousand Oaks	2019	not offered	not offered	not offered
Riverside	2019	open market		
Irwindale	2019	<i>rate structure under negotiations</i>		
Temple City	2018	<i>rate structure under negotiations</i>		
Carlsbad	2019	yard waste only	not offered	not offered
Average without Upland		\$73.48	\$229.18	\$654.79
Percent Difference (current)		-9%	-27%	-37%
Percent Difference (proposed)		6%	-15%	-25%
Percent Difference (R3 Revised)		-23%	13%	5%

Update to Solid Waste Rate Survey

Residential Rates				
City	Effective Date	30-35 Gal	60-64 Gal	90-96 Gal
Upland (current)	2018	\$17.61	\$21.79	\$26.23
Burbank	2019	\$17.97	\$32.84	\$51.88
Calabasas	2018	\$18.33	\$26.96	\$32.74
Glendale	2010	\$18.34	\$18.34	\$18.34
Laguna Beach	2019	\$18.53	\$18.53	\$18.53
Carlsbad	2019	\$19.96	\$22.03	\$22.03
Chino Hills	2019	not offered	not offered	\$21.31
Ontario	2017	\$20.47	\$24.06	\$27.68
Chino	2019	not offered	\$25.94	not offered
Upland (Proposed)	2020	\$21.17	\$25.65	\$30.23
Monrovia	2019	\$23.18	\$27.30	\$33.03
Beaumont	2019	\$24.99	\$24.99	\$24.99
Covina	2018	\$26.95	\$29.28	\$31.58
Montclair*	2019	not offered	\$31.84	not offered
Rolling Hills Estates	2019	\$30.98	\$36.50	\$44.91
Temple City	2018	\$35.91	not offered	not offered
Banning	2018	not offered	not offered	\$21.71
Santa Clarita	2018	not offered	not offered	\$22.71
Hemet	2019	not offered	\$25.08	\$28.61
Thousand Oaks	2019	not offered	\$33.52	not offered
Corona	2019	not offered	not offered	\$24.50
Riverside	2019	not offered	not offered	\$26.85
Azusa	2019	not offered	not offered	\$27.72
Fontana	2019	not offered	not offered	\$29.71
Irwindale	2019	not offered	not offered	\$32.71
Rancho Cucamonga	2020	not offered	\$27.63	not offered
Average without Upland		\$23.24	\$26.52	\$28.50
Percent Difference (current)		-24%	-18%	-8%
Percent Difference (Proposed)		-9%	-3%	6%

