



UPLAND CITY COUNCIL

AGENDA

**September 14, 2020
City Council Chamber**

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

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

DISRUPTION OF MEETINGS

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

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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 CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Government Code Section 54956.8

Property: A.029-acre vacant lot located at the northwest corner of 9th Street and Bodenhamer Street, Upland, CA 91786; APN: 1046-493-31 & 321

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

Negotiating Parties: City of Upland and potential buyers

Under Negotiation: Price and terms

7:00 PM

5. INVOCATION

Bishop Silvestre-Zamora, Church of Jesus Christ of Latter-day Saints

6. PLEDGE OF ALLEGIANCE

7. PRESENTATIONS

Introduction of Upland Unified School District Superintendent Lynn Carmen Day

Volunteer Appreciation Recognition for 2019

Southern California Edison Public Safety Power Shutoff Program presented by Jennifer Shaw, SCE Government Relations Manager

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 Meeting Minutes of August 10, 2020, the Regular Meeting Minutes of August 10, 2020, the Special Meeting Minutes of August 13, 2020, the Special Meeting Minutes of August 24, 2020, and the Special Meeting Minutes of August 26, 2020. (Staff Person: Keri Johnson)

B. 2ND READING OF ORDINANCE 1944 ZONING CODE AMENDMENT NO.

ZA-20-0003 TO AMEND TITLE 17 OF THE UPLAND MUNICIPAL CODE FOR THE ESTABLISHMENT OF NEW REGULATIONS FOR WIRELESS TELECOMMUNICATIONS FACILITIES

Hold second reading by number and title only, waive further reading, and adopt Ordinance No. 1944 amending Title 17 and Title 5 of the Upland Municipal Code in order to establish new regulations for Wireless Telecommunication Facilities. (Staff Person: Robert Dalquest)

- C. 2ND READING OF ORDINANCE 1945 CHAPTER 17.23.1 TO THE UPLAND MUNICIPAL CODE TO ESTABLISH REGULATIONS FOR SHORT-TERM RENTALS IN THE RESIDENTIAL SINGLE-FAMILY (RS), RESIDENTIAL MULTI-FAMILY ZONES (RM) AND RESIDENTIAL SPECIFIC PLANS

Hold second reading by number and title only, waive further reading, and adopt Ordinance No. 1945 adding Chapter 17.23.1 (Short-Term Rentals) to the Upland Municipal Code to establish regulations for Short-Term Rentals in Residential Single-Family (RS) zones, Residential Multi-Family (RM) zones and residential specific plans which contain single-family detached and/or single-family attached (Townhomes) dwelling units. (Staff Person: Robert Dalquest)

- D. APPROVAL OF AUGUST WARRANT AND PAYROLL REGISTERS

Approve the August Warrant Registers (check numbers 31366-31663 and Direct Disbursements totaling \$8,979,865.49 and Payroll Registers totaling \$1,297,756.63 (check Numbers 161583-161605 and EFT's 22854-23328). (Staff Person: Londa Bock-Helms)

- E. TREASURY REPORTS JUNE AND JULY, 2020

Receive and file the June and July 2020 Treasury Reports. (Staff Person: Londa Bock-Helms)

- F. BIENNIAL REVIEW OF CITY'S CONFLICT OF INTEREST CODE

Accept notice that the Conflict of Interest Code for the City requires amendments. (Staff Person: Keri Johnson)

- G. CONSIDERATION OF A RESOLUTION IN SUPPORT OF PROPOSITION 20

Adopt a Resolution supporting a qualified statewide measure entitled "Proposition 20: Restricts parole for non-violent offenders. Authorizes felony sentences for certain offenses currently treated as misdemeanors," also known as the Reducing Crime and Keeping California Safe Act of 2020. (Staff Person: Darren Goodman)

- H. HOMELESS SERVICES REALLOCATION OF FUNDS

Approve a budget adjustment to purchase a vehicle for the Homeless Coordinator with unspent funds budgeted for the homeless coordinator position for FY 19/20 and FY 20/21 in the Housing Fund. (Staff Person: Darren Goodman)

- I. MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF UPLAND AND THE UPLAND UNIFIED SCHOOL DISTRICT FOR A SCHOOL RESOURCE OFFICER

Authorize the Police Chief to execute a Memorandum of Understanding with the Upland Unified School District to provide one (1) Upland Police Department School Resource Officer to the School District. (Staff Person: Darren Goodman)

J. ACCEPTANCE OF UNDERGROUNDING IN LIEU FEE REQUEST FOR CLAREMONT COLLEGES

Adopt a Resolution approving an in-lieu fee in satisfaction of Condition No. 26 of TPM 18989, CUP 14-19 and SP 08-10 concerning the undergrounding of overhead utility lines for the Claremont Colleges East Campus Project located on the south west corner of Monte Vista Avenue and Foothill Blvd.. (Staff Person: Steven Nix)

K. ACCEPTANCE OF UNDERGROUNDING IN LIEU FEE REQUEST FOR MESA COURT APARTMENTS

Adopt a Resolution approving an in-lieu fee in satisfaction of Condition No. 30.22 of TPM 19435, Site Plan No. 19-02, Conditional Use Permit No. 19-05, and Design Review 19-02 concerning the undergrounding of overhead utility lines for the Mesa Court Apartments Project located on 790 East Mesa Court, east of Campus Ave. and south of Foothill Blvd. (Staff Person: Steven Nix)

L. ACCEPTANCE OF WORK FOR PROJECT NO. 9128, PUMP STATION DEMOLITION

Accept the work; record the Notice of Completion; and, reduce the Faithful Performance Bond to 10% for Warrantee purposes for the Pump Station Demolition Project. (Staff Person: Steven Nix)

M. SAN ANTONIO REGIONAL HOSPITAL AGREEMENT: AMENDMENT TO PURCHASE AND SALE AGREEMENT (MEMORIAL PARK, 1299 SAN BERNARDINO ROAD, A PORTION OF ASSESSORS PARCEL NUMBER 1046-183-01)

Consider approval of a Second Amendment to the Purchase and Sale Agreement (PSA) with San Antonio Regional Hospital (SARH) regarding a 4.63-acre portion of Memorial Park, 1299 San Bernardino Road (portion of APN 1046-183-01). (Staff Person: Rosemary Hoerning)

12. PUBLIC HEARINGS

13. COUNCIL COMMITTEE REPORTS

14. BUSINESS ITEMS

A. CONSIDER THE APPOINTMENT OF SOMEONE TO FILL THE CITY TREASURER VACANCY CREATED BY THE RESIGNATION OF LARRY KINLEY

Consider the appointment of someone to fill the vacancy left by the resignation of the City Treasurer until it is filled by the voters at the General Municipal Election on November 3, 2020. (Staff Person: Keri Johnson)

B. CONSIDERATION OF A PARK DEVELOPMENT IMPACT FEE CREDIT AGREEMENT WITH ADC SAGE TH, LLC. FOR THE DESIGN AND CONSTRUCTION OF A PUBLIC PARK FOR THE SAGE PARK PROJECT LOCATED ON THE EAST SIDE OF BODENHAMMER STREET, SOUTH OF 9TH STREET

Adopt a Resolution to approving a park development impact fee credit agreement with ADC Sage TH, LLC.; and approving the cost estimate of \$381,645.69 and specifications for the Sage Park Project by ADC Sage TH, LLC; 2) approve the Sage Park Project Development Impact Fee Credit Agreement with ADC Sage TH, LLC, for the Sage Park Site and authorize the City Manager to execute the agreement; and, 3) require payment of \$95,818.31 pursuant to the Park Development Impact Fee Credit Agreement from ADC Sage TH, LLC, to be deposited in the City's Park

Development Impact Fee Fund. (Staff Person: Robert Dalquest)

- C. CONSIDERATION TO PROVIDE DIRECTION TO PROCEED WITH THE DESIGN AND DEVELOPMENT OF A NEW URBAN PUBLIC SPACE IN THE DOWNTOWN ON 0.69 ACRE LOCATED BETWEEN SECOND AVENUE AND THIRD AVENUE, ADJACENT TO THE PACIFIC ELECTRIC TRAIL

Direct staff to proceed with the design and development of a new urban public space in downtown on 0.69 acre, and appropriate and amend the Capital Improvement Program in the amount of \$300,000 from Park Development fund for design and construction of the project. (Staff Person: Robert Dalquest)

15. ORAL COMMUNICATIONS

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

16. CITY MANAGER

17. ADJOURNMENT

The next regularly scheduled City Council meeting is Monday, September 28, 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.uplandca.gov.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office, 931-4120. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADA Title II]

POSTING STATEMENT: On September 9, 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) and the City website at www.uplandca.gov.

**MINUTES OF THE SPECIAL MEETING OF THE
UPLAND CITY COUNCIL
AUGUST 10, 2020**

OPENING

The special meeting of the Upland City Council was called to order by Mayor Debbie Stone at 5:32 p.m. in the Council Chamber of the Upland City Hall.

1. ROLL CALL

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

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

2. ORAL COMMUNICATIONS None

The City Council recessed to Closed Session at 5:33 p.m.

3. CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

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

Case Name: Foroud Foladpour v. City of Upland

San Bernardino County Superior Court of California Case No. CIVDS1905297

4. CLOSED SESSION CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Government Code Section 54956.8

Property: A 3,600 square foot vacant lot in downtown Upland, 143 East A Street, Upland CA 91786, Assessor Parcel Number APN: 1046-592-01

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

Negotiating Parties: City of Upland

Under Negotiation: Price and terms

5. CLOSED SESSION PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code Section 54957

Title: City Manager

The City Council reconvened in open session at 6:37 p.m.

Interim City Attorney Flower announced there was no reportable action from closed session.

6. ADJOURNMENT

Mayor Stone adjourned the meeting at 6:37 p.m. The next regular meeting of the City Council is Monday, August 10, 2020.

SPECIAL MEETING MINUTES
UPLAND CITY COUNCIL
AUGUST 10, 2020
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SUBMITTED BY:



Keri Johnson, City Clerk

APPROVED:

September 14, 2020_____

**MINUTES OF THE REGULAR MEETING OF THE
UPLAND CITY COUNCIL
AUGUST 10, 2020**

OPENING

The regular meeting of the Upland City Council was called to order by Mayor Debbie Stone at 7:00 p.m. in the Council Chamber of the Upland City Hall.

1. ROLL CALL

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

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

2. ADDITIONS/DELETIONS TO AGENDA None

3. ORAL COMMUNICATIONS None

4. CLOSED SESSION None

5. INVOCATION Rev. Dr. Benjamin Ellis, First United Methodist Church

6. PLEDGE OF ALLEGIANCE Councilmember Elliott

7. PRESENTATIONS None

8. CITY ATTORNEY

Interim City Attorney Flower announced there was nothing to report.

9. ORAL COMMUNICATIONS

Kati Parker, Upland, asked the Council to consider tabling the Regional Water Policy Memorandum of Understanding until they have had proper time to vet the item and stated that staff at IEUA is available for discussion.

Terry Kent, Crestwood Communities, offered to answer any questions the Council may have regarding the development of the property at Euclid Avenue, south of the 210 freeway.

10. COUNCIL COMMUNICATIONS

Councilmembers commented on recent events and activities throughout the community.

11. CONSENT CALENDAR

Councilmember Elliott removed Consent Calendar Item 11E for separate action. 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 Regular Meeting Minutes of July 27, 2020.

B. APPROVAL OF JULY WARRANT AND PAYROLL REGISTERS

Approved the July Warrant Registers (check numbers 30942-31365 and Direct Disbursements totaling \$13,856,305.05 and Payroll Registers totaling \$1,911,057.03 (check Numbers 161550-161582 and EFT's 22152-22853).

C. DESIGNATION OF VOTING DELEGATE FOR THE ANNUAL LEAGUE OF CALIFORNIA CITIES CONFERENCE

Appointed Mayor Pro Tem Rudy Zuniga as the voting delegate to represent the City of Upland at the League of California Cities General Assembly Meeting on October 9, 2020.

D. SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT LICENSE AGREEMENT EXTENSION FOR SEWER EASEMENT

Authorized the execution of the Third Amendment to License Agreement No. 91-623 with the San Bernardino County Flood Control District.

F. APPROVAL OF PARCEL MAP 20122 (LOCATED ON THE SOUTH EAST CORNER OF ARROW BLVD AND MOUNTAIN AVENUE)

Authorized the City Manager to approve the Parcel Map 20122 for recordation.

G. POLICE DEPARTMENT HVAC BOILER REPLACEMENT PROJECT

Awarded the Police Department HVAC Boiler replacement Project to Western Allied Corporation, in the amount of \$367,331 base bid plus a 5% contingency of \$18,366, for a total amount of \$385,700.

H. REJECT ALL BIDS AND RE-ADVERTISE PROJECT NO. 9128, REPLACEMENT OF 7.5 MG RESERVOIR AND WATER IMPROVEMENTS

Rejected all bids for Project No. 9128, Replacement of 7.5 MG Reservoir and Water Improvements.

I. MEASURE I CAPITAL IMPROVEMENT PLAN AND CAPITAL PROJECT NEEDS ANALYSIS

Adopted Resolution No. 6561 approving the Measure I Five-Year Capital Improvement Plan for Fiscal Years 2020/2021 through 2024/2025, and adopted Resolution No. 6562 approving the Measure I Five Year Capital Project Needs Analysis for Fiscal Years 2021/2022 through 2025/2026.

J. DECLARING THAT CERTAIN REAL PROPERTY OWNED BY THE CITY IS SURPLUS LAND

Adopted Resolution No. 6563 declaring pursuant to Government Code Section 54221 that real property owned by the City attached hereto is surplus land and not necessary for the City's use, finding that such declaration is exempt from environmental review under the California Environmental Quality Act, and taking related actions.

K. MODIFICATION TO EXISTING AGREEMENT WITH LIBRARY SYSTEMS AND SERVICES, LLC

Approved the First Amendment to the professional agreement with Library Systems & Services, LLC for professional consulting services; and authorized the City Manager to execute the amendment.

L. PLANNED USE OF CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT (CARES ACT) FUNDS

Approved staff's approach for dutifully utilizing the Coronavirus Aid, Relief, and Economic Security (CARES Act) funding.

ITEMS REMOVED FOR SEPARATE ACTION

E. REGIONAL WATER POLICY MEMORANDUM OF UNDERSTANDING

Interim Public Works Director Steven Nix presented the staff report which is on file in the City Clerk's office. He then answered questions posed by the Council regarding any potential fiscal impact associated with approving the Memorandum of Understanding and collective issues the agencies are facing.

Motion by Councilmember Elliott to approve the Regional Water Policy and Management Memorandum of Understanding and authorize the City Manager to execute said Memorandum of Understanding, seconded by Councilmember Zuniga, and carried unanimously.

12. PUBLIC HEARINGS

A. CONSIDERATION OF A RESOLUTION ADOPTING "VEHICLE MILES TRAVELED" BASELINE AND THRESHOLDS OF SIGNIFICANCE AND GUIDELINES FOR THE PURPOSES OF ANALYZING TRANSPORTATION IMPACTS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

Contract Planning Manager Poland presented the staff report along with a PowerPoint presentation, which is on file in the City Clerk's office.

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

There was discussion on the different thresholds options and the legal defense of them, what thresholds surrounding cities had adopted, and how these would affect future development.

Motion by Councilmember Zuniga to find that the adoption of the Vehicle Miles Traveled Baseline and Thresholds of Significance and Guidelines for the purposes of analyzing transportation impacts will not have a significant environmental impact and is exempt from CEQA pursuant to Section 15308 (Class 8) of the CEQA Guidelines because this action is undertaken by the City for the protection of the environment; and approve Resolution No. 6564 adopting "Vehicle Miles Traveled" thresholds of significance for purposes of analyzing transportation impacts under the California Environmental Quality

Act., seconded by Councilmember Velto, and carried with Councilmember Elliott opposed.

B. ZONING CODE AMENDMENT NO. ZA-20-0003 TO AMEND TITLE 17 OF THE UPLAND MUNICIPAL CODE FOR THE ESTABLISHMENT OF NEW REGULATIONS FOR WIRELESS TELECOMMUNICATION FACILITIES

Interim City Attorney Flower provided a brief overview of the legal aspects of the Ordinance along with a PowerPoint presentation, which is on file in the City Clerk's office.

There was discussion on monitoring of RF frequencies.

Associate Planner Winter presented the staff report, which is on file in the City Clerk's office.

There was discussion on the minimum length of leases and the process for removal of a facility if it is abandoned before the lease term ends.

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

Motion by Councilmember Elliott to hold first reading by title only, waive further reading and introduce Ordinance No. 1944 amending Title 17 and Title 5 of the Upland Municipal Code in order to establish new regulations for Wireless Telecommunication Facilities, seconded by Councilmember Velto, and carried unanimously.

C. CONSIDERATION OF AN ORDINANCE ADDING CHAPTER 17.23.1 TO THE UPLAND MUNICIPAL CODE TO ESTABLISH REGULATIONS FOR SHORT-TERM RENTALS IN THE RESIDENTIAL SINGLE-FAMILY (RS) AND RESIDENTIAL MULTI-FAMILY ZONES (RM) AND RESIDENTIAL SPECIFIC PLANS

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

There was discussion regarding the need to regulate rentals to prevent issues in residential neighborhoods.

Mayor Stone opened the public hearing.

Michelle Alvarez, Upland, stated her home is near a short term rental and she has experienced numerous issues with renters, including renters being on the roof, loud parties, and trash in her yard. She requested the Council approve the proposed ordinance.

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

At 9:03 p.m. Mayor Stone called a recess and the City Council reconvened in open session at 9:06 p.m.

Motion by Councilmember Zuniga to hold first reading by title only, waive further reading, and introduce Ordinance No. 1945 adding Chapter 17.23.1

(Short-Term Rentals) to the Upland Municipal Code to establish regulations for Short-Term Rentals in Residential Single-Family (RS) zones, Residential Multi-Family (RM) zones and residential specific plans which contain single-family detached and/or single-family attached (Townhomes) dwelling units, seconded by Councilmember Velto, and carried unanimously.

13. COUNCIL COMMITTEE REPORTS

A. FINANCE COMMITTEE MEETING, JULY 22, 2020

Councilmember Elliott provided a recap of the meeting, which is on file in the City Clerk's Office. This was for information only and no action was required.

14. BUSINESS ITEMS

A. APPROVE THE DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY AND CRESTWOOD COMMUNITIES INC. WITH RESPECT TO PROPERTY LOCATED AT EUCLID AVENUE, SOUTH OF THE 210 FREEWAY AT THE TERMINUS OF LAUREL AVENUE (APNS: 1044-061-42, 43, 44, 45)

Economic Development Coordinator Picazo presented the staff report, which is on file in the City Clerk's Office.

Motion by Councilmember Velto to adopt Resolution No. 6565 approving a Disposition and Development Agreement between the City of Upland and Crestwood Communities, Inc. for the sale of city-owned property located at Euclid Avenue, south of the 210 Freeway at the terminus of Laurel Avenue (APNS: 1044-061-42, 43, 44, 45), seconded by Councilmember Elliott, and carried unanimously.

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

16. CITY MANAGER

City Manager Hoerning announced economic relief program grants available for small businesses and reminded residents to complete their Census questionnaire.

17. ADJOURNMENT

Mayor Stone adjourned the meeting at 9:15 p.m. The next regularly scheduled City Council meeting is Monday, September 14, 2020.

SUBMITTED BY



Keri Johnson, City Clerk

APPROVED

September 14, 2020

**MINUTES OF THE SPECIAL MEETING OF THE
UPLAND CITY COUNCIL
AUGUST 13, 2020**

OPENING

The special meeting of the Upland City Council was called to order by Mayor Debbie Stone at 1:16 p.m. in the Council Chamber of the Upland City Hall.

1. ROLL CALL

Present: Mayor Debbie Stone, Council Members Janice Elliott, Bill Velto, and Rudy Zuniga (arrived at 1:30 p.m.)

Staff: City Manager Rosemary Hoerning, and City Clerk Keri Johnson

2. ORAL COMMUNICATIONS

Steven Bierbaum, stated that he did not agree with the circumstances under which the current City Attorney firm was hired and requested that the Council delay their decision until after the election so the newly elected officials could be involved in the decision making process.

Carlos Garcia, stated that he is a candidate for City Council in the November election and whether he was elected or not he felt that the newly elected officials should have the opportunity to be involved in the decision of hiring the City Attorney.

Lois Sicking Dieter, stated that she is a candidate for Mayor in the November election and requested that the Council table the decision until after the election.

Shannan Maust, stated that while she has confidence in the Council's ability to go through the vetting process of the City Attorney candidates since there is only three Council meetings before the November election the decision should be delayed until the newly elected officials take office.

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

**(Pursuant to Government Code Section 54957
Title: City Attorney Interviews**

Motion by Councilmember Velto to table the interviews until after the election, seconded by Councilmember Elliott, and carried unanimously.

4. ADJOURNMENT

Mayor Stone adjourned the meeting at 5:33 p.m. The next regular meeting of the City Council is Monday, September 14, 2020.

SUBMITTED BY:



Keri Johnson, City Clerk

APPROVED:

September 14, 2020

**MINUTES OF THE SPECIAL MEETING OF THE
UPLAND CITY COUNCIL
AUGUST 24, 2020**

OPENING

The special meeting of the Upland City Council was called to order by Mayor Debbie Stone at 7:30 a.m. in the Council Chamber of the Upland City Hall.

1. ROLL CALL

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

Staff: Assistant City Manager Stephen Parker, Interim City Attorney Steven Flower, and Senior Administrative Assistant Jamie Davidson

2. ORAL COMMUNICATIONS

Natasha Walton, requested that the Council not approve the proposed language change for the ballot measure and instead consider using the ballot measure language proposed by Corey Briggs.

Ellia Thompson, Attorney for San Antonio Regional Hospital stated that she was available to answer questions or clarify the language request.

Lois Sicking Dieter, requested clarification on the ballot language for Measure Q.

Steve Bierbaum, agreed that the ballot language for Measure Q needed revision and stated the Measure should not be on the ballot in November.

3. ORDINANCE AMENDING THE BALLOT LABEL FOR CITY OF UPLAND PARK MEASURE

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

There was discussion regarding the deadline to change the ballot language, the pending lawsuit regarding the ballot language, and the proposed change to the ballot language.

Motion by Councilmember Velto to waive full reading and adopt Ordinance No. 1946 amending the ballot label for the City of Upland Park Measure, which the City Council previously placed on the ballot for the November 3, 2020 election and has since been designated as Measure Q, seconded by Mayor Stone, and passed with Councilmember Elliott abstaining.

4. ADJOURNMENT

Mayor Stone adjourned the meeting at 8:14 a.m. The next regular meeting of the City Council is Monday, September 14, 2020.

SUBMITTED BY:



Keri Johnson, City Clerk

APPROVED:

September 14, 2020

**MINUTES OF THE SPECIAL MEETING OF THE
UPLAND CITY COUNCIL
AUGUST 26, 2020**

OPENING

The special meeting of the Upland City Council was called to order by Mayor Debbie Stone at 7:30 p.m. in the Council Chamber of the Upland City Hall.

1. ROLL CALL

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

Staff: Assistant City Manager Stephen Parker, Interim City Attorney Steven Flower, and City Clerk Keri Johnson

2. ORAL COMMUNICATIONS

Viki Hollander, opposed the sale of Memorial Park land and stated that San Antonio Regional Hospital should have planned for a parking structure during expansions.

Natasha Walton, requested that the Council approve the proposed language change for the ballot measure.

Lois Sicking Dieter, supported the proposed ballot language change.

Steve Bierbaum, supported the proposed ballot language change.

Ellia Thompson, Attorney for San Antonio Regional Hospital stated that she was available to answer questions and restated the actions taken by the court.

3. ORDINANCE AMENDING THE BALLOT LABEL FOR CITY OF UPLAND PARK MEASURE

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

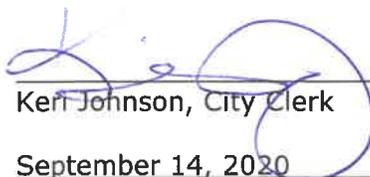
There was discussion regarding the deadline to purchase and sale agreement with San Antonio Regional Hospital, the ballot language, and the additional actions required in order to sell the property if Measure Q passes.

Motion by Councilmember Zuniga to waive full reading and adopt Ordinance No. 1947 regarding the ballot label for the City of Upland Park Measure, which the City Council previously placed on the ballot for the November 3, 2020 election and has since been designated as Measure Q., seconded by Councilmember Velto, and passed unanimously.

4. ADJOURNMENT

Mayor Stone adjourned the meeting at 8:11 p.m. The next regular meeting of the City Council is Monday, September 14, 2020.

SUBMITTED BY:



Keri Johnson, City Clerk

APPROVED:

September 14, 2020



MEMORANDUM

Item IIB

TO: Mayor and City Council

FROM: Steven L. Flower, Interim City Attorney
Robert D. Dalquest, Development Services Director
Joshua Winter, Associate Planner

DATE: September 14, 2020

RE: Late Breaking Legal Developments - Second Reading of an Ordinance of the City of Upland approving and adopting Zoning Code Amendment No. ZA 20-0003 to establish new regulations regarding Wireless Telecommunication Facilities.

As discussed at the Council's August 10 meeting, the proposed wireless ordinance is designed to keep up to date with current trends and laws within the wireless industry. City regulations are constrained by federal and state law including the Federal Communications Act, the Spectrum Act, and regulatory rules set forth by the Federal Communications Commission ("FCC").

Since the Council held first reading on August 10, the Ninth Circuit decided a case called *City of Portland v. Federal Communications Commission* that interprets three of the FCC's most recent orders on the topic of 5G broadband wireless technology. The Ninth Circuit vacated limits the FCC imposed on local aesthetic control of small wireless facilities, but otherwise broadly upheld the balance of restrictions intended to accelerate deployment of 5G technology.

The Ninth Circuit relied on the deference typically given to regulatory agencies to rule that the FCC orders were generally in accord with the Telecommunications Act and were not otherwise arbitrary, capricious, or contrary to law. With respect to the FCC's small cell order, however, the Court held that requiring small cell facilities to be treated in the same manner as other types of communications services was contrary to federal law, which permits regulations to discriminate between different types of providers so long as they do not unreasonably discriminate between providers of functionally equivalent services. The Court also vacated the FCC requirement that

all aesthetic criteria for small wireless facilities must be “objective” because the FCC failed to provide a reasoned explanation for the rule.

The City’s new ordinance includes a detailed array of design standards for wireless facilities, including standards that are specific to small cells in Section 17.40.160 that are upfront and objective. Because the ordinance was drafted prior to the Ninth Circuit’s decision, staff proposed these regulations with a careful eye towards covering various locations where wireless facilities might be placed and recommended objective standards that avoided the need for discretionary review.

The outcome in *City of Portland* leaves the City with more discretion in reviewing aesthetic design features for small cell facilities than is currently provided under the ordinance. Staff has considered whether providing for additional discretionary review of small cells is advisable, and, for the reasons highlighted below, recommends that the Council leave the proposed regulations “as-is” at this time:

- The ordinance already includes detailed aesthetic requirements regarding the design of small cell facilities that address a wide variety of scenarios. Because the standards are clearly articulated in the ordinance, the standards are clear to all parties and “non-negotiable.”
- The *City of Portland* case may still be appealed to the U.S. Supreme Court and overturned, which would require the City to again create objective aesthetic standards for small cells at a later date.
- Staff will be able to begin processing applications with the robust new standards and return to the Council with proposed amendments should the need arise.
- Introducing a new discretionary review process for small cell facilities might make it difficult for the City to meet the tight procedural deadlines imposed by the FCC, which the Ninth Circuit has left in place.
- Changes to the ordinance at this time to address small cell facilities would delay the final adoption of the ordinance, which also covers a wide variety of other types of wireless facilities.

Accordingly, staff recommends that the Council hold second reading of the proposed ordinance, and adopt the ordinance as currently drafted. Alternately, staff requests that the Council provide direction for further amendment to the ordinance consistent with the *City of Portland* decision. If the Council directs further amendments to the ordinance at this time, however, it would have to be referred back to the Planning Commission and would require the Council to bring the entire ordinance back again for introduction and first reading.



SECOND READING AND ADOPTION
Ord No. 1944 Date 9/14/20 Item No. 11B

STAFF REPORT

~~ITEM NO. 12.B.~~

DATE: August 10, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: ROBERT D. DALQUEST, DEVELOPMENT SERVICES DIRECTOR
JOSHUA WINTER, ASSOCIATE PLANNER
SUBJECT: ZONING CODE AMENDMENT NO. ZA-20-0003 TO AMEND TITLE 17
OF THE UPLAND MUNICIPAL CODE FOR THE ESTABLISHMENT OF
NEW REGULATIONS FOR WIRELESS TELECOMMUNICATION
FACILITIES

RECOMMENDED ACTION

It is recommended that the City Council conduct a public hearing, hold first reading by title only, waive further reading and introduce an Ordinance amending Title 17 and Title 5 of the Upland Municipal Code in order to establish new regulations for Wireless Telecommunication Facilities.

GOAL STATEMENT

The proposed action supports the City's overarching goal of protecting health, safety and welfare by establishing regulations for Wireless Telecommunication Facilities to the greatest extent permissible under Federal and State law. Further, the proposed ordinance is consistent with the following General Plan goals and policies:

- a. Goal PFS-15 A community supported by the most current and sustainable provision of technology and utilities to service residents, businesses and institutions.
Fact: The ordinance provides the foundation for the implementation of new telecommunications technology to ensure service to residents, businesses and institutions.
- b. Policy PFS-1.8 Underground Utilities. Encourage undergrounding of all existing and new publicly owned utility lines, encourage undergrounding of all privately owned utility lines in new developments, and work with electricity and telecommunications providers to underground or minimize the visual impacts of existing overhead lines.
Fact: The ordinance includes multiple measures that regulate the aesthetics of proposed wireless facilities to ensure visual impacts are minimized.
- c. Policy PFS-15.1 Access and Availability. Work with utility and service providers to

ensure access to and availability of utilities and telecommunication facilities for households, businesses, institutions, and public agencies throughout the City.

Fact: The ordinance ensures that telecommunications facilities can be constructed within the city, while ensuring the city's interest in regulating the time, place and manner of facility implementation.

d. Policy PFS-15.4 Co-Location. Encourage compatible colocation of telecommunication and internet facilities and work with utility companies and internet service providers to provide opportunities for siting facilities on City-owned property and in suitable public right-of-ways.

Fact: The ordinance implements a process for telecommunications facilities on City Owned properties, and provides the regulations for placement of facilities in the public right-of-way.

BACKGROUND

The ever changing wireless communications industry has led to the City of Upland initiating efforts to amend its current wireless telecommunications regulations in order to keep up to date with current trends and laws within the wireless industry (See Attachment A - Current Section 17.40 Wireless Communications). Under Federal law, many limits are placed on local government when regulating wireless telecommunication facilities. City regulations cannot have the effect of prohibiting wireless service, discriminating among wireless service providers and the City may not regulate facilities on the basis of the environmental/health effects of radio frequency (RF) emissions. That said, the City may regulate the aesthetics of wireless facilities, including design, location, height and setbacks.

The Federal and State laws and regulations governing wireless facilities that the City must comply with include the following:

1. Federal Telecommunications Act

Under the existing Federal Telecommunications Act, a city may apply its general zoning and building requirements to the construction of new wireless telecommunication facilities, subject to the following limits that preempt any contrary local requirements:

- Cities may not regulate wireless facilities based on the environmental effects of radio frequency (RF) emissions from facilities that comply with the Federal Communication Commission's (FCC) regulations concerning such emissions.
- Cities cannot unreasonably discriminate between providers of functionally equivalent wireless services.
- Cities cannot prohibit wireless services or impose requirements that have the effect of prohibiting wireless services. Pursuant to this rule, a city regulation cannot deny approval for a wireless application if it would prevent the provider from closing a significant gap in its service coverage via the least intrusive means.
- Cities must provide a written statement of its reasons whenever it denies approval to a wireless application
- Cities must provide in writing its reasons for denying a wireless application at essentially the same time as its decision.

These rules only apply when a city is exercising its regulatory authority; such as when it is applying zoning rules to the development of private property. They do not apply when a city is operating as a landlord, such as when it is deciding whether to lease the use of its own property.

2. Spectrum Act

Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, also sometimes called the Spectrum Act, requires cities to ministerially approve any application to modify an existing wireless tower or base station that does not substantially change its physical

dimensions. This applies to applications for the collocation of new transmission equipment, the removal of transmission equipment, or replacement of transmission equipment that meets certain requirements:

- The existing tower or base station must have been lawfully constructed and approved under whatever review process the city had at the time of its installation.
- The proposed change cannot substantially change the existing facility, which includes any change that would defeat existing concealment features.

3. FCC Small Cell Order

In 2018, the FCC adopted a new rule for a newly defined class of “small cell” wireless facilities. The rule requires city regulations for small wireless facilities to be reasonable, objective, non-discriminatory, and published in advance. It further imposes tight deadlines for approving or denying small wireless facility applications and limits on the fees the city can charge for applications and for the use of City-owned infrastructure in the public right-of-way. “Small Wireless Facilities” are defined as wireless telecommunication facilities that meet the following requirements:

- They are mounted on either structures 50 feet or less in height including their antennas, or no more than 10 percent taller than other adjacent structures, or do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater; and
- Each antenna is no more than three cubic feet in volume, excluding associated antenna equipment; and
- All equipment associated with the antenna and any pre-existing associated equipment is no more than 28 cubic feet in volume; and
- The facilities do not expose people to radiofrequency (RF) radiation in excess of FCC standards.

The FCC Small Cell Order requires that city regulations for small wireless facilities concerning aesthetics, undergrounding, and spacing must be:

- Reasonable, meaning technically feasible and reasonably related to the harms created by unsightly deployments; and
- No more burdensome than those applied to other types of infrastructure deployments; and
- Objective (i.e., non-discretionary); and
- Published in advance.

Any city standards that do not meet the requirements after that date are unenforceable as to small wireless facilities. The cap on fees that cities may charge for allowing wireless facilities to attach to city-owned equipment in the public right-of-way is particularly severe. Cities were previously under no obligation to allow such attachments and could therefore negotiate with providers for compensation. Under the FCC Order, however, local agencies can no longer leverage their properties in the right-of-way for additional revenue, but only recover fees that are reasonably related to their actual costs. The City Council adopted a Policy to regulate small cell facilities under Resolution No. 6489 and No. 6492 in May of 2019. With adoption of the new ordinance, these resolutions will be voided, and placed in the proposed Ordinance to form a comprehensive regulatory document.

4. FCC Shot Clocks

Under rules adopted by the FCC, cities are generally required to make a decision on wireless applications before the expiration of various deadlines.

Deadline	Application Type
60 Days	Section 6409 (i.e., modification to an existing wireless facility that does not cause a substantial change) Small wireless facility attached to an existing structure
90 Days	Small wireless facility attached to a new/replacement structure Non-small wireless facility attached to an existing structure (i.e., rooftop, building facade, field light, etc.)
150 Days	New, freestanding non-small wireless facilities (i.e., tower, monopole, monopine, etc.) Non-small wireless facilities on a replacement structure

This summary demonstrates the general requirements of the FCC’s Shot Clock rules, but does not include the full scope or complexity of their application. What is important to note here is that they place additional pressures on cities to act quickly in response to wireless applications.

5. California Public Utilities Code §§ 7901, 7901.1

Section 7901 of the State Public Utilities Code grants telephone corporations, including wireless service providers, a statewide franchise to operate in the public right-of-way regardless of any local municipal franchise requirement.

Section 7901 also bars cities from charging telephone corporations any revenue fee or charge as condition for using the public right-of-way. Cities may only charge telephone companies a reasonable fee to recover the cost of reviewing and approving construction permits, encroachment permits, and the like. (This rule does not apply to attachments to city-owned equipment or structures in the public right-of-way, but the FCC Small Cell Order discussed above does).

Under Section 7901.1, however, rights granted to telephone companies are still subject to reasonable municipal regulation as to the time, place, and manner in which telephone companies access the right-of-way. So although cities cannot prohibit telephone facilities, including wireless facilities, in the public-right-of-way, they can still regulate such facilities in a reasonable manner.

City Council Advisory Committee

The City Council Advisory Committee (CCAC) met on June 3, 2020 and reviewed and discussed the proposed regulations. The CCAC supported the proposed ordinance, speaking highly of the comprehensive set of regulations. The CCAC made one recommendation to codify the process for wireless telecommunications facilities on city-owned property.

Planning Commission Workshop and Hearing

The Planning Commission held a Public Workshop regarding the proposed ordinance on June 10, 2020. The Planning Commission reviewed the new regulations, asked multiple questions and commented positively on the draft. The workshop did not result in any suggested modifications to the proposed regulations. On July 8, 2020, the Planning Commission held a Public Hearing for the proposed ordinance, and unanimously voted to recommend that the City Council approve the ordinance. (See Attachment C - Planning Commission Resolution No. 4924)

ISSUES/ANALYSIS

Wireless Telecommunication Facilities

Wireless Telecommunication Facilities consist of a range of equipment installed for the purpose of providing wireless transmission of voice, data, images, or other information including, but not limited to, cellular telephone service, personal communications services, and paging services, consisting of equipment and network components such as towers, utility poles, transmitters, base stations, and emergency power systems. Facilities are primarily used by the wireless industry, but also including other sectors, such as cable operators and utility companies implementing advanced metering infrastructure. Currently, facilities in the City of Upland consist of "macro" telecommunication facilities, which typically take the form of a mono-pine, church steeple, roof mounted or other tall structure able to hold the necessary antenna and equipment at a required height for transmission. These facilities range in height, typically from 40 to 100 feet. These facilities can also contain "co-location" facilities, meaning more than one carrier can be on a single structure.

More recently, small wireless facilities, defined above, are becoming more common in the region due the proliferation of 5G technology, and the recent the FCC order mentioned above. Small wireless facilities are typically placed on existing light poles, utility poles, or new poles within the public right-of-way.

Proposed Ordinance

The Ordinance provides comprehensive regulations for wireless telecommunication facilities within the City. Wireless telecommunication facilities regulated under the Ordinance include all facility types; "macro" facilities, small wireless facilities, co-locations and regulations for facilities in and out of the public right-of-way.

The Ordinance provides standards necessary to: (1) preserve and promote harmonious land uses and the public right-of-way in the City; (2) promote and protect public health and safety, community welfare, visual resources, and the aesthetic quality of the City consistent with the goals, objectives and policies of the General Plan; (3) provide for the orderly, managed, and efficient development of wireless telecommunications facilities in accordance with the state and federal laws, rules, and regulations; and (4) encourage new and more efficient technology in the provision of wireless telecommunications facilities. Key provisions of the Ordinance include:

1 . Zone, location and permit requirements. The ordinance provides a land use table (17.40.040 A.) to identify zones in which facilities are permitted, conditionally permitted or prohibited and provides a location preference hierarchy for facilities on private property and in the public right-of-way.

- All facilities are prohibited in Residential zones, and a buffer of 200 feet is required for facilities adjacent to residential zones. The only exception is the allowance of an "Eligible Facilities Request", which would allow the modifications to an existing tower within a residential zone. The City is required to allow for an "Eligible Facilities Request" by the Spectrum Act, as discussed in the background section of this report.
- A Development Plan Review and Conditional Use Permit is required for "macro" facilities in all other zones, including commercial zones, industrial zones and special purpose zones. The Conditional Use Permit requirement ensures a greater amount of discretion over facilities, and are approved by the Planning Commission requiring a public hearing and noticing pursuant to State Planning and Zoning Laws.
- Small wireless facilities are permitted in all zones, except residential zones, with the approval of a small wireless facilities permit.

- The preference hierarchy establishes industrial land as the first preference, with the last being right-of-way adjacent to historical districts. The order of preference gives the City more leverage to control the placement of facilities because applicants for new facilities are required to justify placement of a facility in a lesser preferred zoning district, over a more preferred location (17.40.060). 17.40.160 subsection M also provides a locational preference hierarchy specific to small wireless facilities.

2. Permit Application Requirements. As mentioned above, the Ordinance prescribes applications for specific facility types. In addition, the Ordinance prescribes application submittal requirements (17.40.050) for all facilities, and requirements for specific facility types. For example, "Eligible Facilities Requests" have specific application requirements (17.40.140), different than small wireless facilities application requirements (17.40.160). For example:

- In addition to the typical requirements for a Development Plan Review and Conditional Use Permit, which includes a site plan, elevations, project narrative, etc., the Ordinance requires RF reports, acoustical analysis and photo simulations (17.40.050).
- Specific requirements for small wireless facilities include criteria for batched applications, requires a written statement explaining compliance with the Ordinance and justification for a non-preferred location.
- The Ordinance authorizes the Development Services Director to retain (on behalf of the City) an independent, qualified consultant to review any application for a permit for a wireless telecommunications facility to review the technical aspects of the application. The applicant is required to pay for this technical review.

3. The ordinance establishes design and development standards for all facilities, and also specifically includes requirements for facilities in the public right-of-way and on private property.

- Design and development standards for all facilities is included in 17.40.070. The section prohibits speculative facilities, includes general camouflage, landscaping, lighting and noise requirements.
- Section 17.40.080 provides specific design and development standards for facilities on private property. These standards include requirements for roof mounted facilities and tower facilities including height and screening requirements. Telecommunication facilities shall not exceed the maximum building height for the applicable zoning district, unless the setback is increased. Also, requirements for accessory equipment include, for example, equipment that is required to be screened by decorative landscaping, masonry walls, or buildings so that the equipment is visually integrated with the architecture and landscaping of the surroundings
- Section 17.40.090 provides design standards for facilities in the public right-of-way. Facilities in the right-of-way are limited to pole mounted facilities only. No facility can be located on a pole that is less than 26 feet in height and no facility can exceed 35 feet in height. Pole mounted equipment cannot exceed six cubic feet in dimension. Accessory equipment shall be located underground to the greatest extent feasible.
- Additional design standards for small wireless facilities are located in 17.40.160 paragraphs N and O. Requirements include regulating general items such as signage and landscape replacement. All antennas and associated mounting equipment, hardware, cables or other connectors must be completely concealed within an opaque antenna shroud or radome. Design requirements for accessory equipment are also included.