Update to Solid Waste Rate Survey

Commercial Garbage Rates									
City	Effective Date	2 YD Bin		3 YD Bin		4 YD Bin		6 YD Bin	
		1x / Week	3x / Week	1x / Week	3x / Week	1x / Week	3x / Week	1x / Week	3x / Week
Santa Clarita	2018	\$79.56	\$230.72	\$87.01	\$252.32	\$109.32	\$317.07	\$139.84	\$405.49
Carlsbad	2019	\$83.91	\$211.46	\$113.99	\$301.67	\$152.01	\$415.78	not offered	not offered
Riverside	2019	\$83.92	\$218.61	\$118.20	\$297.91	\$150.84	\$391.45	\$201.32	\$520.58
Glendale	2010	\$88.72	\$202.87	\$109.26	\$269.95	not offered	not offered	not offered	not offered
Banning	2018	\$93.41	\$273.09	\$122.34	\$358.10	\$163.70	\$478.65	\$230.44	\$675.33
Corona	2019	\$105.85	\$295.73	\$139.88	\$391.51	\$186.49	\$522.00	\$251.33	\$703.04
Ontario	2017	\$106.00	\$300.00	\$126.00	\$352.00	\$157.00	\$433.00	\$220.00	\$620.00
Chino	2019	\$107.04	\$218.66	\$134.40	\$267.36	\$161.71	\$315.89	\$216.39	\$413.11
Rolling Hills Estates	2019	\$107.15	\$321.51	\$127.63	\$382.93	\$145.11	\$435.38	\$185.43	\$556.28
Upland (current)	2018	\$111.09	\$309.24	\$149.61	\$424.78	\$188.05	\$540.30	\$265.09	\$771.19
Beaumont	2019	\$112.59	\$337.76	\$153.43	\$460.29	\$223.45	\$670.36	\$303.42	\$910.28
Upland (Proposed)	2020	\$119.48	\$332.86	\$161.10	\$457.69	\$202.63	\$582.45	\$285.83	\$831.90
Azusa	2019	\$124.54	\$238.24	\$140.94	\$282.83	not offered	not offered	not offered	not offered
Thousand Oaks	2019	\$126.80	\$226.45	\$168.00	\$300.40	\$217.25	\$393.70	\$336.00	\$600.80
Hemet	2019	\$127.64	\$325.04	\$185.01	\$459.88	\$231.64	\$570.40	\$345.57	\$895.34
Laguna Beach	2018	\$141.41	\$256.88	\$158.49	\$301.11	\$211.32	\$401.47	not offered	not offered
Covina	2018	\$141.69	\$336.75	\$174.98	\$427.89	not offered	not offered	not offered	not offered
Fontana	2019	\$152.00	\$375.30	\$192.65	\$506.35	\$259.52	\$702.09	not offered	not offered
Rancho Cucamonga	2020	\$156.63	\$348.23	\$197.51	\$452.65	\$237.98	\$565.08	\$302.28	\$771.24
Monrovia	2019	\$172.24	\$333.22	\$192.71	\$491.31	\$235.05	\$569.46	\$342.94	\$814.87
Montclair	2019	not offered	not offered	\$213.45	\$539.85	not offered	not offered	not offered	not offered
Temple City	2018	\$189.83	\$403.93	\$214.01	\$438.89	\$250.73	\$503.17	not offered	not offered
Irwindale	2019	\$214.19	\$467.01	\$243.99	\$554.69	\$306.42	\$681.65	\$397.19	\$882.98
Burbank	2019	\$259.22	\$690.18	\$304.09	\$802.79	\$349.28	\$916.92	\$442.25	\$1,147.09
Calabasas	2018	not offered	not offered	\$93.22	\$257.24	\$101.09	\$275.79	\$116.87	\$322.55
Average without Upland		\$132.11	\$314.84	\$161.36	\$397.82	\$202.63	\$503.12	\$268.75	\$682.60
Percent Difference (current)		-16%	-2%	-7%	7%	-7%	7%	-1%	13%
Percent Difference (Proposed)		-10%	6%	0%	15%	0%	16%	6%	22%

Update to Solid Waste Rate Survey

Commercial Recycling Rates							
City	Effective Date	2 YD Bin		3 YD Bin		4 YD Bin	
		1x / Week	3x / Week	1x / Week	3x / Week	1x / Week	3x / Week
Ontario	2017	\$35.70	\$107.10	\$51.00	\$153.00	\$60.20	\$180.60
Thousand Oaks	2019	\$40.21	\$102.39	\$58.28	\$144.86	\$72.97	\$179.68
Corona	7/1/2019	\$46.65	\$135.83	\$46.65	\$135.83	\$46.65	\$135.83
Azusa	2019	mixed waste processing					
Banning	2018	\$86.96	not offered	\$111.32	not offered	\$147.86	not offered
Upland (current)	2018	bundled with garbage					
Beaumont	2019	\$92.72	\$278.16	\$123.64	\$370.93	\$183.73	\$551.20
Burbank	2019	bundled rate with garbage					
Calabasas	2018	bundled rate with garbage					
Carlsbad	2019	not offered	not offered	\$82.62	\$196.92	\$83.97	\$200.12
Covina	2018	bundled rate with garbage					
Fontana	2019	\$101.33	\$222.67	\$16.38	\$276.98	not offered	not offered
Glendale	2010	bundled rate with garbage					
Hemet	2019	bundled rate with garbage					
Irwindale	2019	mixed waste processing					
Laguna Beach	2018	bundled rate with garbage					
Monrovia	2019	bundled rate with garbage					
Rancho Cucamonga	2020	bundled rate with garbage					
Riverside	2019	bundled rate with garbage					
Rolling Hills Estates	2019	bundled rate with garbage					
Santa Clarita	2018	bundled rate with garbage					
Temple City	2018	bundled rate with garbage					
Chino	2019	bundled rate with garbage					
Montclair	2019	bundled rate with garbage					
Average without Upland		\$67.26	\$169.23	\$69.98	\$213.09	\$99.23	\$249.49