4. Conditions of Approval. The Ordinance establishes standard Conditions of Approval for all facilities, and specific Conditions of Approval for various facility types.

- 17.40.100 establishes standard Conditions of Approval for all facilities that include operational requirements such as compliance with FCC RF standards, requires a performance bond to ensure the tower is removed if operation ceases, establishes timelines for installation, and requires indemnification for the City.
- 17.40.110 establishes Conditions of Approval for facilities in the public right-of-way. Requirements include repair of infrastructure damaged by the installation or maintenance of facilities. Prior to installation of a facility, the applicant shall prepare a tree protection plan to ensure trees within the right-of-way are protected.
- 17.40.160 paragraph L provides additional Conditions of Approval for small wireless facilities. Conditions specific to small wireless facilities include a build-out period of one year. The permittee must underground its equipment if other utilities in the public rights-of-way underground their facilities in the segment of the public rights-of-way where the small wireless facility is located.
- Additional Conditions of Approval may be added to permits for facilities on a case by case basis.

5 . Section 17.40.190 establishes operation and maintenance standards to ensure a facility is kept in good condition, and operates consistent with the emissions standards set forth by the FCC. Requirements include necessary repairs be made to a facility within 48 hours of discovery. Landscaping is required to be maintained, and facilities must comply with the City of Upland Noise Ordinance.

6 . Section 17.40.120 establishes required findings the approval authority is required to make. Findings are included for all facilities, and specific findings are included for facilities in the public right-of-way. Findings include design, Ordinance compliance and collocation feasibility. The findings in the Ordinance are required in addition to the findings required under the Development Plan Review and Conditional Use Permits. Special findings are also required for small wireless facilities and Eligible Facilities Requests.

7 . The Ordinance includes provisions for Permit expiration, revocation, cessation and abandonment.

- The Ordinance outlines the process for removal of a facility in the case of cessation of the use or abandonment. A facility is considered abandoned telecommunications services for 90 or more consecutive days. The City will maintain a bond for facilities to ensure they can be removed.
- The Ordinance establishes that the wireless telecommunications facility shall be valid for a period of 10 years. One year prior to expiration, the applicant is required to submit an extension request, and show compliance with the regulations and conditions of approval for extensions.

Additional Zoning Code Amendments

The new telecommunications regulations within Chapter 17.40 contain all needed regulatory information for implementation, such as definitions, required permits, land use tables, processes, etc. Therefore, as previously mentioned, additional minor amendments are needed within Title 17 to ensure that there are no conflicts between the new regulations and the existing Zoning Code.

The first of the amendments within Title 17 is to modify the current land use tables. The tables to be amended include Land Use Tables 17.04-1, 17.05-1, 17.06-1, 17.07-1 and 17.08-

1. These tables currently reflect the land use requirements of the existing telecommunication regulations under chapter 17.40, therefore, the table will need to be amended to refer to the new regulations under Chapter 17 .40.

Additionally, Chapter 17.51 *Definitions* will be amended to remove the current definition for telecommunications facilities as the current definitions within 17.51 are inconsistent with the new regulations. The new Ordinance contains all needed definitions, therefore the old definition will be deleted. These amendments can be found within "Attachment B" of the attached resolution.

Environmental Assessment

This ordinance is exempt from review under the California Environmental Quality Act ("CEQA") (California Public Resources Code Section 21000, et seq.), pursuant to State CEQA Regulation §15061(b)(3) (14 Cal. Code Regs. § 15061(b)(3)), the common sense exemption covering activities with no possibility of having a significant effect on the environment because the Ordinance does not result in any actual installation or construction of any facilities, and only establishes regulatory guidelines for future telecommunication facilities.

FISCAL IMPACTS

Adoption of the ordinance will not result in any direct fiscal Impact. At the time applications are received for processing, applicants are required to pay fees which cover the City's cost to process particular applications.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Attachment A_Ordinance_ZA-20-0003_Telecommunications Ordinance

Attachment B_Current 17.40_Telecommunication Facilities

Attachment C_Resolution No. 4924 - Wireless Telecommunications

ORDINANCE NO. 1944

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UPLAND, ZONING CODE TEXT AMENDMENT NO. ZA-20-0003, AMENDING TITLE 17 OF THE UPLAND MUNICIPAL CODE TO ESTABLISH NEW REGULATIONS FOR WIRELESS TELECOMMUNICATION FACILITIES.

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

A. There have been significant changes in the types of wireless communication facilities used to provide communications services within the City; and

B. Both federal and state law has been modified regarding the regulation of wireless communication facilities both in the public rights or way and on private property outside of the public rights of way; and

C. The Federal Communication Commission (FCC) has implemented rules regarding implementation of certain federal laws regarding wireless communication facilities and implemented rules regulating "Small Wireless Facilities"; and

D. The City desires ensure to the greatest extent allowed under federal state law that wireless communication facilities are located, designed, installed, constructed, maintained, and operated in a manner that meets the aesthetic and public health and safety requirements of the City; and

E. The City deems it necessary and appropriate to adopt standards and regulations relating to the location, design, installation, construction, maintenance, and operation of wireless communication facilities, including towers, antennas, and other structures both in the public rights or way and on private property outside of the public rights of way and to provide for the enforcement of these standards and regulations consistent with federal and state legal requirements; and

F. The Upland City Council Advisory Committee reviewed the proposed Wireless Telecommunications ordinance, made comments and offered modifications to said ordinance at its meeting on June 3, 2020; and

G. The Planning Commission held a public workshop on June 10, 2020 regarding the Proposed Wireless Telecommunications ordinance in order to review the proposed ordinance and receive public input regarding said ordinance; and

H. On July 8, 2020 at 6:30 p.m. the Planning Commission conducted a public hearing for the project, and heard and considered both oral and written evidence and recommended that the City Council approve the new regulations; and

I. Upland Municipal Code Section 17.43.020 (Table 17.43-1) identifies the decision making authority as the City Council; and

J. A notice of a public hearing on said application has been given in the manner and for the time required by law.

Section 1. Findings. The City Council 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. Upland Municipal Code Section 17.48.060 provides that the approval body, before it may approve a Zoning Code Text Amendment, shall make a determination to allow the activity based upon the following findings:
 - 1. Finding: The proposed amendment is consistent with the General Plan and any applicable community or specific plan as provided by Government Code Section 65860.

Evidence: No community or specific plan is applicable to the proposed wireless telecommunications regulations. The proposed amendment is consistent with the General Plan in that it is consistent with the following General Plan goals and policies:

- a. Goal PFS-15 A community supported by the most current and sustainable provision of technology and utilities to service residents, businesses and institutions.

Fact: The ordinance provides the foundation for the implementation of new telecommunications technology to ensure service to residents, businesses and institutions.

- b. Policy PFS-1.8 Underground Utilities. Encourage undergrounding of all existing and new publicly owned utility lines, encourage undergrounding of all privately owned utility lines in new developments, and work with electricity and telecommunications providers to underground or minimize the visual impacts of existing overhead lines.

Fact: The ordinance includes multiple measures that regulate the aesthetics of proposed wireless facilities to ensure visual impacts are minimized.

- c. Policy PFS-15.1 Access and Availability. Work with utility and service providers to ensure access to and availability of utilities and telecommunication facilities for households, businesses, institutions, and public agencies throughout the City.

Fact: The ordinance ensures that telecommunications facilities can be constructed within the city, while ensuring the city's interest in regulating the time, place and manner of facility implementation.

- d. Policy PFS-15.4 Co-Location. Encourage compatible colocation of telecommunication and internet facilities and work with utility companies and internet service providers to provide opportunities for siting facilities on City-owned property and in suitable public right-of-ways.

Fact: The ordinance implements a process for telecommunications facilities on City Owned properties, and provides the regulations for placement of facilities in the public right-of-way.

- 2. Finding: The proposed amendment will not be detrimental to the public interest, health, safety, or welfare of the City.

Evidence: The proposed Zoning Amendment will not be detrimental to the public interest, health, safety, or welfare in that the amendment will update wireless telecommunication regulation the increase local control and implement standards, including aesthetic requirements, land use processes and maintenance requirements that further ensure public interest, health, safety, and welfare of the City.

- 3. Finding: The proposed amendment is internally consistent with other applicable provisions of the Zoning Ordinance.

Evidence: The amendment includes modification to Land Use Tables 17.04-1, 17.05-1, 17.06-1, 17.07-1 and 17.08-1 and well as Chapter 17.51 *Definitions* to ensure internal consistency throughout the Zoning Ordinance regarding wireless telecommunications facilities.

Section 2. Purpose and Intent. The regulations contained in this Ordinance are intended to, and should be applied to, protect and promote public health, safety and welfare, and balance the benefits from advanced wireless services with local values, which include without limitation promoting and preserving the aesthetic character of the City. This Policy is also intended to reflect and promote the community interest by (1) ensuring that the balance between public and private interests is maintained; (2) protecting the City's visual character from potential adverse impacts and/or visual blight created or exacerbated by small wireless facilities and related communications infrastructure; (3) protecting and preserving the City's environmental resources; (4) protecting and preserving the City's public rights-of-way and municipal infrastructure located within the City's public rights-of-way; and (5) promoting access to high-quality, advanced wireless services for the City's residents, businesses and visitors.

This Ordinance is not intended to, nor shall it be interpreted or applied to: (1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services; (2) prohibit or effectively prohibit any entity's ability to provide any telecommunications service, subject to any competitively neutral and nondiscriminatory rules, regulations or other legal requirements; (3) unreasonably discriminate among providers of functionally equivalent personal wireless services; (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions; (5) prohibit any collocation or modification that the City may not deny under federal or California state law; (6) impose any unreasonable, discriminatory or anticompetitive fees that exceed the reasonable cost to provide the services for which the fee is charged; or (7) otherwise authorize the City to preempt any applicable federal or California law.

Section 3. Municipal Code Amendments. The Upland Municipal Code is hereby amended to as follows:

- A. Chapter 17.40 of the Upland Municipal Code is hereby amended and restated in its entirety to read as set forth in Exhibit A to this Ordinance, which is hereby incorporated as though set forth in full.
- B. Title 17 is further amended to include the land use tables within Chapters 17.04, 17.05, 17.06, 17.07, 17.08 and 17.51 Definitions, as shown in Exhibit B of this Ordinance.
- C. Paragraph D of Section 5.36.190 of the Upland Municipal Code is hereby deleted.

Section 4. Compliance with California Environmental Quality Act. The City Council finds that this ordinance is exempt from review under the California Environmental Quality Act ("CEQA") (California Public Resources Code Section 21000, et seq.), pursuant to State CEQA Regulation §15061(b)(3) (14 Cal. Code Regs. § 15061(b)(3)), the common sense exemption covering activities with no possibility of having a significant effect on the environment because the Ordinance does not result in any actual installation or construction of any facilities, and only establishes guidelines for future telecommunications development.

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 thirty (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 of Upland, pursuant to all legal requirements.

PASSED, APPROVED, AND ADOPTED this 14th day of September, 2020.

Debbie Stone, Mayor

I, Keri Johnson, City Clerk of the City of Upland, California, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Upland held on the 10th day of August, 2020, and was adopted at a regular meeting of the City Council of the City of Upland on the 14th day of September, 2020, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

ATTEST:

Keri Johnson, City Clerk

Attachment A

CHAPTER 17.40 WIRELESS TELECOMMUNICATIONS FACILITIES

17.40.010 Purpose.

- A. The purpose and intent of this chapter is to provide a uniform and comprehensive set of regulations and standards for the permitting, development, siting, installation, design, operation and maintenance of wireless telecommunications facilities in the City of Upland. These regulations are intended to prescribe clear and reasonable criteria to assess and process applications in a consistent and expeditious manner, while reducing the impacts associated with wireless telecommunications facilities. This chapter provides standards necessary to: (1) preserve and promote harmonious land uses and the public right-of-way in the City; (2) promote and protect public health and safety, community welfare, visual resources, and the aesthetic quality of the City consistent with the goals, objectives and policies of the General Plan; (3) provide for the orderly, managed, and efficient development of wireless telecommunications facilities in accordance with the state and federal laws, rules, and regulations; and (4) encourage new and more efficient technology in the provision of wireless telecommunications facilities.

- B. This chapter is not intended to, nor shall it be interpreted or applied to: (1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services; (2) prohibit or effectively prohibit any entity's ability to provide any interstate or intrastate telecommunications service, subject to any competitively neutral and nondiscriminatory rules or regulation for rights-of-way management; (3) unreasonably discriminate among providers of functionally equivalent services; (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions; (5) prohibit any collocation or modification that the City may not deny under federal or state law; or (6) otherwise authorize the City to preempt any applicable federal or state law.

17.40.020 Definitions.

For the purposes of this chapter, the following defined terms shall have the meaning set forth in this section unless the context clearly indicates or requires a different meaning.

- 1. "Accessory equipment" means any equipment associated with the installation of a wireless telecommunications facility, including, but not limited to, cabling, generators, air conditioning units, electrical panels, equipment shelters, equipment cabinets, equipment buildings, pedestals, meters, vaults, splice boxes, and surface location markers.

2. "Antenna" means that part of a wireless telecommunications facility designed to radiate or receive radio frequency signals or electromagnetic waves for the provision of services, including, but not limited to, cellular, paging, personal communications services (PCS) and microwave communications. Such devices include, but are not limited to, directional antennas, such as panel antenna, microwave dishes, and satellite dishes; omnidirectional antennas; wireless access points (Wi-Fi); and strand-mounted wireless access points. This definition does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes designed for residential or household purposes.
3. "Base station" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(1), as may be amended, which defines that term as a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in 47 C.F.R. Section 1.40001(b)(9) or any equipment associated with a tower. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks). The term includes any structure other than a tower that, at the time the relevant application is filed with the State or local government under this section, supports or houses equipment described in 47 C.F.R. Section 1.40001(b)(1)(i) and (ii) that has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support. The term does not include any structure that, at the time the relevant application is filed with the State or local government under this section, does not support or house equipment described in 47 C.F.R. Section 1.40001(b)(1)(i) and (ii).
4. "Building-mounted" means mounted to the side or façade, but not the roof, of a building or another structure such as a water tank, pump station, church steeple, freestanding sign, or similar structure.
5. "Cellular" means an analog or digital wireless telecommunications technology that is based on a system of interconnected neighboring cell sites.
6. "Collocation" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(2), as may be amended, which defines that term as the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting or receiving radio frequency signals for communications purposes. As an illustration and not a limitation, the FCC's definition effectively means "to add" and does not necessarily refer to more than one wireless telecommunication facility installed at a single site.

7. "Eligible facilities request" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(3), as may be amended, which defines that term as any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving: (1) collocation of new transmission equipment; (2) removal of transmission equipment; or (3) replacement of transmission equipment.
8. "Eligible support structure" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(4), as may be amended, which defines that term as any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the State or local government under this section.
9. "Existing" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(4), as may be amended, which provides that a constructed tower or base station is existing for purposes of the FCC's Section 6409(a) regulations if it has been reviewed and approved under the applicable zoning or siting process, or under another state or local regulatory review process, provided that a tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.
10. "FCC" means the Federal Communications Commission or its duly appointed successor agency.
11. "Modification" means any change to an existing wireless telecommunications facility that involves any of the following: collocation, expansion, modification, alteration, enlargement, intensification, reduction, or augmentation, including, but not limited to, a change in size, shape, color, visual design, or exterior material. Modification does not include repair, replacement, or maintenance if those actions do not involve a change to the existing facility involving any of the following: collocation, expansion, modification, alteration, enlargement, intensification, reduction, or augmentation.
12. "Monopole" means a structure consisting of a single pole used to support antennas or related equipment and includes a monopine, monoredwood, and similar monopoles camouflaged to resemble trees or other objects.
13. "Personal wireless services" means the same as defined in 47 U.S.C. Section 332(c)(7)(C)(i), as may be amended, which defines the term as commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services.
14. "Personal wireless service facilities" means the same as defined in 47 U.S.C. Section 332(c)(7)(C)(i), as may be amended, which defines the term as facilities that provide personal wireless services.
15. "Director" means the City Development Services Director or his or her designee.

16. "Pole" means a single shaft of wood, steel, concrete, or other material capable of supporting the equipment mounted thereon in a safe and adequate manner and as required by provisions of the Upland Municipal Code.
17. "Public right-of-way or "right-of-way" means any public street, public way, public alley or public place, laid out or dedicated, and the space on, above or below it, and all extensions thereof, and additions thereto, under the jurisdiction of the City.
18. "Reviewing authority" means the person or body who has the authority to review and either grant or deny a wireless telecommunications facility permit pursuant to this chapter.
19. "RF" means radio frequency or electromagnetic waves between 30 kHz and 300 GHz in the electromagnetic spectrum range.
20. "Roof-mounted" means mounted directly on the roof of any building or structure, above the eave line of such building or structure.
21. "Section 6409(a)" means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156, codified as 47 U.S.C. Section 1455(a), as such law may be amended from time to time.
22. "Section 6409(a) approval" means the approval required by Section 6409(a).
23. "Site" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(6), as may be amended, which provides that for towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.
24. "Small wireless facility" or "small wireless facilities" means the same as defined by the FCC in 47 C.F.R. § 1.6002(1), as may be amended or superseded.
25. "Substantial change" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(7), as may be amended, which defines that term differently based on the particular wireless facility type (tower or base station) and location (in or outside the public right-of-way). For clarity, this definition organizes the FCC's criteria and thresholds for a substantial change according to the wireless facility type and location.
 - a. For towers outside the public rights-of-way, a substantial change occurs when:
 - i. The proposed collocation or modification increases the overall height more than 10% or the height of one additional antenna array not to exceed 20 feet (whichever is greater); or

- ii. The proposed collocation or modification increases the width more than 20 feet from the edge of the wireless tower or the width of the wireless tower at the level of the appurtenance (whichever is greater); or
 - iii. The proposed collocation or modification involves the installation of more than the standard number of equipment cabinets for the technology involved, not to exceed four; or
 - iv. The proposed collocation or modification involves excavation outside the current boundaries of the leased or owned property surrounding the wireless tower, including any access or utility easements currently related to the site.
- b. For towers in the public rights-of-way and for all base stations, a substantial change occurs when:
- i. The proposed collocation or modification increases the overall height more than 10% or 10 feet (whichever is greater); or
 - ii. The proposed collocation or modification increases the width more than six feet from the edge of the wireless tower or base station; or
 - iii. The proposed collocation or modification involves the installation of any new equipment cabinets on the ground when there are no existing ground-mounted equipment cabinets; or
 - iv. The proposed collocation or modification involves the installation of any new ground-mounted equipment cabinets that are 10% larger in height or volume than any existing ground-mounted equipment cabinets; or
 - v. The proposed collocation or modification involves excavation outside the area in proximity to the structure and other transmission equipment already deployed on the ground.
- c. In addition, for all towers and base stations wherever located, a substantial change occurs when:
- i. The proposed collocation or modification would defeat the existing concealment elements of the support structure as determined by the Director; or
 - ii. The proposed collocation or modification violates a prior condition of approval, provided however that the collocation need not comply with any prior condition of approval related to height, width, equipment cabinets or excavation that is inconsistent with the thresholds for a substantial change described in this section.

The thresholds for a substantial change outlined above are disjunctive. The failure to meet any one or more of the applicable thresholds means that a substantial change would occur. The thresholds for height increases are cumulative limits. For sites with horizontally separated deployments, the cumulative limit is measured from the originally-permitted support structure without regard to any increases in size due to wireless equipment not included in the original design. For sites with vertically separated deployments, the cumulative limit is measured from the permitted site dimensions as they existed on February 22, 2012—the date that Congress passed Section 6409(a).

26. "Telecommunications tower" or "tower" means a freestanding mast, pole, monopole, guyed tower, lattice tower, free standing tower or other structure designed and primarily used to support wireless telecommunications facility antennas.
27. "Transmission equipment" means the same as defined by the FCC in 47 C.F.R. Section 1.40001(b)(8), as may be amended, which defines that term as equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
28. "Utility pole" means a pole or tower owned by any utility company that is primarily used to support wires or cables necessary to the provision of electrical or other utility services regulated by the California Public Utilities Commission.
29. "Wireless services" means any FCC-licensed or authorized wireless communication service transmitted over frequencies in the electromagnetic spectrum.
30. "Wireless telecommunications facility" means any facility constructed, installed, or operated for wireless service. "Wireless telecommunications facility" includes, but is not limited to, antennas or other types of equipment for the transmission or receipt of such signals, telecommunications towers or similar structures supporting such equipment, related accessory equipment, equipment buildings, parking areas, and other accessory development. "Wireless telecommunications facility" does not mean any of the following:
 - a. A facility that qualifies as an amateur station as defined by the FCC, 47 C.F.R. Part 97, of the Commission's Rules, or its successor regulation.
 - b. An antenna facility that is subject to the FCC Over-The-Air-Receiving Devices rule, 47 C.F.R. Section 1.4000, or any successor regulation, including, but not limited to, direct-to-home satellite dishes that are less than one meter in diameter, TV antennas used to receive television broadcast signals and wireless cable antennas.

- c. Portable radios and devices including, but not limited to, hand-held, vehicular, or other portable receivers, transmitters or transceivers, cellular phones, CB radios, emergency services radio, and other similar portable devices as determined by the Director.
- d. Telecommunications facilities owned and operated by any government agency.
- e. Telecommunications facilities owned and operated by any emergency medical care provider.
- f. Mobile services providing public information coverage of news events of a temporary nature.
- g. Any wireless telecommunications facilities exempted from the Upland Municipal Code by federal law or state law.

17.40.030 Applicability.

- A. This chapter applies to all wireless telecommunications facilities as follows:
 - 1. All facilities for which applications were not approved prior to the effective date of the ordinance codified in this chapter shall be subject to and comply with all provisions of this chapter;
 - 2. All facilities, notwithstanding the date approved, shall be subject immediately to the provisions of this chapter governing the operation and maintenance, cessation of use and abandonment, removal and restoration of wireless telecommunications facilities and wireless telecommunications collocation facilities and the prohibition of dangerous conditions or obstructions by such facilities; provided, however, that in the event a condition of approval conflicts with a provision of this chapter, the condition of approval shall control unless and until the permit is amended or revoked.
- B. Title 17, including, but not limited to, this chapter shall not apply to a wireless telecommunications facility on property owned by the City. Prior to the establishment, construction, issuance of building permits or zoning permits for a wireless telecommunications facility on City owned property, the applicant shall obtain a lease with the City of Upland for a (or the modification of) wireless telecommunication facility.
- C. Notwithstanding any provision of the Upland Municipal Code to the contrary, provisions governing the installation of a public utility facility or accessory equipment shall not apply to wireless telecommunications facilities. This chapter shall govern all applications for wireless telecommunications facilities.

17.40.040 Wireless telecommunications facility permit required.

A. Permit Required. No wireless telecommunications facility shall be located or modified within the City on any property, including the public right-of-way, without the issuance of a permit as required by this chapter as set forth in the table below. Such permit shall be in addition to any other permit required pursuant to the Upland Municipal Code.

Description Wireless Facility	Private Property		Public Right-of-Way ⁴
	RS-4, RS-6, RS-7.5, RS-10, RS-15, RS-20, MH, RM-10, RM-20, RM-30 Residential Specific Plans	All Other Zoning Districts	Nonresidential Zoning Districts
Roof-mounted facility, building-mounted facility, or facility mounted on an existing pole	Not Permitted	Conditional Use Permit/Development Plan Review	Conditional Use Permit/Development Plan Review
Facility mounted on a replacement pole or new telecommunications tower	Not Permitted	Conditional Use Permit/Development Plan Review	Conditional Use Permit/Development Plan Review
New wireless telecommunications collocation facility	Not Permitted	Conditional Use Permit/Development Plan Review	Conditional Use Permit/Development Plan Review
Eligible facilities request ¹ or application pursuant to California Government Code Section 65850.6 ²	Permitted	Permitted	Permitted
Small wireless facility ³	Not Permitted	Permitted	Permitted

1 See requirements of Section 17.40.140.

2 See requirements of Section 17.40.150.

3. See requirements of Section 17.40.160

4 For any public right-of-way not within a zoning district, the location of a wireless telecommunication facility shall be determined based upon the closest district adjacent to the facility’s location.

- B. Non-exclusive Grant. No approval granted under this chapter shall confer any exclusive right, privilege, license, or franchise to occupy or use the public right-of-way of the City for delivery of telecommunications services or any other purposes. Further, no approval shall be construed as any warranty of title.

17.40.050 Application for permit.

- A. Application Content. All applications for a permit required by this chapter must be made in writing on such form as the Director prescribes, which shall include the following information, in addition to all other information determined necessary by the Director as well as all other information required by the City as part of an application for a conditional use permit:
 - 1. Full name and contact information for the facility owner, facility operator, agent (if any), and property owner, and related letter(s) of authorization.
 - 2. The type of facility, including a full written description of the proposed facility, its purpose and specifications.
 - 3. A detailed site and engineering plan of the proposed facility containing the exact proposed location of the facility, created by a qualified licensed engineer and in accordance with requirements set by the Director.
 - 4. Photographs of facility equipment and an accurate visual impact analysis with photo simulations.
 - 5. Completion of an RF exposure guidelines checklist, and proof of all applicable licenses or other approvals required by the FCC.
 - 6. If the application is for a facility that will be located within the public right-of-way, the applicant shall certify that it is a telephone corporation or state the basis for its claimed right to enter the right-of-way, and provide a copy of its certificate of public convenience and necessity (CPCN), if a CPCN has been issued by the California Public Utilities Commission.
 - 7. A written description identifying the geographic service area for the subject installation, accompanied by a plan and maps showing anticipated future installations and modifications for the following two years.
 - 8. A written report that analyzes acoustic levels for the proposed wireless telecommunications facility and all associated equipment including, without limitation, all environmental control units, sump pumps, temporary backup power generators, and permanent backup power generators in order to demonstrate compliance with Chapter 7.16 (Noise Control). The acoustic analysis must be prepared and certified by an engineer and include an analysis of the manufacturers' specifications for

all noise-emitting equipment and a depiction of the proposed equipment relative to all adjacent property lines. In lieu of a written report, the applicant may submit evidence from the equipment manufacturer that the ambient noise emitted from all the proposed equipment will not, both individually and cumulatively, exceed the applicable limits.

9. If the applicant claims it requires an exception to the requirements of this chapter, all information and studies necessary for the City to evaluate that claim.
10. An application and processing fee and a deposit for a consultant review as set forth in subsection B of this section.
11. Any other studies or information determined necessary by the Director may be required.

B. Independent Expert.

1. The Director is authorized to retain on behalf of the City an independent, qualified consultant to review any application for a permit for a wireless telecommunications facility to review the technical aspects of the application, including, but not limited to, the following matters:
 - a. The accuracy, adequacy, and completeness of submissions;
 - b. Compliance with applicable radio frequency emission standards;
 - c. Whether any requested exception is necessary to close a significant gap in coverage and is the least intrusive means of doing so;
 - d. Technical demonstration of the unavailability of alternative sites, facility designs or configurations, and coverage analysis; and
 - e. The validity of conclusions reached or claims made by applicant.
2. The cost of this review shall be paid by the applicant through a deposit pursuant to an adopted fee schedule resolution.

17.40.060 Location and configuration preferences.

- A. Purpose. The purpose of this section is to provide guidelines to applicants and the reviewing authority regarding the preferred locations and configurations for wireless telecommunication facilities in the City, provided that nothing in this section shall be construed to permit a wireless telecommunication facility in any location or configuration that it is otherwise prohibited by this chapter.
- B. Review of Location and Configuration. The reviewing authority shall consider the extent to which a proposed wireless telecommunication facility complies with these preferences and whether there are feasible alternative locations or

configurations to the proposed facility that are more preferred under this section. If the location or configuration of a proposed facility qualifies for two or more categories of preferred locations or configurations, it shall be deemed to belong to the least preferred category.

C. Order of Preference—Configurations. The order of preference for the configuration for wireless telecommunication facilities from most preferred to least preferred is:

1. Collocation with existing facilities;
2. Roof-mounted;
3. Building-mounted;
4. Mounted on an existing pole or utility pole;
5. Mounted on a new pole or utility pole that will replace an existing pole or utility pole;
6. Mounted on a new telecommunication tower.

D. Order of Preference—Location. The order of preference for the location of wireless telecommunications facilities from most preferred to least preferred is:

- (1) In the GI (General Industrial) zoning district,
- (2) In the LI (Light Industrial) zoning district,
- (3) In the RC (Regional Commercial) zoning district,
- (4) In the C/I-MU (Commercial/Industrial Mixed-Use) zoning district,
- (5) In the HC (Highway Commercial) zoning district,
- (6) In the HC (Highway Commercial) land use designation in the Colonies Specific Plan,
- (7) In the C/O-MU (Commercial/Office Mixed-Use) zoning district,
- (8) In the NC (Neighborhood Commercial) zoning district,
- (9) In the NC (Neighborhood Commercial) land use designation in the Colonies Specific Plan,

- (10) In the Commercial land use designation in the Park View Specific Plan,
- (11) In the C/R-MU (Commercial/Residential Mixed-Use) zoning district,
- (12) In the B/R-MU (Business/Residential Mixed-Use) zoning district,
- (13) In the OP (Office Professional) zoning district,
- (14) In the public right-of-way with the closest adjacent district being GI (General Industrial) zoning district,
- (15) In the public right-of-way with the closest adjacent district being LI (Light Industrial) zoning district,
- (16) In the public right-of-way with the closest adjacent district being RC (Regional Commercial) zoning district,
- (17) In the public right-of-way with the closest adjacent district being C/I-MU (Commercial/Industrial Mixed-Use) zoning district,
- (18) In the public right-of-way with the closest adjacent district being HC (Highway Commercial) zoning district,
- (19) In the public right-of-way with the closest adjacent district being HC (Highway Commercial) land use designation in the Colonies Specific Plan,
- (20) In the public right-of-way with the closest adjacent district being C/O-MU (Commercial/Office Mixed-Use) zoning district,
- (21) In the public right-of-way with the closest adjacent district being NC (Neighborhood Commercial) zoning district,
- (22) In the public right-of-way with the closest adjacent district being NC (Neighborhood Commercial) land use designation in the Colonies Specific Plan,
- (23) In the public right-of-way with the closest adjacent district being the Commercial land use designation in the Park View Specific Plan,
- (24) In the public right-of-way with the closest adjacent district being C/R-MU (Commercial/Residential Mixed-Use) zoning district,

- (25) In the public right-of-way with the closest adjacent district being B/R-MU (Business/Residential Mixed-Use) zoning district,
 - (26) In the public right-of-way with the closest adjacent district being OP (Office Professional) zoning district,
 - (27) In the public right-of-way with the closest adjacent district being the RM (Residential Multi-family) zoning district,
 - (28) Any public right-of-way location that abuts the property line of a structure recognized as a local, state or national historic landmark, historic district or on the register of historic places.
 - (29) Any parcel or right-of-way within 500 feet of a school site.
- E. Accessory Equipment. In order of preference from most preferred to least preferred, accessory equipment for wireless telecommunication facilities and wireless telecommunications collocation facilities shall be located underground, within a building or structure, on a screened roof top area or structure, or in a rear yard if not readily visible from surrounding properties and the roadway, unless the reviewing authority finds that another location is preferable under the circumstances of the application.

17.40.070 Design and development standards for all facilities.

- A. Basic Requirements. The design and development standards set forth in this section apply to all wireless telecommunications facilities no matter where they are located. Wireless telecommunications facilities shall be designed and maintained so as to minimize visual, noise, and other impacts on the surrounding community and shall be planned, designed, located, and erected in accordance with the design and development standards in this section.
- B. No Speculative Facilities. A wireless telecommunications facility, wireless telecommunications collocation facility, or a telecommunications tower, which is built on speculation and for which there is no wireless tenant is prohibited within the City.
- C. General Guidelines. The applicant shall employ screening and camouflage design techniques in the design and placement of wireless telecommunications facilities in order to ensure that the facility is as visually inconspicuous as possible, to prevent the facility from dominating the surrounding area and to hide the facility from predominant views from surrounding properties, all in a manner that achieves compatibility with the community.
- D. Traffic Safety. All facilities shall be designed and located in such a manner as to avoid adverse impacts on traffic safety.

- E. Antennas. The applicant shall use the least visible antennas possible to accomplish the coverage objectives. Antenna elements shall be flush mounted, to the extent reasonably feasible. All antenna mounts shall be designed so as not to preclude possible future collocation by the same or other operators or carriers. Antennas shall be situated as to reduce visual impact without compromising their function. Whip antennas need not be screened.
- F. Landscaping. Where appropriate, facilities shall be installed so as to maintain and enhance existing landscaping on the site, including trees, foliage and shrubs, whether or not utilized for screening. Additional landscaping shall be planted, irrigated, and maintained where such vegetation is deemed necessary by the City to provide screening or to block the line of sight between facilities and adjacent uses.
- G. Signage. Wireless telecommunications facilities and wireless telecommunications collocation facilities shall not bear any signs or advertising devices other than certification, warning or other signage required by law or permitted by the City.
- H. Lighting. No wireless telecommunications facility may be illuminated unless either specifically required by the Federal Aviation Administration or other government agency or in association with the illumination of an athletic field on City or school property. Lightning arresters and beacon lights are not permitted unless required by the Federal Aviation Administration or other government agency. Legally required lightning arresters and beacons shall be included when calculating the height of facilities such as telecommunications towers, lattice towers, and monopoles.
- I. Noise.
 - 1. Each wireless telecommunications facility and wireless telecommunications collocation facility shall be operated in such a manner so as to minimize any possible disruption caused by noise.
 - 2. Backup generators shall only be operated during periods of power outages, and shall not be tested on weekends or holidays, or between the hours of 5:00 p.m. and 7:00 a.m.
 - 3. At no time shall equipment noise from any facility exceed an exterior noise level of 50 dBA at the facility's property line if the facility is located in a business or commercial zone that permits those uses, provided, however, that for any such facility located within 500 feet of any property zoned residential or improved with a residential use, such equipment noise shall at no time be audible at the property line of any such residential property. For any facility located within a residential zone, such equipment noise shall at no time be audible at the property line of any residentially improved or residential zoned property.

4. Any equipment, including, but not limited to, air conditioning units, that may emit noise that would be audible from beyond three feet from the facility in the case of a facility located in the right-of-way, or in the case of other facilities the facility's property line, shall be enclosed or equipped with noise attenuation devices to the extent necessary to ensure compliance with applicable noise limitations under the Upland Municipal Code.
- J. Security. Each wireless telecommunications facility and wireless telecommunications collocation facility shall be designed to be resistant to, and minimize opportunities for, unauthorized access, climbing, vandalism, graffiti and other conditions that would result in hazardous situations, visual blight, or attractive nuisances. The reviewing authority may require the provision of warning signs, fencing, anti-climbing devices, or other techniques to prevent unauthorized access and vandalism when, because of their location or accessibility, a facility has the potential to become an attractive nuisance.
- K. Modification. At the time of modification of a wireless telecommunications facility, existing equipment shall, to the extent feasible, be replaced with equipment that reduces visual, noise, and other impacts, including, but not limited to, undergrounding the equipment and replacing larger, more visually intrusive facilities with smaller, less visually intrusive facilities.

17.40.080 Additional design and development standards for facilities outside the public right-of-way.

- A. Basic Requirements. Facilities located outside the public right-of-way are subject to the design and development standards set forth in this section in addition to all design and development standards that apply to all facilities.
- B. Location. A wireless communication facility shall not be located within 1,500 feet of another wireless communication facility.
- C. No Parking Interference. In no event shall the installation of facilities replace or interfere with parking spaces in such a way as to reduce the total number of parking spaces below the number that is required.
- D. Roof-Mounted Facilities. Roof-mounted facilities shall be designed and constructed to be fully concealed or screened in a manner compatible with the existing architecture of the building the facility is mounted to in color, texture, and type of material. Screening shall not increase the bulk of the structure nor alter the character of the structure.
- E. Facilities Mounted to a Telecommunications Tower. Facilities mounted to a telecommunications tower shall be located in close proximity to existing above-ground utilities, such as electrical towers or utility poles (which are not scheduled for removal or under grounding for at least 18 months after the date of application), light poles, trees of comparable heights, and in areas where they will not detract from the appearance of the City.

1. Facilities mounted to a telecommunications tower, including, but not limited to, the attached antennas, shall be designed to be the minimum functional height and width required to adequately support the proposed facility and meet FCC requirements. The applicant shall provide documentation satisfactory to the Director establishing compliance with this paragraph. In any event, facilities mounted to a telecommunications tower shall not exceed the applicable height limit for structures in the applicable zoning district.
 2. Aside from the antenna itself, no additional equipment may be visible. All cables, including, but not limited to, electrical and utility cables, shall be run within the interior of the telecommunications tower and shall be camouflaged or hidden to the fullest extent feasible without jeopardizing the physical integrity of the tower.
 3. Monopole installations shall be situated so as to utilize existing natural or man-made features including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening.
 4. All antenna components and accessory wireless equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background or existing architectural elements so as to visually blend in with the surrounding development. Subdued colors and non-reflective materials that blend with surrounding materials and colors shall be used.
 5. Monopoles shall be no greater in diameter or other cross-sectional dimensions than is necessary for the proper functioning of the facility.
 6. If a faux tree is proposed for the monopole installation, it shall be of a type of tree compatible with those existing in the immediate areas of the installation. If no trees exist within the immediate areas, the applicant shall create a landscape setting that integrates the faux tree with added species of a similar height and type. Additional camouflage of the faux tree may be required depending on the type and design of faux tree proposed.
- F. Accessory Equipment. All accessory equipment associated with the operation of any wireless telecommunications facility shall be fully screened or camouflaged, and located in a manner to minimize their visibility to the greatest extent possible utilizing the following methods for the type of installation:
1. Accessory equipment for roof-mounted facilities shall be installed inside the building to which it is mounted or underground, if feasible. If not feasible, such accessory equipment may be located on the roof of the building that the facility is mounted on, provided that both the equipment and screening materials are painted the color of the building, roof, or surroundings. All screening materials for roof-mounted facilities

shall be of a quality and design that is architecturally integrated with the design of the building or structure.

2. Accessory equipment for facilities mounted to a telecommunications tower shall be visually screened by locating the equipment either within a nearby building, in an underground vault (with the exception of required electrical panels) or in another type of enclosed structure, which shall comply with the development and design standards of the zoning district in which the accessory equipment is located. Such enclosed structure shall be architecturally treated and adequately screened from view by landscape plantings, decorative walls, fencing or other appropriate means, selected so that the resulting screening will be visually integrated with the architecture and landscaping of the surroundings.
- G. Height. Telecommunication facilities shall not exceed the maximum building height for the applicable zoning district excepting when:
1. If the height of the tower exceeds the height limitation of the district in which it is located it must be set back an additional 10 feet from the setback line for every 10 feet added to the height, provided a maximum of 20 feet in height is allowed.
- H. Residential Buffer. Telecommunication facilities shall be set back a minimum of 200 feet from the property line of a residential zoned property.

17.40.090 Additional design and development standards for facilities in the public right-of-way.

- A. Basic Requirements. Facilities located in the public right-of-way are subject to the design and development standards set forth in this section in addition to all design and development standards that apply to all facilities.
- B. Right-of-Way Authority. An encroachment permit must be obtained for any work in the public right-of-way. Only applicants authorized to enter the public right-of-way pursuant to state or federal law or a franchise or other agreement with the City shall be eligible for a permit to install or modify a wireless telecommunications facility in the public right-of-way.
- C. Antennas.
 1. Utility Poles. The maximum height of any antenna mounted to an existing utility pole shall not exceed 24 inches above the height of an existing utility pole, nor shall any portion of the antenna or equipment mounted on a pole be less than 18 feet above any drivable road surface. All installations on utility poles shall fully comply with the California

Public Utilities Commission general orders, including, but not limited to, General Order 95, as revised.

2. Street Light Poles. The maximum height of any antenna mounted to a street light pole shall not exceed seven feet above the existing height of a street light pole in a location with its closest adjacent district being a commercial zoning district and shall not exceed three feet above the existing height of a street light pole in any other zoning district. Any portion of the antenna or equipment mounted on such a pole shall be no less than 18 feet above any drivable road surface.

D. Poles.

1. Only pole-mounted antennas shall be permitted in the right-of-way. All other telecommunications towers are prohibited, and no new poles are permitted that are not replacing an existing pole.
2. Pole height and width limitations:
 - a. All poles shall be designed to be the minimum functional height and width required to support the proposed antenna installation and meet FCC requirements. Poles and antennas and similar structures shall be no greater in diameter or other cross-sectional dimensions than is necessary for the proper functioning of the facility.
 - b. Notwithstanding the above, no facility shall be located on a pole that is less than 26 feet in height and no facility shall exceed 35 feet in height, including, but not limited to, the pole and any antenna that protrudes above the pole.
 - c. Pole mounted equipment shall not exceed six cubic feet in dimension.
3. If an applicant proposes to replace a pole in order to accommodate the facility, the pole shall match the appearance of the original pole to the extent feasible, unless another design better accomplishes the objectives of this section. Such replacement pole shall not exceed the height of the pole it is replacing by more than seven feet.
4. If an exception is granted for placement of new poles in the right-of-way, new poles shall be designed to resemble existing poles in the right-of-way, including size, height, color, materials and style, with the exception of any existing pole designs that are scheduled to be removed and not replaced, unless another design better accomplishes the objectives of this section. Such new poles that are not replacement poles shall be located no closer than 90 feet to an existing pole.