Update to Solid Waste Rate Survey

Commercial Organics Rates			
City	Effective Date	60/90 Gallon	2 YD Bin
			1x / Week
Ontario	2017	not offered	\$106.00
Fontana	2019	\$38.78	\$152.00
Montclair	2019	not offered	\$184.12
Corona	2019	\$45.44	\$242.28
Banning	2018	\$47.05	\$263.27
Calabasas	2016	\$48.34	\$129.34
Beaumont	2019	\$51.79	\$277.99
Upland (Proposed)	2020	\$56.37	\$259.61
Chino	2019	\$60.79	not offered
Hemet	2019	\$63.13	\$263.69
Upland (current)	2018	\$66.60	\$168.35
Rancho Cucamonga	2020	\$76.11	\$297.47
Rolling Hills Estates	2019	\$88.73	not offered
Santa Clarita	2018	\$107.81	\$207.40
Covina	2018	\$120.50	not offered
Azusa	2019	\$120.57	not offered
Laguna Beach	2018	bundled rate with garbage	
Monrovia	2019	bundled rate with garbage	
Burbank	2018	not offered	not offered
Glendale	2010	not offered	not offered
Thousand Oaks	2019	not offered	not offered
Riverside	2019	open market	
Irwindale	2019	<i>rate structure under negotiations</i>	
Temple City	2018	<i>rate structure under negotiations</i>	
Carlsbad	2019	not offered	not offered
Average without Upland		\$72.42	\$391.57
Percent Difference (current)		-8%	-57%
Percent Difference (Proposed)		-22%	-34%



BURRTEC

WASTE INDUSTRIES, INC.

"We'll Take Care Of It"

March 15, 2019

Ms. Rosemary Hoerning
Public Works Director
City of Upland – Public Works/Utilities Division
1370 North Benson Avenue
Upland, CA 91786

Re: 2019 Refuse Rate Adjustment

Dear Ms. Hoerning,

Burrtec Waste Industries is respectfully requesting the 2019 Annual Automatic Fee Adjustment for Refuse Collection Rates as per Article 10.06.b.(1) of the Third Amendment to the Agreement Between the City of Upland and Burrtec Waste Industries Inc. for Street Sweeping, Solid Waste Collection, Processing and Disposal Services and Article 10.06.c.(1) of the Second Amendment to the Agreement Between the City of Upland and Burrtec Waste Industries Inc. for Solid Waste Collection, Processing and Disposal Services.

The overall percent change in CPI for the January to December period immediately preceding the effective date of this rate adjustment is 3.80%. As per the Agreement, the percentage change in CPI does not exceed the 4% maximum annual rate adjustment as it pertains to the Service Component and Program Cost Component of the Service Fees. However, uncontrollable circumstances including changes in law and tipping fee increases have impacted the rates resulting in an increase that exceeds the 4% maximum annual adjustment. These cost components are reflected on the attached rate review worksheets.

On behalf of Burrtec Waste Industries, we thank you and the City for your continued support and the opportunity to serve the City of Upland. We look forward to discussing these adjustments in greater detail at your earliest convenience. If there are any questions or concerns please do not hesitate to contact me.

Sincerely,

Michael Arreguin
Vice President

CC: Michelle Madriz, WUEP
Management Analyst