- E. Space Occupied. Facilities shall be designed to occupy the least amount of space in the right-of-way that is technically feasible.
- F. Location.
 - 1. Each component part of a facility shall be located so as not to cause any physical or visual obstruction to pedestrian or vehicular traffic, inconvenience to the public's use of the right-of-way, or safety hazards to pedestrians and motorists.
 - 2. A facility shall not be located within any portion of the public right-of-way interfering with access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, or any other vital public health and safety facility.
 - 3. Facilities mounted to a telecommunications tower, above-ground accessory equipment, or walls, fences, landscaping or other screening methods shall be setback a minimum of 18 inches from the front of a curb.
 - 4. Each pole mounted wireless telecommunications facility must be separated by at least 1,500 feet.
 - 5. All cables, including, but not limited to, electrical and utility cables, between the pole and any accessory equipment shall be placed underground, if feasible.
 - 6. All new wires needed to service the wireless telecommunications facility must be installed within the width of the existing utility pole so as to not exceed the diameter and height of the existing utility pole.
- G. Americans with Disabilities Act Compliance. All facilities shall be built in compliance with the Americans with Disabilities Act (ADA).
- H. Accessory Equipment. With the exception of the electric meter, which shall be pole-mounted to the extent feasible, all accessory equipment shall be located underground to the extent feasible. When above-ground is the only feasible location for a particular type of accessory equipment and when such accessory equipment cannot be pole-mounted, such accessory equipment shall be enclosed within a structure, and shall not exceed a height of five feet and a total footprint of 15 square feet, and shall be screened and camouflaged to the fullest extent possible, including the use of landscaping or alternate screening. Required electrical meter cabinets shall be adequately screened and camouflaged.
- I. Documentation. The applicant shall provide documentation satisfactory to the Director establishing compliance with this section.

17.40.100 Conditions of approval for all facilities.

- A. In addition to compliance with the requirements of this chapter, upon approval all facilities shall be subject to each of the following conditions of approval, as well as any modification of these conditions or additional conditions of approval deemed necessary by the reviewing authority:
1. Before the permittee submits any application for a building permit or other permits required by the Upland Municipal Code, the permittee must incorporate the wireless telecommunication facility permit granted under this chapter, all conditions associated with the wireless telecommunications facility permit and the approved plans and any photo simulations (the "approved plans") into the project plans. The permittee must construct, install and operate the wireless telecommunications facility in strict compliance with the approved plans. The permittee shall submit an as built drawing within 90 days after installation of the facility.
 2. Where feasible, as new technology becomes available, the permittee shall:
 - a. Place above-ground wireless telecommunications facilities below ground, including, but not limited to, accessory equipment that has been mounted to a telecommunications tower or mounted on the ground; and
 - b. Replace larger, more visually intrusive facilities with smaller, less visually intrusive facilities, after receiving all necessary permits and approvals required pursuant to the Upland Municipal Code.
 3. The permittee shall submit and maintain current at all times basic contact and site information on a form to be supplied by the City. The permittee shall notify the City of any changes to the information submitted within seven days of any change, including change of the name or legal status of the owner or operator. This information shall include, but is not limited to, the following:
 - a. Identity, including the name, address and 24-hour local or toll free contact phone number of the permittee, the owner, the operator, and the agent or person responsible for the maintenance of the facility.
 - b. The legal status of the owner of the wireless telecommunications facility, including official identification numbers and FCC certification.
 - c. Name, address, and telephone number of the property owner if different than the permittee.

4. The permittee shall not place any facilities that will deny access to, or otherwise interfere with, any public utility, easement, or right-of-way located on the site. The permittee shall allow the City reasonable access to, and maintenance of, all utilities and existing public improvements within or adjacent to the site, including, but not limited to, pavement, trees, public utilities, lighting and public signage.
5. At all times, all required notices and signs shall be posted on the site as required by the FCC and California Public Utilities Commission, and as approved by the City. The location and dimensions of a sign bearing the emergency contact name and telephone number shall be posted pursuant to the approved plans.
6. At all times, the permittee shall ensure that the facility complies with the most current regulatory and operational standards including, but not limited to, radio frequency emissions standards adopted by the FCC and antenna height standards adopted by the Federal Aviation Administration. The City shall retain a consultant, at the sole expense of the permittee, to perform testing demonstrating compliance with current regulatory and operational standards. Tests shall occur upon commencement of operations and annually thereafter.
7. If the Director determines there is good cause to believe that the facility may emit radio frequency emissions that are likely to exceed FCC standards, the Director may require the permittee to submit a technically sufficient written report certified by a qualified radio frequency emissions engineer, certifying that the facility is in compliance with such FCC standards.
8. Permittee shall pay for and provide a performance bond, which shall be in effect until the facilities are fully and completely removed and the site reasonably returned to its original condition, to cover permittee's obligations under these conditions of approval and the Upland Municipal Code. The bond coverage shall include, but not be limited to, removal of the facility, maintenance obligations and landscaping obligations. The amount of the performance bond shall be set by the Director in an amount rationally related to the obligations covered by the bond and shall be specified in the conditions of approval.
9. Permittee shall defend, indemnify, protect and hold harmless the City, its elected and appointed Council members, boards, commissions, officers, officials, agents, consultants, employees, and volunteers from and against any and all claims, actions, or proceeding against the City and its elected and appointed council members, boards, commissions, officers, officials, agents, consultants, employees and volunteers to attack, set aside, void or annul, an approval of the City, Planning Commission or City Council concerning this permit and the project. Such indemnification shall include damages, judgments, settlements, penalties, fines, defensive costs or expenses, including, but not limited

to, interest, attorneys' fees and expert witness fees, or liability of any kind related to or arising from such claim, action, or proceeding. The City shall promptly notify the permittee of any claim, action, or proceeding. Nothing contained herein shall prohibit City from participating in a defense of any claim, action or proceeding. The City shall have the option of coordinating the defense, including, but not limited to, choosing counsel for the defense at permittee's expense.

10. All conditions of approval shall be binding as to the applicant and all successors in interest to permittee.
11. A condition setting forth the permit expiration date in accordance with Section 17.40.200 shall be included in the conditions of approval.

17.40.110 Additional conditions of approval for facilities in the public right-of-way.

- A. In addition to compliance with the requirements of this chapter, upon approval all facilities in the public right-of-way shall be subject to each of the conditions of approval set forth in Section 17.40.100, each of the following conditions of approval, and any modification of these conditions or additional conditions of approval deemed necessary by the reviewing authority:
 1. The wireless telecommunications facility shall be subject to such conditions, changes or limitations as are from time to time deemed necessary by the City engineer for the purpose of: (a) protecting the public health, safety, and welfare; (b) preventing interference with pedestrian and vehicular traffic; and (c) preventing damage to the public right-of-way or any property adjacent to it. The City may modify the permit to reflect such conditions, changes or limitations by following the same notice and public hearing procedures as are applicable to the grant of a wireless telecommunications facility permit for similarly located facilities, except the permittee shall be given notice by personal service or by registered or certified mail at the last address provided to the City by the permittee.
 2. The permittee shall not move, alter, temporarily relocate, change, or interfere with any existing structure, improvement or property without the prior consent of the owner of that structure, improvement or property. No structure, improvement or property owned by the City shall be moved to accommodate a wireless telecommunications facility unless the City determines that such movement will not adversely affect the City or any surrounding businesses or residents, and the permittee pays all costs and expenses related to the relocation of the City's structure, improvement or property. Prior to commencement of any work pursuant to an encroachment permit issued for any facility within the public right-of-way, the permittee shall provide the City with documentation establishing to the City's satisfaction that the permittee has the legal right to use or interfere with any other structure, improvement or

property within the public right-of-way to be affected by applicant's facilities.

3. The permittee shall assume full liability for damage or injury caused to any property or person by the facility.
4. The permittee shall repair, at its sole cost and expense, any damage including, but not limited to, subsidence, cracking, erosion, collapse, weakening, or loss of lateral support to City streets, sidewalks, walks, curbs, gutters, trees, parkways, street lights, traffic signals, improvements of any kind or nature, or utility lines and systems, underground utility line and systems, or sewer systems and sewer lines that result from any activities performed in connection with the installation or maintenance of a wireless telecommunications facility in the public right-of-way. The permittee shall restore such areas, structures and systems to the condition in which they existed prior to the installation or maintenance that necessitated the repairs. In the event the permittee fails to complete such repair within the number of days stated on a written notice by the Director, the Director shall cause such repair to be completed at permittee's sole cost and expense.
5. Prior to issuance of a building permit, the applicant shall obtain the Director's approval of a tree protection plan prepared by a certified arborist if the installation of the wireless telecommunication facility will be located within the canopy of a street tree, or a protected tree on private property, or within a 10-foot radius of the base of such a tree. Depending on site specific criteria (e.g., location of tree, size, and type of tree, etc.), a radius greater than 10 feet may be required by the Director.
6. Should any utility company offer electrical service that does not require the use of a meter cabinet, the permittee shall at its sole cost and expense remove the meter cabinet and any related foundation within 30 days of such service being offered and reasonably restore the area to its prior condition.
7. The permittee shall modify, remove, or relocate its facility, or portion thereof, without cost or expense to the City, if and when made necessary by:
 - a. Any public improvement project, including, but not limited to, the construction, maintenance, or operation of any underground or aboveground facilities including, but not limited to, sewers, storm drains, conduits, gas, water, electric or other utility systems, or pipes owned by the City or any other public agency;
 - b. Any abandonment of any street, sidewalk, or other public facility;

- c. Any change of grade, alignment or width of any street, sidewalk or other public facility; or
 - d. A determination by the Director that the wireless telecommunications facility has become incompatible with public health, safety or welfare or the public's use of the public right-of-way.
8. Any modification, removal, or relocation of the facility shall be completed within 90 days of written notification by the City unless exigencies dictate a shorter period for removal or relocation. Modification or relocation of the facility shall require submittal, review and approval of a permit amendment pursuant to the Upland Municipal Code. The permittee shall be entitled, on permittee's election, to either a pro-rata refund of fees paid for the original permit or to a new permit, without additional fee, at a location as close to the original location as the standards set forth in the Upland Municipal Code allow. In the event the facility is not modified, removed, or relocated within said period of time, the City may cause the same to be done at the sole cost and expense of permittee. Further, due to exigent circumstances as provided in the Upland Municipal Code, the City may modify, remove, or relocate wireless telecommunications facilities without prior notice to permittee provided permittee is notified within a reasonable period thereafter.
9. The applicant shall obtain all required traffic control permits prior to the installation or repair of a wireless communication facility.

17.40.120 Findings.

- A. Where a wireless telecommunication facility requires a conditional use permit under this chapter, the reviewing authority shall not approve any application unless, in addition to the findings generally applicable to all conditional use permits, all of the following additional findings are made:
- 1. The proposed facility complies with all applicable provisions of this chapter.
 - 2. The proposed facility has been designed and located to achieve compatibility with the community to the maximum extent reasonably feasible.
 - 3. The applicant has submitted a statement of its willingness to allow other carriers to collocate on the proposed wireless telecommunications facility wherever technically and economically feasible and where collocation would not harm community compatibility.
 - 4. Noise generated by equipment will not be excessive, annoying nor be detrimental to the public health, safety, and welfare and will not exceed the standards set forth in this chapter.

- B. In addition to the findings in subsection A of this section, approval of a wireless telecommunications facility permit for a facility that will be located in the public right-of-way may be granted only if the following findings are made by the reviewing authority:
 - 1. The applicant has provided substantial written evidence supporting the applicant's claim that it has the right to enter the public right-of-way pursuant to state or federal law, or the applicant has entered into a franchise or other agreement with the City permitting them to use the public right-of-way.
 - 2. The applicant has demonstrated that the facility will not interfere with the use of the public right-of-way, existing subterranean infrastructure, or the City's plans for modification or use of such location and infrastructure.

17.40.130 Exceptions.

- A. Exceptions pertaining to any provision of this chapter, including, but not limited to, exceptions from findings that would otherwise justify denial, may be granted by the reviewing authority if the reviewing authority makes the finding that:
 - 1. Denial of the facility as proposed would violate federal law, state law, or both; or
 - 2. A provision of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both.
- B. An applicant may only request an exception at the time of applying for a wireless telecommunications facility permit. The request must include both the specific provision(s) of this chapter from which the exception is sought and the basis of the request. Any request for an exception after the City has deemed an application complete shall be treated as a new application.
- C. Notwithstanding any other provision of this chapter, a conditional use permit shall be required for a facility when an exception is requested.
- D. The applicant shall have the burden of proving that denial of the facility as proposed would violate federal law, state law, or both, or that the provisions of this chapter, as applied to applicant, would deprive applicant of its rights under federal law, state law, or both, using the evidentiary standards required by that law at issue. The City shall have the right to hire an independent consultant, at the applicant's expense, to evaluate the issues raised by the exception request and shall have the right to submit rebuttal evidence to refute the applicant's claim.

17.40.140 Eligible facility requests covered under Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012.

- A. Purpose. Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112-96, codified in 47 U.S.C. Section 1455(a), generally requires that state and local governments “may not deny, and shall approve” requests to collocate, remove or replace transmission equipment at an existing tower or base station. Federal Communication Commission regulations interpret this statute and create procedural rules for local review, which generally preempt certain subjective land-use regulations, limit permit application content requirements and provide the applicant with a potential “deemed granted” remedy when the state or local government fails to approve or deny the request within 60 days after submittal (accounting for any tolling periods). Moreover, whereas Section 704 of the Telecommunications Act of 1996, Pub. L. 104-104, codified in 47 U.S.C. Section 332, applies to only “personal wireless service facilities” (e.g., cellular telephone towers and equipment), Section 6409(a) applies to all “wireless” facilities licensed or authorized by the FCC (e.g., cellular, Wi-Fi, satellite, microwave backhaul, etc.).

The overlap between wireless deployments covered under Section 6409(a) and other wireless deployments, combined with the different substantive and procedural rules applicable to such deployments, creates a potential for confusion that harms the public interest in both efficient wireless facilities deployment and carefully planned community development in accordance with local values. A separate permit application and review process specifically designed for compliance with Section 6409(a) contained in a section devoted to Section 6409(a) will mitigate such potential confusion, streamline local review and preserve the City’s land-use authority to the maximum extent possible.

- B. Applicability. This section applies to all collocations or modifications to an existing wireless tower or base station submitted with a written request for approval pursuant to Section 6409(a).
- C. Approval Required. Any request to collocate, replace or remove transmission equipment at an existing wireless tower or base station submitted with a written request for a Section 6409(a) approval shall be subject to the Director’s approval, conditional approval or denial without prejudice pursuant to the standards and procedures contained in this chapter.
- D. Other Regulatory Approvals. No collocation or modification approved under any Section 6409(a) approval may occur unless the applicant also obtains all other applicable permits or regulatory approvals from the City and state or federal agencies. Furthermore, any Section 6409(a) approval granted under this chapter shall remain subject to any and all lawful conditions or requirements associated with such other permits or regulatory approvals from the City and state or federal agencies.

- E. Application Requirement. The City shall not approve any wireless facility subject to this chapter except upon a duly filed application consistent with this section and any other written rules the City or the Director may establish from time to time. An application must include the information required by Section 17.40.050 and the following additional information:
 - 1. A title report prepared within the six months prior to the application filing date in order for the City verify the property owner's identity. If the applicant does not own the subject property, the application must include a written authorization signed by the property owner that empowers the applicant to file the application and perform all wireless facility construction, installation, operation and maintenance to the extent described in the application.
 - 2. A written statement that explains in plain factual detail whether and why Section 6409(a) and the related FCC regulations at 47 C.F.R. Section 1.40001 et seq., require approval for the specific project. A complete written narrative analysis will state the applicable standard and all the facts that allow the City to conclude the standard has been met. Bare conclusions not factually supported do not constitute a complete written analysis. As part of this written statement the applicant must also include: (a) whether and why the support structure qualifies as an existing tower or existing base station; and (b) whether and why the proposed collocation or modification does not cause a substantial change in height, width, excavation, equipment cabinets, concealment or permit compliance.

- F. Procedures for a Duly Filed Application. The City shall not review any application unless duly filed in accordance with this section, as follows:
 - 1. Pre-Submittal Conference. Before application submittal, applicants must schedule and attend a pre-application meeting with the Director for all proposed modifications submitted for approval pursuant to Section 6409(a). The pre-submittal conference is intended to streamline the review process through informal discussion that includes, without limitation, the appropriate project classification, including whether the project qualifies for Section 6409(a); any latent issues in connection with the existing tower or base station; potential concealment issues (if applicable); coordination with other City departments responsible for application review; and application completeness issues. To mitigate unnecessary delays due to application incompleteness, applicants are encouraged (but not required) to bring any draft applications or other materials so that City staff may provide informal feedback about whether such applications or other materials may be incomplete or unacceptable. The Director may, in the Director's discretion, grant a written exemption to the submittal appointment under Section 17.40.140(F)(2) or for a specific requirement for a complete application to any applicant who: (a) schedules, attends and fully participates in any pre-submittal conference; and (b) shows to the Director's

satisfaction that such specific requirement duplicates information already provided in other materials to be submitted or is otherwise unnecessary to the City's review under facts and circumstances in that particular case. Any written exemption will be limited to the project discussed at the pre-submittal conference and will not be extended to any other project.

2. **Submittal Appointment.** All applications must be filed with the City at a pre-scheduled appointment. Applicants may generally submit one application per appointment, but may schedule successive appointments for multiple applications whenever feasible and not prejudicial to other applicants. Any application received without an appointment, whether delivered in-person or through any other means, will not be considered duly filed unless the applicant received a written exemption from the Director at a pre-submittal conference.
3. **Appointment Scheduling Procedures.** For any event in the submittal process that requires an appointment, applicants must submit a written request to the Director. The Director shall endeavor to provide applicants with an appointment as soon as reasonably feasible and within five business days after a written request is received.
4. **Applications Deemed Withdrawn.** To promote efficient review and timely decisions, an application will be automatically deemed withdrawn by the applicant when the applicant fails to tender a substantive response to the City within 90 calendar days after the City deems the application incomplete in a written notice to the applicant. The Director may, in the Director's discretion, grant a written extension for up to an additional 30 calendar days when the applicant submits a written request prior to the 90th day that shows good cause to grant the extension. Delays due to circumstances outside the applicant's reasonable control will be considered good cause to grant the extension.
5. **Departmental Forms, Rules and Other Regulations.** The City Council authorizes the Director to develop and publish permit application forms, checklists, informational handouts and other related materials that the Director finds necessary, appropriate or useful for processing requests for Section 6409(a) approvals. Without further authorization from the City Council, the Director may, from time to time, update and alter any such permit application forms, checklists, informational handouts and other related materials as the Director deems necessary, appropriate or useful to respond to regulatory, technological or other changes related to this chapter. The City Council authorizes the Director to establish other reasonable rules and regulations, which may include, without limitation, regular hours for appointments with applicants, as the Director deems necessary or appropriate to organize, document and manage the application intake process.

- G. Administrative Review—Decision Notices. The Director shall administratively review an application for a Section 6409(a) approval and act on such an application without prior notice or a public hearing. Within five working days after the Director conditionally approves or denies an application submitted for Section 6409(a) approval or before the FCC timeframe for review expires (whichever occurs first), the Director shall send a written notice to the applicant. In the event that the Director determines that an application submitted for approval pursuant to Section 6409(a) does not qualify for approval, the Director will send written notice to the applicant that includes the reasons to support the review authority’s decision and states that the application will be automatically denied without prejudice on the 60th day after the date the application was filed unless the applicant withdraws the application.
- H. Required Findings for 6409(a) Approval. The Director may approve or conditionally approve an application submitted for Section 6409(a) approval when the Director finds that the proposed project:
 - 1. Involves collocation, removal or replacement of transmission equipment on an existing wireless tower or base station; and
 - 2. Does not substantially change the physical dimensions of the existing wireless tower or base station.
- I. Criteria for Denial Without Prejudice. Notwithstanding any other provisions in this chapter, and consistent with all applicable federal laws and regulations, the Director may deny without prejudice an application submitted for approval pursuant to Section 6409(a) when it finds that the proposed project:
 - 1. Does not satisfy the criteria for approval;
 - 2. Violates any legally enforceable standard or permit condition reasonably related to public health and safety then in effect; or
 - 3. Involves the replacement of the entire support structure.
- J. Conditional 6409(a) Approvals. Subject to any applicable limitations in federal or state law, nothing in this chapter is intended to limit the City’s authority to conditionally approve an application for a Section 6409(a) approval to protect and promote the public health, safety and welfare.
- K. Appeals. Notwithstanding any provision of the Upland Municipal Code to the contrary an applicant may appeal a decision by the Director to deny without prejudice a Section 6409(a) application. The appeal must be filed within 10 days from the Director’s decision. The appeal must state in plain terms the grounds for reversal and the facts that support those grounds. The City Manager shall serve as the appellate authority for all appeals of all actions of the Director taken pursuant to this section. The City shall provide notice for an administrative hearing by the City Manager. The City Manager shall limit its

review to whether the project should be approved or denied in accordance with the provisions in subsections H and I of this section. The decision of the City Manager shall be final and not subject to any further administrative appeals.

L. Standard Conditions of Approval. In addition to all other conditions adopted by the Director, all Section 6409(a) approvals, whether approved by the Director or deemed approved by the operation of law, shall be automatically subject to the following conditions in this section; provided, however, that the Director shall have discretion to modify or amend these conditions on a case-by-case basis as may be necessary or appropriate under the circumstances:

1. **Approved Plans.** Before the permittee submits any application for a building permit or other permits required by the Upland Municipal Code, the permittee must incorporate the wireless telecommunications facility permit granted under this section, all conditions associated with the wireless telecommunications facility permit and the approved plans and any photo simulations (the "approved plans") into the project plans. The permittee must construct, install and operate the wireless telecommunications facility in strict compliance with the approved plans. The permittee shall submit an as built drawing within 90 days after installation of the facility.
2. **Permit Term.** The City's grant or grant by operation of law of a Section 6409(a) approval constitutes a federally-mandated modification to the underlying permit or other prior regulatory authorization for the subject tower or base station. The City's grant or grant by operation of law of a Section 6409(a) approval will not extend the permit term, if any, for any conditional use permit, or other underlying prior regulatory authorization. Accordingly, the term for a Section 6409(a) approval shall be coterminous with the underlying permit or other prior regulatory authorization for the subject tower or base station.
3. **Accelerated Permit Terms Due to Invalidation.** In the event that any court of competent jurisdiction invalidates any portion of Section 6409(a) or any FCC rule that interprets Section 6409(a) such that federal law would not mandate approval for any Section 6409(a) approval, such 6409(a) approvals shall automatically expire one year from the effective date of the judicial order, unless the decision would not authorize accelerated termination of previously approved Section 6409(a) approvals or the Director grants an extension upon written request from the permittee that shows good cause for the extension, which includes, without limitation, extreme financial hardship. Notwithstanding anything in the previous sentence to the contrary, the Director may not grant a permanent exemption or indefinite extension. A permittee shall not be required to remove its improvements approved under the invalidated Section 6409(a) approval when it has submitted an application for a conditional use permit for those improvements before the one-year period ends.

4. No Waiver of Standing. The City's grant or grant by operation of law of a Section 6409(a) approval does not waive, and shall not be construed to waive, any standing by the City to challenge Section 6409(a), any FCC rules that interpret Section 6409(a) or any Section 6409(a) approval.
5. Build-Out Period. The Section 6409(a) approval will automatically expire one year from the issuance date unless the permittee obtains all other permits and approvals required to install, construct and operate the approved wireless facility, which includes without limitation any permits or approvals required by the any federal, state or local public agencies with jurisdiction over the subject property, the wireless facility or its use. The Director may grant one written extension to a date certain when the permittee shows good cause to extend the limitations period in a written request for an extension submitted at least 30 days prior to the automatic expiration date in this condition. Any further extensions may be granted by the Planning Commission.
6. Maintenance Obligations—Vandalism. The permittee shall keep the site, which includes, without limitation, any and all improvements, equipment, structures, access routes, fences and landscape features, in a neat, clean and safe condition in accordance with the approved plans and all conditions in this Section 6409(a) approval. The permittee shall keep the site area free from all litter and debris at all times. The permittee, at no cost to the City, shall remove and remediate any graffiti or other vandalism at the site within 48 hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.
7. Compliance with Laws. The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law ("laws") applicable to the permittee, the subject property, the wireless facility or any use or activities in connection with the use authorized in this Section 6409(a) approval. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee's obligations to maintain compliance with all laws.
8. Adverse Impacts on Other Properties. The permittee shall use all reasonable efforts to avoid any and all undue or unnecessary adverse impacts on nearby properties that may arise from the permittee's construction, installation, operation, modification, maintenance, repair, removal or other activities at the site. The permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines on any day and at any time prohibited under the Upland Municipal Code. The restricted work hours in this

condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the City. The Director may issue a stop work order for any work that violates this condition.

9. Noise Complaints. The permittee shall conduct all activities on the site in compliance with the noise standards in the Upland Municipal Code. In the event that any person files a noise complaint and the City verifies that such complaint is valid, the permittee must remedy the violation within 10 days after notice from the City, which may include a demonstration that the permittee has amended its operational guidelines in situations where the violation arises from the permittee's personnel rather than the permittee's equipment.
10. Inspections—Emergencies. The permittee expressly acknowledges and agrees that the City or its designee may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the permittee; provided, however, that the City or its designee may, but will not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The permittee will be permitted to supervise the City or its designee while such inspection or emergency access occurs.
11. Contact Information. The permittee shall furnish the City with accurate and up-to-date contact information for a person responsible for the wireless facility, which includes, without limitation, such person's full name, title, direct telephone number, facsimile number, mailing address and email address. The permittee shall keep such contact information up-to-date at all times.
12. Indemnification. The permittee and, if applicable, the property owner upon which the wireless facility is installed shall defend, indemnify and hold harmless the City, its agents, officers, officials, employees and volunteers from any and all: (a) damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs and other actions or proceedings ("claims") brought against the City or its agents, officers, officials, employees or volunteers to challenge, attack, seek to modify, set aside, void or annul the City's approval of this Section 6409(a) approval; and (b) other claims any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the permittee's or its agents', directors', officers', employees', contractors', subcontractors', licensees', or customers' acts or omissions in connection with this Section 6409(a) approval or the wireless facility. In the event the City becomes aware any claims, the City will use best efforts to promptly notify the permittee and the private property owner and shall reasonably cooperate in the defense. The permittee expressly acknowledges and agrees that the City

shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the property owner or permittee (as applicable) shall promptly reimburse the City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. The permittee expressly acknowledges and agrees that the permittee's indemnification obligations under this condition are a material consideration that motivates the City to approve this Section 6409(a) approval, and that such indemnification obligations will survive the expiration or revocation of this Section 6409(a) approval.

13. Performance Bond. Before the City issues any construction permit in connection with the wireless facility, the permittee shall post a performance bond from a surety and in a form acceptable to the City Manager in an amount equal to or greater than a written estimate from a qualified contractor with experience in wireless facilities removal. The written estimate must include the cost to remove all equipment and other improvements, which includes, without limitation, all antennas, radios, batteries, generators, utilities, cabinets, mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles, footings and foundations, whether above ground or below ground, constructed or installed in connection with the wireless facility. In establishing or adjusting the bond amount required under this condition, and in accordance with California Government Code Section 65964(a), the City Manager shall take into consideration information provided by the permittee regarding the cost to remove the wireless facility.
14. Record Retention. The permittee must maintain complete and accurate copies of all permits and other regulatory approvals issued in connection with the wireless facility, which includes, without limitation, this approval, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval and any ministerial permits or approvals issued in connection with this approval. In the event that the permittee does not maintain such records as required in this condition, any ambiguities or uncertainties that would be resolved through an inspection of the missing records will be construed against the permittee.
15. Compliance Obligations. An applicant or permittee will not be relieved of its obligation to comply with every applicable provision in the Upland Municipal Code, any permit, any permit condition or any applicable law or regulation by reason of any failure by the City to timely notice, prompt or enforce compliance by the applicant or permittee.

17.40.150 Collocation facilities covered under California Government Code Section 65850.6.

- A. Purpose. The purpose of this section is to comply with an application for a wireless telecommunications collocation facility under California Government

Code Section 65850.6, for which a Section 6409(a) approval is not being requested. This section provides the requirements, standards and regulations for a wireless telecommunications collocation facility for which subsequent collocation is a permitted use pursuant to California law. Only those facilities that fully comply with the eligibility requirements set forth in California Government Code Section 65850.6, or its successor provision, and which strictly adhere to the requirements and regulations set forth in this section shall qualify as a wireless telecommunications collocation facility.

B. Definitions. For the purposes of this section, the following terms are defined as follows:

1. "Collocation facility" means the placement or installation of wireless facilities, including antennas, and related equipment, on, or immediately adjacent to, a wireless telecommunications collocation facility.
2. "Wireless telecommunications facility" means equipment and network components such as towers, utility poles, transmitters, base stations, and emergency power systems that are integral to providing wireless telecommunications services.
3. "Wireless telecommunications collocation facility" means a wireless telecommunications facility that includes collocation facilities.

C. Procedures. An application for a wireless telecommunications collocation facility under California Government Code Section 65850.6 shall be processed in the same manner as an application for Section 6409(a) approval is processed, except that where the process requires justification for the Section 6409(a) approval, the applicant shall instead provide the justification for a wireless telecommunications collocation facility under California Government Code Section 65850.6.

D. Requirements. All requirements, regulations, and standards set forth in this chapter for a wireless telecommunications facility shall apply to a wireless telecommunications collocation facility; provided, however, the following shall also apply to a wireless telecommunications collocation facility:

1. The applicant for a wireless telecommunications collocation facility permit shall describe or depict:
 - a. The wireless telecommunications collocation facility as it will be initially built; and
 - b. All collocations at full build-out, including, but not limited to, all antennas, antenna support structures, and accessory equipment.
2. Any collocation shall use screening methods substantially similar to those used on the existing wireless telecommunications facilities unless

other optional screening methods are specified in the conditions of approval.

3. A wireless telecommunications collocation facility permit shall not be approved unless an environmental impact report, negative declaration, or mitigated negative declaration was prepared and approved for the wireless telecommunications collocation facility.
- E. Permitted Use. Notwithstanding any other provision of this chapter, a subsequent collocation on a wireless telecommunications collocation facility shall be a permitted use only if all of the following requirements are satisfied:
1. The wireless telecommunications collocation facility:
 - a. Was approved after January 1, 2007, by discretionary permit;
 - b. Was approved subject to an environmental impact report, negative declaration, or mitigated negative declaration; and
 - c. Otherwise complies with the requirements of California Government Code Section 65850.6(b), or its successor provision, for addition of a collocation facility to a wireless telecommunications collocation facility, including, but not limited to, compliance with all performance and maintenance requirements, regulations and standards in this chapter and the conditions of approval in the wireless telecommunications collocation facility permit.
 2. The collocations were specifically considered when the relevant environmental document was prepared for the wireless telecommunications collocation facility.
 3. Before collocation, the applicant seeking collocation shall obtain all other applicable non-discretionary permits, as required pursuant to the Upland Municipal Code.
- F. New or Amended Permit. Except as otherwise provided above, approval of a new or amended permit shall be required when the facility is modified other than by collocation in accordance with this section, or the proposed collocation:
1. Increases the height of the existing permitted telecommunications tower or otherwise changes the bulk, size, location, or any other physical attributes of the existing permitted wireless telecommunications collocation facility unless specifically permitted under the conditions of approval applicable to such wireless telecommunications collocation facility; or
 2. Adds any microwave dish or other antenna not expressly permitted to be included in a collocation facility by the conditions of approval.

- G. Appeals. Notwithstanding any provision of the Upland Municipal Code to the contrary, including, but not limited to, Section 20.62.060, any applicant may appeal a decision by the Director. The appeal must be filed within 10 days from the Director's decision. The appeal must state in plain terms the grounds for reversal and the facts that support those grounds. The City Manager shall serve as the appellate authority for all appeals of all actions of the Director taken pursuant to this section. The City shall provide notice for an administrative hearing by the City Manager. The City Manager shall limit its review to whether the project should be approved or denied in accordance with the provisions in this section. The decision of the City Manager shall be final and not subject to any further administrative appeals.

17.40.160 Small Wireless facilities.

- A. Purpose. This section 17.40.160 has been established to implement the requirements of the restrictions imposed on the City's ability to regulate small wireless facilities by the Declaratory Ruling and Third Report and Order, FCC 18-133 by the Federal Communications Commission ("FCC") and regulations subsequently adopted pursuant thereto (collectively for purposes of this Section referred to as the "Small Cell Order"), which significantly curtailed local authority over wireless and wireline communication facilities reserved to State and local governments under sections 253 and 704 in the federal Telecommunications Act. This section therefore establishes reasonable, uniform and comprehensive standards and procedures for small wireless facility deployment, construction, installation, collocation, modification, operation, relocation and removal within the City's territorial boundaries, consistent with and to the extent permitted under federal and California state law.

The overlap between wireless deployments covered by the Small Cell Order and other wireless deployments, combined with the different substantive and procedural rules applicable to such deployments, creates a potential for confusion that harms the public interest in both efficient wireless facilities deployment and carefully planned community development in accordance with local values. A separate permit application and review process specifically designed for compliance with the Small Cell Order contained in a section devoted to small wireless facilities will mitigate such potential confusion, streamline local review and preserve the City's land-use authority to the maximum extent possible.

- B. Applicability. This section applies to all small wireless facilities, whether or not located in the public right-of-way. Small wireless facilities are subject to all requirements of this Chapter to the extent not in conflict with the requirements of this section. In the event of any conflict between the provisions of this section 17.40.160 and another provisions of this Chapter, the provisions of this section 17.40.160 shall apply. No person shall construct, install, attach, operate, collocate, modify, reconstruct, relocate, remove, or otherwise deploy any small wireless facility in violation of this Section 17.40.160.

- C. Decision Making Authority. The Director shall be the decision making authority for all small wireless facilities.
- D. Other Regulatory Approvals. No approval under this section shall be effective unless and until the applicant also obtains all other applicable permits or regulatory approvals from the City and state or federal agencies. Furthermore, any small wireless facility approval granted under this chapter shall remain subject to any and all lawful conditions or requirements associated with such other permits or regulatory approvals from the City and state or federal agencies.
- E. Application Requirement. The City shall not approve any small wireless facility subject to this chapter except upon a duly filed application consistent with this section and any other written rules the City or the Director may establish and publish from time to time. An application must include the information required by Section 17.40.050 and the following additional information:
 - 1. A title report prepared within the six months prior to the application filing date in order for the City verify the property owner's identity. If the applicant does not own the subject property, the application must include a written authorization signed by the property owner that empowers the applicant to file the application and perform all wireless facility construction, installation, operation and maintenance to the extent described in the application. This paragraph shall apply to applications for small wireless facilities to be located in the public right-of-way.
 - 2. A written statement that explains in plain factual detail whether and why the proposed wireless facility qualifies as a small wireless facility. A complete written narrative analysis will state the applicable standard and all the facts that allow the City to conclude the standard has been met. Bare conclusions not factually supported do not constitute a complete written analysis. As part of this written statement the applicant must also include: (a) whether and why the support structure qualifies as an existing tower or existing base station; and (b) whether and why the proposed collocation or modification does not cause a substantial change in height, width, excavation, equipment cabinets, concealment or permit compliance.
- F. Procedures for a Duly Filed Application. The City shall not review any application unless duly filed in accordance with all mandatory requirements of the following procedures:
 - 1. Pre-Submittal Conference. The City encourages, but does not require, potential applicants to schedule and attend a pre-submittal conference with the approval authority for all proposed projects that involve small wireless facilities. A voluntary pre-submittal conference is intended to streamline the review process through informal discussion between the potential applicant and staff that includes, without limitation, the

appropriate project classification and review process; any latent issues in connection with the proposed project, including compliance with generally applicable rules for public health and safety; potential concealment issues or concerns (if applicable); coordination with other City departments responsible for application review; and application completeness issues.

2. **Submittal Appointment.** All applications must be submitted to the City at a pre-scheduled appointment with the approval authority. Potential applicants may generally submit either one application or one batched application per appointment as provided below. Potential applicants may schedule successive appointments for multiple applications whenever feasible and not prejudicial to other applicants for any other development project. The approval authority shall use reasonable efforts to offer an appointment within five working days after the approval authority receives a written request from a potential applicant. Any purported application received without an appointment, whether delivered in-person, by mail or through any other means, will not be considered duly filed, whether the City retains, returns or destroys the materials received.
3. **Batched Applications.** Applicants may submit applications individually or in a batch; provided, that the number of small wireless facilities in a batch should be limited to five and all facilities in the batch should be substantially the same with respect to equipment, configuration, and support structure. Applications submitted as a batch shall be reviewed together, provided that each application in the batch must meet all the requirements for a complete application, which includes without limitation the application fee for each application in the batch. If any individual application within a batch is deemed incomplete, the entire batch shall be automatically deemed incomplete. If any application is withdrawn or deemed withdrawn from a batch, all other applications in the same batch shall be automatically deemed withdrawn. If any application in a batch fails to meet the required findings for approval, the entire batch shall be denied.
3. **Appointment Scheduling Procedures.** For any event in the submittal process that requires an appointment, applicants must submit a written request to the Director. The Director shall endeavor to provide applicants with an appointment as soon as reasonably feasible and within five business days after a written request is received.
4. **Applications Deemed Withdrawn.** To promote efficient review and timely decisions, an application will be automatically deemed withdrawn by the applicant when the applicant fails to tender a substantive response to the City within 90 calendar days after the City deems the application incomplete in a written notice to the applicant. The Director may, in the Director's discretion, grant a written extension for up to an additional 30 calendar days when the applicant submits a written request prior to

the 90th day that shows good cause to grant the extension. Delays due to circumstances outside the applicant's reasonable control will be considered good cause to grant the extension.

5. Departmental Forms, Rules and Other Regulations. The City Council authorizes the Director to develop and publish permit application forms, checklists, informational handouts and other related materials that the Director finds necessary, appropriate or useful for processing requests for small wireless facility approvals. Without further authorization from the City Council, the Director may, from time to time, update and alter any such permit application forms, checklists, informational handouts and other related materials as the Director deems necessary, appropriate or useful to respond to regulatory, technological or other changes related to this chapter. The City Council authorizes the Director to establish other reasonable rules and regulations, which may include, without limitation, regular hours for appointments with applicants, as the Director deems necessary or appropriate to organize, document and manage the application intake process. Until such time following the enactment of this Section that the Director establishes such rules and regulations, all small wireless facility applications shall be subject to the application, review, and other procedural requirements found in
- G. Administrative Review—Decision Notices. The Director shall administratively review an application for a small wireless facility approval and act on such an application without prior notice or a public hearing. Within five working days after the Director conditionally approves or denies an application submitted for small wireless facility approval or before the FCC timeframe for review expires (whichever occurs first), the Director shall send a written notice to the applicant. In the event that the Director determines that an application submitted for approval does not qualify for approval, the Director will send written notice to the applicant that includes the reasons to support the review authority's decision and states that the application will be automatically denied without prejudice on the 60th day after the date the application was filed unless the applicant withdraws the application.
- H. Required Findings for Small Wireless Facility Approval. The Director may approve or conditionally approve an application submitted for approval when the Director finds that the proposed project:
1. The proposed project meets the definition for a "small wireless facility" as defined by the FCC;
 2. The proposed facility would be in the most preferred location within 500 feet from the proposed site in any direction or the applicant has demonstrated with clear and convincing evidence in the written record that any more-preferred location(s) within 500 feet would be technically infeasible;

3. The proposed facility would not be located on a prohibited support structure identified in this Policy
 4. The proposed facility would be on the most preferred support structure within 500 feet from the proposed site in any direction or the applicant has demonstrated with clear and convincing evidence in the written record that any more-preferred support structure(s) within 500 feet would be technically infeasible;
 5. The proposed facility complies with all applicable design standards in this Policy;
 6. The applicant has demonstrated that the proposed project will be in planned compliance with all applicable FCC regulations and guidelines for human exposure to RF emissions.
- I. Conditional Small Wireless Facility Approvals. Subject to any applicable limitations in federal or state law, nothing in this chapter is intended to limit the City's authority to conditionally approve an application for a small wireless facility approval to protect and promote the public health, safety and welfare.
- K. Appeals. Any decision by the Director shall be final and not subject to any administrative appeals.
- L. Standard Conditions of Approval. In addition to all other conditions adopted by the Director, all small wireless facility approvals, whether approved by the Director or deemed approved by the operation of law, shall be automatically subject to the following conditions in this section; provided, however, that the Director shall have discretion to modify or amend these conditions on a case-by-case basis as may be necessary or appropriate under the circumstances:
1. Approved Plans. Before the permittee submits any application for a building permit or other permits required by the Upland Municipal Code, the permittee must incorporate the wireless telecommunications facility permit granted under this section, all conditions associated with the wireless telecommunications facility permit and the approved plans and any photo simulations (the "approved plans") into the project plans. The permittee must construct, install and operate the wireless telecommunications facility in strict compliance with the approved plans. The permittee shall submit an as built drawing within 90 days after installation of the facility.
 2. Permit Term. The small wireless facility permit will automatically expire 10 years and one day from its issuance unless California Government Code § 65964(b) authorizes the City to establish a shorter term for public safety reasons. Any other permits or approvals issued in connection with any collocation, modification or other change to the small wireless facility, which includes without limitation any permits or other approvals deemed-granted or deemed-approved under federal or

state law, will not extend the term limit unless expressly provided otherwise in such permit or approval or required under federal or state law.

3. **Permit Renewal.** Within one (1) year before the expiration date of this permit, the permittee may submit an application for permit renewal. To be eligible for renewal, the permittee must demonstrate that the subject wireless facility is in compliance with all the conditions of approval associated with this permit and all applicable provisions in the Upland Municipal Code and this Policy that exist at the time the decision to renew the permit is rendered. The approval authority shall have discretion to modify or amend the conditions of approval for permit renewal on a case-by-case basis as may be necessary or appropriate to ensure compliance with this Policy. Upon renewal, this permit will automatically expire 10 years and one day from its issuance, except when California Government Code § 65964(b), as may be amended or superseded in the future, authorizes the City to establish a shorter term for public safety reasons.
4. **Accelerated Permit Terms Due to Invalidation.** In the event that any court of competent jurisdiction invalidates any provision of federal law such that federal law would not mandate approval of the small wireless facility approved by the City, such approval shall automatically expire one year from the effective date of the applicable judicial order, unless the decision would not authorize accelerated termination of previously approved small wireless facility approvals or the Director grants an extension upon written request from the permittee that shows good cause for the extension, which includes, without limitation, extreme financial hardship. Notwithstanding anything in the previous sentence to the contrary, the Director may not grant a permanent exemption or indefinite extension. A permittee shall not be required to remove its improvements approved under the invalidated small wireless facility approval when it has submitted an application for a conditional use permit for those improvements before the one-year period ends.
5. **No Waiver of Standing.** The City's approval does not waive, and shall not be construed to waive, any standing by the City to challenge any FCC rules that apply to small wireless facilities or any Small wireless facility approval.
6. **Build-Out Period.** The small wireless facility approval will automatically expire one year from the issuance date unless the permittee obtains all other permits and approvals required to install, construct and operate the approved wireless facility, which includes without limitation any permits or approvals required by the any federal, state or local public agencies with jurisdiction over the subject property, the wireless facility or its use. The Director may grant one written extension to a date certain when the permittee shows good cause to extend the limitations period in a written request for an extension submitted at least 30 days prior to

the automatic expiration date in this condition. Any further extensions may be granted by the Planning Commission.

7. **Post-Installation Certification.** Within 60 calendar days after the permittee commences full, unattended operations of a small wireless facility approved or deemed-approved, the permittee shall provide the approval authority with documentation reasonably acceptable to the approval authority that the small wireless facility has been installed and/or constructed in strict compliance with the approved construction drawings and photo simulations. Such documentation shall include without limitation as-built drawings, and site photographs.
8. **Maintenance Obligations; Vandalism.** The permittee shall keep the site, which includes, without limitation, any and all improvements, equipment, structures, access routes, fences and landscape features, in a neat, clean and safe condition in accordance with the approved plans and all conditions in this Small wireless facility approval. The permittee shall keep the site area free from all litter and debris at all times. The permittee, at no cost to the City, shall remove and remediate any graffiti or other vandalism at the site within 48 hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.
7. **Compliance with Laws.** The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law ("laws") applicable to the permittee, the subject property, the wireless facility or any use or activities in connection with the use authorized in this Small wireless facility approval. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee's obligations to maintain compliance with all laws.
9. **Adverse Impacts on Other Properties.** The permittee shall use all reasonable efforts to avoid any and all undue or unnecessary adverse impacts on nearby properties that may arise from the permittee's construction, installation, operation, modification, maintenance, repair, removal or other activities at the site. The permittee shall not perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines on any day and at any time prohibited under the Upland Municipal Code. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the City. The Director may issue a stop work order for any work that violates this condition.

10. Inspections; Emergencies. The permittee expressly acknowledges and agrees that the City or its designee may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the permittee; provided, however, that the City or its designee may, but will not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The permittee will be permitted to supervise the City or its designee while such inspection or emergency access occurs.
11. Contact Information. The permittee shall furnish the City with accurate and up-to-date contact information for a person responsible for the small wireless facility, which includes, without limitation, such person's full name, title, direct telephone number, facsimile number, mailing address and email address. The permittee shall keep such contact information up-to-date at all times.
12. Indemnification. The permittee and, if applicable, the property owner upon which the wireless facility is installed shall defend, indemnify and hold harmless the City, its agents, officers, officials, employees and volunteers from any and all: (a) damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs and other actions or proceedings ("claims") brought against the City or its agents, officers, officials, employees or volunteers to challenge, attack, seek to modify, set aside, void or annul the City's approval of this small wireless facility approval; and (b) other claims any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the permittee's or its agents', directors', officers', employees', contractors', subcontractors', licensees', or customers' acts or omissions in connection with this Small wireless facility approval or the wireless facility. In the event the City becomes aware any claims, the City will use best efforts to promptly notify the permittee and the private property owner and shall reasonably cooperate in the defense. The permittee expressly acknowledges and agrees that the City shall have the right to approve, which approval shall not be unreasonably withheld, the legal counsel providing the City's defense, and the property owner or permittee (as applicable) shall promptly reimburse the City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. The permittee expressly acknowledges and agrees that the permittee's indemnification obligations under this condition are a material consideration that motivates the City to approve this small wireless facility approval, and that such indemnification obligations will survive the expiration or revocation of this Small wireless facility approval.
13. Performance Bond. Before the City issues any construction permit in connection with the small wireless facility, the permittee shall post a performance bond from a surety and in a form acceptable to the City

Manager in an amount equal to or greater than a written estimate from a qualified contractor with experience in wireless facilities removal. The written estimate must include the cost to remove all equipment and other improvements, which includes, without limitation, all antennas, radios, batteries, generators, utilities, cabinets, mounts, brackets, hardware, cables, wires, conduits, structures, shelters, towers, poles, footings and foundations, whether above ground or below ground, constructed or installed in connection with the wireless facility. In establishing or adjusting the bond amount required under this condition, and in accordance with California Government Code Section 65964(a), the City Manager shall take into consideration information provided by the permittee regarding the cost to remove the wireless facility.

14. Permit Revocation. The approval authority may recall the small wireless facility approval for review at any time due to complaints about noncompliance with applicable laws or any approval conditions attached to the approval after notice and an opportunity to cure the violation is provided to the permittee. If the noncompliance thereafter continues, the Director may, following notice and an opportunity for the permittee to be heard (which hearing may be limited to written submittals), revoke the approval or amend the conditions of approval as the Director deems necessary or appropriate to correct any such noncompliance.
15. Record Retention. The permittee must maintain complete and accurate copies of all permits and other regulatory approvals issued in connection with the small wireless facility, which includes, without limitation, this approval, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval and any ministerial permits or approvals issued in connection with this approval. In the event that the permittee does not maintain such records as required in this condition, any ambiguities or uncertainties that would be resolved through an inspection of the missing records will be construed against the permittee.
16. Compliance Obligations. An applicant or permittee will not be relieved of its obligation to comply with every applicable provision in the Upland Municipal Code, any permit, any permit condition or any applicable law or regulation by reason of any failure by the City to timely notice, prompt or enforce compliance by the applicant or permittee.
17. Abandoned Wireless Facilities. A small wireless facility shall be deemed abandoned if not operated for any continuous six-month period. Within 90 days after a small wireless facility is abandoned or deemed abandoned, the permittee shall completely remove the small wireless facility and all related improvements and shall restore all affected areas to a condition compliant with all applicable laws, which includes without limitation the Upland Municipal Code. In the event that the permittee does not comply with the removal and restoration obligations under this condition within said 90-day period, the City shall have the right (but

not the obligation) to perform such removal and restoration with or without notice, and the permittee shall be liable for all costs and expenses incurred by the City in connection with such removal and/or restoration activities.

18. Landscaping. The permittee shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the permittee or at the permittee's direction on or about the site. If any trees are damaged or displaced, the permittee shall hire and pay for a licensed arborist to select, plant and maintain replacement landscaping in an appropriate location for the species. Only workers under the supervision of a licensed arborist shall be used to install the replacement tree(s). Any replacement tree must be substantially the same size as the damaged tree unless otherwise approved by the approval authority. The permittee shall, at all times, be responsible to maintain any replacement landscape features.
19. Cost Reimbursement (Applicable to small wireless facilities within public rights-of-way). The permittee is deemed to have acknowledged and agreed that (i) the permittee's request for authorization to construct, install and/or operate small the wireless facility will cause the City to incur costs and expenses; (ii) the permittee shall be responsible to reimburse the City for all costs incurred in connection with the permit, which includes without limitation costs related to application review, permit issuance, site inspection and any other costs reasonably related to or caused by the request for authorization to construct, install and/or operate the small wireless facility; (iii) any application fees required for the application may not cover all such reimbursable costs and that the permittee shall have the obligation to reimburse City for all such costs 10 days after a written demand for reimbursement and reasonable documentation to support such costs; and (iv) the City shall have the right to withhold any permits or other approvals in connection with the small wireless facility unless and until any outstanding costs have been reimbursed to the City by the permittee.
20. Future Undergrounding Programs (Applicable to small wireless facilities within public rights-of-way). Notwithstanding any term remaining on any small wireless facility approval, if other utilities or communications providers in the public rights-of-way underground their facilities in the segment of the public rights-of-way where the permittee's small wireless facility is located, the permittee must also underground its equipment, except the antennas and any approved electric meter, at approximately the same time. Accessory equipment such as radios and computers that require an environmentally controlled underground vault to function shall not be exempt from this condition. Small wireless facilities installed on wood utility poles that will be removed pursuant to the undergrounding program may be reinstalled on a streetlight that complies with the City's standards and specifications. Such

undergrounding shall occur at the permittee's sole cost and expense except as may be reimbursed through tariffs approved by the state public utilities commission for undergrounding costs.

21. Electric Meter Upgrades (Applicable to small wireless facilities within public rights-of-way.) If the commercial electric utility provider adopts or changes its rules obviating the need for a separate or ground-mounted electric meter and enclosure, the permittee on its own initiative and at its sole cost and expense shall remove the separate or ground-mounted electric meter and enclosure. Prior to removing the electric meter, the permittee shall apply for any encroachment and/or other ministerial permit(s) required to perform the removal. Upon removal, the permittee shall restore the affected area to its original condition that existed prior to installation of the equipment.
22. Rearrangement and Relocation (Applicable to small wireless facilities within public rights-of-way). The permittee shall be deemed to have acknowledged and agreed that the City, in its sole discretion and at any time, may: (i) change any street grade, width or location; (ii) add, remove or otherwise change any improvements in, on, under or along any street owned by the City or any other public agency, which includes without limitation any sewers, storm drains, conduits, pipes, vaults, boxes, cabinets, poles and utility systems for gas, water, electric or telecommunications; and/or (iii) perform any other work deemed necessary, useful or desirable by the City (collectively, "City work"). The City reserves the rights to do any and all City work without any admission on its part that the City would not have such rights without the express reservation in this small cell permit. If the Public Works Director determines that any City work will require the permittee's small wireless facility located in the public rights-of-way to be rearranged and/or relocated, the permittee shall, at its sole cost and expense, do or cause to be done all things necessary to accomplish such rearrangement and/or relocation. If the permittee fails or refuses to either permanently or temporarily rearrange and/or relocate the permittee's small wireless facility within a reasonable time after the Public Works Director's notice, the City may (but will not be obligated to) cause the rearrangement or relocation to be performed at the permittee's sole cost and expense. The City may exercise its rights to rearrange or relocate the permittee's small wireless facility without prior notice to permittee when the Public Works Director determines that the City work is immediately necessary to protect public health or safety. The permittee shall reimburse the City for all costs and expenses in connection with such work within 10 days after a written demand for reimbursement and reasonable documentation to support such costs.

M. Location Requirements.

1. Preface to Location Requirements. To better assist applicants and decision makers to understand and respond to the community's

aesthetic preferences and values, subsections (b) and (c) set out listed preferences for locations and support structures to be used in connection with small wireless facilities in an ordered hierarchy. Applications that involve less-preferred locations or structures may be approved so long as the applicant demonstrates that either (1) no more preferred locations or structures exist within 500 feet from the proposed site; or (2) any more preferred locations or structures within 500 feet from the proposed site would be technically infeasible as supported by clear and convincing evidence in the written record. Subsection (d) identifies "prohibited" support structures on which the City shall not approve any small cell permit application for any competitor or potential competitor.

2. Locational Preferences. The City prefers small wireless facilities to be installed in locations, ordered from most preferred to least preferred, as follows:
 - a. In the GI (General Industrial) zoning district,
 - b. In the LI (Light Industrial) zoning district,
 - c. In the RC (Regional Commercial) zoning district,
 - d. In the C/I-MU (Commercial/Industrial Mixed-Use) zoning district,
 - e. In the HC (Highway Commercial) zoning district,
 - f. In the HC (Highway Commercial) land use designation in the Colonies Specific Plan,
 - g. In the C/O-MU (Commercial/Office Mixed-Use) zoning district,
 - h. In the NC (Neighborhood Commercial) zoning district,
 - i. In the NC (Neighborhood Commercial) land use designation in the Colonies Specific Plan,
 - j. In the Commercial land use designation in the Park View Specific Plan,
 - k. In the C/R-MU (Commercial/Residential Mixed-Use) zoning district,

- l. In the B/R-MU (Business/Residential Mixed-Use) zoning district,
- m. In the OP (Office Professional) zoning district,
- n. In the public right-of-way with the closest adjacent district being GI (General Industrial) zoning district,
- o. In the public right-of-way with the closest adjacent district being LI (Light Industrial) zoning district,
- p. In the public right-of-way with the closest adjacent district being RC (Regional Commercial) zoning district,
- q. In the public right-of-way with the closest adjacent district being C/I-MU (Commercial/Industrial Mixed-Use) zoning district,
- r. In the public right-of-way with the closest adjacent district being HC (Highway Commercial) zoning district,
- s. In the public right-of-way with the closest adjacent district being HC (Highway Commercial) land use designation in the Colonies Specific Plan,
- t. In the public right-of-way with the closest adjacent district being C/O-MU (Commercial/Office Mixed-Use) zoning district,
- u. In the public right-of-way with the closest adjacent district being NC (Neighborhood Commercial) zoning district,
- v. In the public right-of-way with the closest adjacent district being NC (Neighborhood Commercial) land use designation in the Colonies Specific Plan,
- w. In the public right-of-way with the closest adjacent district being the Commercial land use designation in the Park View Specific Plan,
- x. In the public right-of-way with the closest adjacent district being C/R-MU (Commercial/Residential Mixed-Use) zoning district,
- y. In the public right-of-way with the closest adjacent district being B/R-MU (Business/Residential Mixed-Use) zoning district,
- z. In the public right-of-way with the closest adjacent district being OP (Office Professional) zoning district,

- aa. In the public right-of-way with the closest adjacent district being the RM (Residential Multi-family) zoning district,
 - bb. Any public right-of-way location that abuts the property line of a structure within a designated local, State or federal historic district,
 - cc. Any parcel or right-of-way within 500 feet of a school site.
3. Support Structures in Public Rights-of-Way. The City prefers small wireless facilities to be installed on support structures in the public rights-of-way, ordered from most preferred to least preferred, as follows:
- a. Existing or replacement streetlight poles;
 - b. New, non-replacement streetlight poles;
 - c. New or replacement traffic signal poles;
 - e. New, non-replacement poles;
 - f. Existing or replacement wood utility poles.
4. Prohibited Support Structures in Public Rights-of-Way. The City prohibits small wireless facilities to be installed on the following support structures:
- a. Decorative poles;
 - b. Signs;
 - c. Any utility pole scheduled for removal or relocation within 12 months from the time the approval authority acts on the small cell permit application;
 - d. New, non-replacement wood poles.
 - e. Any pole mounted facility within 1,500 of an existing pole mounted facility.
- N. Design Standards for all Small Wireless Facilities
- 1. Noise. Noise emitted from small wireless facilities and all accessory equipment and transmission equipment must comply with all applicable City noise control standards.
 - 2. Lights. Small wireless facilities shall not include any lights that would be visible from publicly accessible areas, except as may be required under

Federal Aviation Administration, FCC, other applicable regulations for health and safety. All equipment with lights (such as indicator or status lights) must be installed in locations and within enclosures that mitigate illumination impacts visible from publicly accessible areas. The provisions in this subsection (a)(2) shall not be interpreted or applied to prohibit installations on streetlights or luminaires installed on new or replacement poles as may be required under this Policy.

3. **Landscape Features.** No small wireless facility shall encroach into the protected zone of any designated heritage or landmark tree. Small wireless facilities shall not displace any other existing landscape features unless: (A) such displaced landscaping is replaced with native and/or drought-resistant plants, trees or other landscape features approved by the approval authority and (B) the applicant submits and adheres to a landscape maintenance plan. The landscape plan must include existing vegetation, and vegetation proposed to be removed or trimmed, and the landscape plan must identify proposed landscaping by species type, size and location. Landscaping and landscape maintenance must be performed in accordance with all applicable provisions of the Upland Municipal Code.
4. **Site Security Measures.** Small wireless facilities may incorporate reasonable and appropriate site security measures, such as locks and anti-climbing devices, to prevent unauthorized access, theft or vandalism. The approval authority shall not approve any barbed wire, razor ribbon, electrified fences or any similarly dangerous security measures. All exterior surfaces on small wireless facilities shall be constructed from or coated with graffiti-resistant materials.
5. **Signage; Advertisements.** All small wireless facilities must include signage not to exceed one (1) square feet in sign area that accurately identifies the site owner/operator, the owner/operator's site name or identification number and a toll-free number to the owner/operator's network operations center. Small wireless facilities may not bear any other signage or advertisements unless expressly approved by the City, required by law or recommended under FCC, Occupational Safety and Health Administration or other United States governmental agencies for compliance with RF emissions regulations.
6. **Compliance with Health and Safety Regulations.** All small wireless facilities shall be designed, constructed, operated and maintained in compliance with all generally applicable health and safety regulations, which includes without limitation all applicable regulations for human exposure to RF emissions and compliance with the federal Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 et seq.).
7. **Overall Height.** Small wireless facilities must comply with the minimum separation from electrical lines required by applicable safety regulations (such as CPUC General Order 95 and 128).

O. Design Standards for Small Wireless Facilities within Public Rights-of-Way.

1. Antennas.

- a. Concealment. All antennas and associated mounting equipment, hardware, cables or other connectors must be completely concealed within an opaque antenna shroud or radome. The antenna shroud or radome must be painted a flat, non-reflective color to match the underlying support structure.
- b. Antenna Volume. Each individual antenna may not exceed three cubic feet in volume.

2. Accessory Equipment.

- a. Installation Preferences. All non-antenna accessory equipment shall be installed in accordance with the following preferences, ordered from most preferred to least preferred: (i) underground in any area in which the existing utilities are primarily located underground; (ii) on the pole or support structure; or (iii) integrated into the base of the pole or support structure. Applications that involve lesser-preferred installation locations may be approved so long as the applicant demonstrates that no more preferred installation location would be technically feasible as supported by clear and convincing evidence in the written record.
- b. Undergrounded Accessory Equipment. All undergrounded accessory equipment must be installed in an environmentally controlled vault that is load-rated to meet the City's standards and specifications. Underground vaults located beneath a sidewalk must be constructed with a slip-resistant cover. Vents for airflow shall be flush-to-grade when placed within the sidewalk and may not exceed two feet above grade when placed off the sidewalk. Applicants shall not be permitted to install an underground vault in a location that would cause any existing tree to be materially damaged or displaced. The Noise restrictions apply to underground equipment as well, especially ventilation/cooling equipment.
- c. Pole-Mounted Accessory Equipment. All pole-mounted accessory equipment must be installed flush to the pole to minimize the overall visual profile. If any applicable health and safety regulations prohibit flush-mounted equipment, the maximum separation permitted between the accessory equipment and the pole shall be the minimum separation required by such regulations. All pole-mounted equipment and required or permitted signage must be placed and oriented away from adjacent sidewalks and structures. Pole-mounted equipment may

be installed behind street, traffic or other signs to the extent that the installation complies with applicable public health and safety regulations. All cables, wires and other connectors must be routed through conduits within the pole, and all conduit attachments, cables, wires and other connectors must be concealed from public view. To the extent that cables, wires and other connectors cannot be routed through the pole, applicants shall route them through a single external conduit or shroud that has been finished to match the underlying support structure.

- d. Base-Mounted Accessory Equipment. All base-mounted accessory equipment must be installed within a shroud, enclosure or pedestal integrated into the base of the support structure. All cables, wires and other connectors routed between the antenna and base-mounted equipment must be concealed from public view.
 - e. Ground-Mounted Accessory Equipment. The approval authority shall not approve any ground-mounted accessory equipment including, but not limited to, any utility or transmission equipment, pedestals, cabinets, panels or electric meters.
 - f. Accessory Equipment Volume. All accessory equipment associated with a small wireless facility installed above ground level shall not cumulatively exceed: (i) nine (9) cubic feet in volume if installed in a residential district; or (ii) seventeen (17) cubic feet in volume if installed in a non-residential district. The volume calculation shall include any shroud, cabinet or other concealment device used in connection with the non-antenna accessory equipment. The volume calculation shall not include any equipment or other improvements placed underground.
3. Streetlights. Applicants that propose to install small wireless facilities on an existing streetlight must remove and replace the existing streetlight with one substantially similar to the design(s) for small wireless facilities on streetlights described in the City's Road Design and Construction Standards. To mitigate any material changes in the streetlighting patterns, the replacement pole must: (A) be located as close to the removed pole as possible; (B) be aligned with the other existing streetlights; and (C) include a luminaire at substantially the same height and distance from the pole as the luminaire on the removed pole. All antennas must be installed above the pole within a single, canister style shroud or radome that tapers to the pole.
 4. Wood Utility Poles. Applicants that propose to install small wireless facilities on an existing wood utility pole must install all antennas in a radome above the pole unless the applicant demonstrates that mounting the antennas above the pole would be technically infeasible as supported by clear and convincing evidence in the written record. Side-

mounted antennas on a stand-off bracket or extension arm must be concealed within a shroud. All cables, wires and other connectors must be concealed within the radome and stand-off bracket. The maximum horizontal separation between the antenna and the pole shall be the minimum separation required by applicable health and safety regulations.

5. **New, Non-Replacement Poles.** Applicants that propose to install a small wireless facility on a new, non-replacement pole must install a new streetlight substantially similar to the City's standards and specifications but designed to accommodate wireless antennas and accessory equipment located immediately adjacent to the proposed location. If there are no existing streetlights in the immediate vicinity, the applicant may install a metal or composite pole capable of concealing all the accessory equipment either within the pole or within an integrated enclosure located at the base of the pole. The pole diameter shall not exceed twelve (12) inches and any base enclosure diameter shall not exceed sixteen (16) inches. All antennas, whether on a new streetlight or other new pole, must be installed above the pole within a single, canister style shroud or radome that tapers to the pole.
6. **Encroachments over Private Property.** Small wireless facilities may not encroach onto or over any private or other property outside the public rights-of-way without the property owner's express written consent.
7. **Backup Power Sources.** Fossil-fuel based backup power sources shall not be permitted within the public rights-of-way; provided, however, that connectors or receptacles may be installed for temporary backup power generators used in an emergency declared by federal, state or local officials.
8. **Obstructions; Public Safety and Circulation.** Small wireless facilities and any associated equipment or improvements shall not physically interfere with or impede access to any: (A) worker access to any above-ground or underground infrastructure for traffic control, streetlight or public transportation, including without limitation any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, barricade reflectors; (B) access to any public transportation vehicles, shelters, street furniture or other improvements at any public transportation stop; (C) worker access to above-ground or underground infrastructure owned or operated by any public or private utility agency; (D) fire hydrant or water valve; (E) access to any doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building appurtenant to the rights-of-way; (F) access to any fire escape or (G) above ground improvements must be setback a minimum of 2 feet from existing or planned sidewalks, trails, curb faces or road surfaces.

9. Utility Connections. All cables and connectors for telephone, data backhaul, primary electric and other similar utilities must be routed underground in conduits large enough to accommodate future collocated wireless facilities. Undergrounded cables and wires must transition directly into the pole base without any external doghouse. All cables, wires and connectors between the underground conduits and the antennas and other accessory equipment shall be routed through and concealed from view within: (A) internal risers or conduits if on a concrete, composite or similar pole; or (B) a cable shroud or conduit mounted as flush to the pole as possible if on a wood pole or other pole without internal cable space. The approval authority shall not approve new overhead utility lines or service drops merely because compliance with the undergrounding requirements would increase the project cost.
 10. Spools and Coils. To reduce clutter and deter vandalism, excess fiber optic or coaxial cables shall not be spooled, coiled or otherwise stored on the pole outside equipment cabinets or shrouds.
 11. Electric Meters. Small wireless facilities shall use flat-rate electric service or other method that obviates the need for a separate above-grade electric meter. If flat-rate service is not available, applicants may install a shrouded smart meter. The approval authority shall not approve a separate ground-mounted electric meter pedestal unless required by the utility company.
 12. Street Trees. To preserve existing landscaping in the public rights-of-way, all work performed in connection with small wireless facilities shall not cause any street trees to be trimmed, damaged or displaced. If any street trees are damaged or displaced, the applicant shall be responsible, at its sole cost and expense, to plant and maintain replacement trees at the site for the duration of the permit term.
 13. Lines of Sight. No wireless facility shall be located so as to obstruct pedestrian or vehicular lines-of-sight.
- P. Design Standards for Small Wireless Facilities Outside of Public Rights-of-Way.
1. Setbacks. Small wireless facilities on private property may not encroach into any applicable setback for structures in the subject zoning district.
 2. Backup Power Sources. The Director shall not approve any diesel generators or other similarly noisy or noxious generators in or within 200 feet from any residence; provided, however, the Director may approve sockets or other connections used for temporary backup generators.
 3. Parking; Access. Any equipment or improvements constructed or installed in connection with any small wireless facilities must not reduce any parking spaces below the minimum requirement for the subject

property. Whenever feasible, small wireless facilities must use existing parking and access rather than construct new parking or access improvements. Any new parking or access improvements must be the minimum size necessary to reasonably accommodate the proposed use.

4. **Freestanding Small Wireless Facilities.** All new poles or other freestanding structures that support small wireless facilities must be made from a metal or composite material capable of concealing all the accessory equipment, including cables, mounting brackets, radios, and utilities, either within the support structure or within an integrated enclosure located at the base of the support structure. All antennas must be installed above the pole in a single, canister-style shroud or radome. The support structure and all transmission equipment must be painted with flat/neutral colors that match the support structure. The pole diameter shall not exceed twelve (12) inches and any base enclosure diameter shall not exceed sixteen (16) inches.
5. **Small Wireless Facilities on Existing Buildings.**
 - a. All components of building-mounted wireless facilities must be completely concealed and architecturally integrated into the existing facade or rooftop features with no visible impacts from any publicly accessible areas. Examples include, but are not limited to, antennas and wiring concealed behind existing parapet walls or facades replaced with RF-transparent material and finished to mimic the replaced materials.
 - b. If the applicant demonstrates with clear and convincing evidence that integration with existing building features is technically infeasible, the applicant may propose to conceal the wireless facility within a new architectural element designed to match or mimic the architectural details of the building including length, width, depth, shape, spacing, color, and texture.
6. **Small Wireless Facilities on Existing Lattice Tower Utility Poles.**
 - a. Antennas must be flush-mounted to the side of the pole and designed to match the color and texture of the pole. If technologically infeasible to flush-mount an antenna, it may be mounted on an extension arm that protrudes as little as possible from the edge of the existing pole provided that the wires are concealed inside the extension arm. The extension arm shall match the color of the pole.
 - b. Wiring must be concealed in conduit that is flush-mounted to the pole. The conduit and mounting hardware shall match the color of the pole.

- c. All accessory equipment must be placed underground unless undergrounding would be technically infeasible as supported by clear and convincing evidence in the written record. Above-ground accessory equipment mounted on a pole, if any, shall be enclosed in a cabinet that matches the color and finish of the structures on which they are mounted. Above-ground cabinets not mounted on a structure, if any, shall be dark green in color.
 - d. No antenna or accessory equipment shall be attached to a utility line, cable or guy wire.
7. Small Wireless Facilities on Existing Wood Utility Poles.
- a. All antennas must be installed within a cylindrical shroud (radome) above the top of the pole unless the applicant demonstrates that mounting antennas above the pole would be technically infeasible as supported by clear and convincing evidence in the written record.
 - b. All antennas must be concealed within a shroud (radome) designed to match the color of the pole, except as described in (8) (E).
 - c. No antenna or accessory equipment shall be attached to a utility line, cable or guy wire.
 - d. If it is technically infeasible to mount an antenna above the pole it may be flush-mounted to the side of the pole. If it is technically infeasible to flush-mount the antenna to the side of the pole it may be installed at the top of a stand-off bracket/extension arm that protrudes as little as possible beyond the side of the pole. Antenna shrouds on stand-off brackets must be a medium gray color to blend in with the daytime sky.
 - e. Wires must be concealed within the antenna shroud, extension bracket/extension arm and conduit that is flush-mounted to the pole. The conduit and mounting hardware shall match the color of the pole.
 - f. All accessory equipment must be placed underground, unless undergrounding would be technically infeasible as supported by clear and convincing evidence in the written record. Above ground accessory equipment mounted on a pole, if any, shall be enclosed in a cabinet that matches the color and finish of the pole. Above-ground cabinets not mounted on a structure, if any, shall be dark green in color.
8. Small Wireless Facilities on Existing Water Reservoirs.

- a. Antennas must be mounted as close as possible to the side of the reservoir.
- b. No antenna or accessory equipment shall project above the top of the reservoir.
- c. Wires must be concealed within a shroud or conduit that is flush-mounted to the reservoir. The conduit and mounting hardware shall match the color of the reservoir.
- d. Antennas and antenna shrouds shall be painted to match the color of the reservoir.
- e. All accessory equipment must be placed underground unless undergrounding would be technically infeasible as supported by clear and convincing evidence in the written record. Above-ground equipment cabinets, if any, shall be dark green in color.
- f. All water reservoir installations must also be approved by the Water District having jurisdiction/ownership.

17.40.170 Business license.

A permit issued pursuant to this chapter shall not be a substitute for any business license otherwise required under the Upland Municipal Code.

17.40.180 Emergency deployment and Temporary uses.

- A. In the event of a declared federal, state, or local emergency, or when otherwise warranted by conditions that the Director deems to constitute an emergency, the Director may approve the installation and operation of a temporary wireless telecommunications facility (e.g., a cell on wheels or "COW"), which is subject to such reasonable conditions that the Director deems necessary.
- B. A temporary telecommunication facility may be deployed subject to approval of a Temporary Use Permit by the Development Services Director or designee subject to the following:
 - 1. A construction permit has been issued for modifications to an existing wireless communications facility, or an existing wireless telecommunication facility is in need of necessary repairs that does not require a construction permit and a temporary wireless communication facility is needed to maintain service to residents in order to ensure public health welfare and safety.
 - 2. The facility can be deployed for no more than 14 days, unless the facility is approved in conjunction with a construction permit, in which case a temporary facility can be deployed for no more than 6 months, provided that two extensions may be granted by the Development Services Director; however, the total period shall not exceed 1 year.

17.40.190 Operation and maintenance standards.

- A. All wireless telecommunications facilities must comply at all times with the following operation and maintenance standards. All necessary repairs and restoration shall be completed by the permittee, owner, or operator within 48 hours:
 - 1. After discovery of the need by the permittee, owner, operator or any designated maintenance agent; or
 - 2. After permittee, owner, operator, or any designated maintenance agent receives notification from a resident or the Director.
- B. All facilities, including, but not limited to, telecommunication towers, poles, accessory equipment, lighting, fences, walls, shields, cabinets, artificial foliage or camouflage, and the facility site shall be maintained in good condition, including ensuring the facilities are reasonably free of:
 - 1. General dirt and grease;
 - 2. Chipped, faded, peeling, and cracked paint;
 - 3. Rust and corrosion;
 - 4. Cracks, dents, and discoloration;
 - 5. Missing, discolored, or damaged artificial foliage or other camouflage;
 - 6. Graffiti, bills, stickers, advertisements, litter and debris;
 - 7. Broken and misshapen structural parts; and
 - 8. Any damage from any cause.
- C. All trees, foliage or other landscaping elements approved as part of the facility shall be maintained in good condition at all times, and the permittee, owner and operator of the facility shall be responsible for replacing any damaged, dead or decayed landscaping. No amendment to any approved landscaping plan may be made until it is submitted to and approved by the Director.
- D. The permittee shall replace its facilities, after obtaining all required permits, if maintenance or repair is not sufficient to return the facility to the condition it was in at the time of installation.
- E. Each facility shall be operated and maintained at all times in compliance with applicable federal regulations, including FCC radio frequency emissions standards.

- F. Each facility shall be operated and maintained to comply at all times with the noise regulations of this chapter and shall be operated and maintained in a manner that will minimize noise impacts to surrounding residents. Except for emergency repairs, any testing and maintenance activities that will be audible beyond the property line shall only occur between the hours of 7:00 a.m. and 5:00 p.m. on Monday through Friday, excluding holidays, unless alternative hours are approved by the Director. Backup generators, if permitted, shall only be operated during periods of power outages or for testing.
- G. If a flagpole is used for camouflaging a wireless telecommunications facility, flags shall be flown and shall be properly maintained at all times.
- H. Each owner or operator of a facility shall routinely inspect each site to ensure compliance with the standards set forth in this section and the conditions of approval.

17.40.200 No dangerous conditions or obstructions allowed.

No person shall install, use or maintain any wireless telecommunications facility which in whole or in part rests upon, in or over any public sidewalk or parkway, when such installation, use or maintenance endangers or is reasonably likely to endanger the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other governmental use, or when such facility unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic including any legally parked or stopped vehicle, the ingress into or egress from any residence or place of business, the use of poles, posts, traffic signs or signals, hydrants, mailboxes, permitted sidewalk dining, permitted street furniture or other objects permitted at or near said location.

17.40.200 Cessation of use or abandonment.

- A. A wireless telecommunications facility is considered abandoned and shall be promptly removed as provided herein if it ceases to provide wireless telecommunications services for 90 or more consecutive days. If there are two or more users of a single facility, then this provision shall not become effective until all users cease using the facility.
- B. The operator of a facility shall notify the City in writing of its intent to abandon or cease use of a permitted site or a nonconforming site (including unpermitted sites) within 10 days of ceasing or abandoning use. Notwithstanding any other provision herein, the operator of the facility shall provide written notice to the Director of any discontinuation of operations of 30 days or more.
- C. Failure to inform the Director of cessation or discontinuation of operations of any existing facility as required by this section shall constitute a violation of any approvals and be grounds for:
 - 1. Prosecution;

2. Revocation or modification of the permit;
3. Calling of any bond or other assurance required by this chapter or conditions of approval of the permit;
4. Removal of the facilities by the City in accordance with the procedures established under the Upland Municipal Code for abatement of a public nuisance at the owner's expense; and
5. Any other remedies permitted under the Upland Municipal Code.

17.40.210 Permit expiration.

- A. A permit for any wireless telecommunications facility shall be valid for a period of 10 years, unless the Planning Commission authorizes a longer period or pursuant to another provision of the Upland Municipal Code the permit lapses sooner or is revoked. At the end of such period, the permit shall expire.
- B. A permittee may apply for extensions of its permit in increments of no more than 10 years and no sooner than 12 months prior to expiration of the permit.
- C. If a permit has not expired at the time an application is made for an extension, the Director may administratively extend the term of the permit for subsequent 10-year terms upon verification of continued compliance with the findings and conditions of approval under which the application was originally approved, as well as any other applicable provisions of the Upland Municipal Code that are in effect at the time the permit extension is granted.
 1. At the Director's discretion, additional studies and information may be required of the applicant.
 2. If the Director determines that the facility is nonconforming or that additional conditions of approval are necessary to bring the facility into compliance with the provisions of the Upland Municipal Code that are then in effect at the time of permit expiration, the Director shall refer the extension request to the Planning Commission.
- D. The request for an extension shall be decided by the Planning Commission if the permit expired before the application is made for an extension or if the Director refers the matter to the Planning Commission. After notice and a public hearing, the Planning Commission may approve, conditionally approve, or deny the extension.

17.40.230 Removal and restoration, permit expiration, revocation or abandonment.

- A. Permittee's Removal Obligation. Upon the expiration date of the permit, including any extensions, earlier termination or revocation of the permit or abandonment of the facility, the permittee, owner or operator shall remove its wireless telecommunications facility and restore the site to its natural condition

except for retaining the landscaping improvements and any other improvements at the discretion of the City. Removal shall be in accordance with proper health and safety requirements and all ordinances, rules, and regulations of the City. The facility shall be removed from the property within 30 days, at no cost or expense to the City. If the facility is located on private property, the private property owner shall also be independently responsible for the expense of timely removal and restoration.

- B. Failure to Remove. Failure of the permittee, owner, or operator to promptly remove its facility and restore the property within 30 days after expiration, earlier termination, or revocation of the permit, or abandonment of the facility, shall be a violation of the Upland Municipal Code, and be grounds for:
1. Prosecution;
 2. Calling of any bond or other assurance required by this chapter or conditions of approval of permit;
 3. Removal of the facilities by the City in accordance with the procedures established under the Upland Municipal Code for abatement of a public nuisance at the owner's expense; or
 4. Any other remedies permitted under the Upland Municipal Code.
- C. Summary Removal. In the event the Director determines that the condition or placement of a wireless telecommunications facility located in the public right-of-way constitutes a dangerous condition, obstruction of the public right-of-way, or an imminent threat to public safety, or determines other exigent circumstances require immediate corrective action (collectively, "exigent circumstances"), the Director may cause the facility to be removed summarily and immediately without advance notice or a hearing. Written notice of the removal shall be served upon the person who owns the facility within five business days of removal and all property removed shall be preserved for the owner's pick-up as feasible. If the owner cannot be identified following reasonable effort or if the owner fails to pick-up the property within 60 days, the facility shall be treated as abandoned property.
- D. Removal of Facilities by City. In the event the City removes a facility in accordance with nuisance abatement procedures or summary removal, any such removal shall be without any liability to the City for any damage to such facility that may result from reasonable efforts of removal. In addition to the procedures for recovering costs of nuisance abatement, the City may collect such costs from the performance bond posted and to the extent such costs exceed the amount of the performance bond, collect those excess costs in accordance with the Upland Municipal Code. Unless otherwise provided herein, the City has no obligation to store such facility. Neither the permittee nor the owner nor operator shall have any claim if the City destroys any such facility not timely removed by the permittee, owner, or operator after notice, or removed by the City due to exigent circumstances.

17.40.240 Effect on other ordinances.

Compliance with the provisions of this chapter shall not relieve a person from complying with any other applicable provision of the Upland Municipal Code, including, but not limited to, obtaining any necessary encroachment or building permits. In the event of a conflict between any provision of this chapter and other provisions of the Upland Municipal Code, this chapter shall control.

17.40.250 Effect of state or federal law.

In the event that state or federal law prohibits discretionary permitting requirements for certain wireless telecommunications facilities, the permits required by this chapter for those facilities shall be deemed to be ministerial permits. For those facilities, in lieu of a conditional use permit, a ministerial permit shall be required prior to installation or modification of a wireless telecommunications facility and all provisions of this chapter shall be applicable to any such facility with the exception that the required permit shall be reviewed and administered as a ministerial permit by the Director rather than as a discretionary permit. Any conditions of approval set forth in this chapter or deemed necessary by the Director shall be imposed and administered as reasonable time, place and manner rules.

Attachment B

Chapter 17.04

TABLE 17.04-1 PERMITTED LAND USES IN THE RESIDENTIAL ZONES

Key	Residential Zones									Applicable Regulations
	RS-20	RS-15	RS-10	RS-7.5	RS-4	RS-MH	RM-10	RM-20	RM-30	
P Permitted Use										
CUP Conditional Use Permit Req.										
AUP Admin. Use Permit Req.										
-- Use Not Allowed										
Telecommunication Facilities										Ch. 17.40
<i>Administrative Telecom Facilities [7]</i>	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	AUP	
<i>Minor Telecom Facilities</i>	--	--	--	--	--	--	--	--	--	
<i>Major Telecom Facilities</i>	--	--	--	--	--	--	--	--	--	
Wireless Telecommunication Facilities	<i>Refer to Ch. 17.40</i>									

Notes:

- [1] Metal storage containers designed to carry freight are prohibited.
- [2] Duplexes shall only be permitted at a density of one unit per 7,500 square feet of lot area.
- [3] Guest houses shall only be permitted when a single-family dwelling is the primary use on the lot.
- [4] Condominium parcel maps or tract maps shall require a CUP.
- [5] A secondary dwelling unit shall only be permitted on lots with an area greater than 10,000 square feet. Secondary dwelling units on a historic site or detached secondary units that exceed the height of the primary dwelling shall require an AUP.
- [6] Only temporary off-site construction yards, mobile home residences, and work trailers are permitted pursuant to Chapter [17.41](#) (Temporary Use Permits and Film Permits).
- ~~[7] Administrative telecommunication facilities are prohibited on sites occupied by a residential use.~~

Chapter 17.05

TABLE 17.05-1 PERMITTED LAND USES IN THE MIXED-USE ZONES

Key	Mixed-Use Zones				Applicable Regulations
	C/ R-MU	B/ R-MU	C/ O- MU	C/ I-MU	
P Permitted Use					
CUP Conditional Use Permit Req.					
AUP Admin. Use Permit Req.					
-- Use Not Allowed					
Telecommunication Facilities					Ch. 17.40
Administrative Telecom Facilities	AUP	AUP	AUP	AUP	
Minor Telecom Facilities [10]	AUP	AUP	AUP	AUP	
Major Telecom Facilities	—	—	—	—	
Wireless Telecommunication Facilities	<i>Refer to Ch. 17.40</i>				

Notes:

- [1] Metal shipping containers designed to carry freight are prohibited.
- [2] Guest houses shall only be permitted when a single-family dwelling is the primary use on the lot.
- [3] A secondary dwelling unit shall only be permitted on lots with an area greater than 10,000 square feet. Secondary dwelling units on a historic site or detached secondary units that exceed the height of the primary dwelling shall require an AUP.
- [4] Used vehicle sales are permitted on up to 20 percent of the sales space of a vehicle sales and leasing business.
- [5] Markets may not be located less than 1,000 feet from another market.
- [6] See Chapter [17.16](#) (Property Maintenance and Use) for applicable screening and location standards for outdoor storage.
- [7] Not permitted as part of a food establishment, unless conducted outside.
- [8] Only temporary off-site construction yards, mobile home residences, and work trailers are permitted pursuant to Chapter [17.41](#) (Temporary Use Permits and Film Permits).
- [9] Administrative telecommunication facilities are prohibited on sites occupied by a residential use.
- ~~[10] Telecommunication facilities shall be set back more than 200 feet from an existing residential property line and/or the nearest property line of a residential zone.~~
- [11] [10] Residential uses shall only be permitted within mixed-use and live/work developments, where each building on site meets the minimum floor area ratio requirement as specified in Section [17.05.030](#).

Chapter 17.06

TABLE 17.067-1 PERMITTED LAND USES IN THE COMMERCIAL ZONES

Key	Commercial Zones				Applicable Regulations
	Neighborhood Commercial (NC)	Highway Commercial (HC)	Regional Commercial (RC)	Office Professional (OP)	
P Permitted Use					
CUP Conditional Use Permit Req.					
AUP Admin. Use Permit Req.					
-- Use Not Allowed					
Telecommunication Facilities					Ch. 17.40
Administrative Telecom Facilities [6]	AUP	AUP	AUP	AUP	
Minor Telecom Facilities [6][7]	AUP	AUP	AUP	AUP	
Major Telecom Facilities [6][7]	CUP	CUP	CUP	CUP	
Wireless Telecommunication Facilities	<i>Refer to Ch. 17.40</i>				

Notes:

- [1] Metal shipping containers designed to carry freight are prohibited.
- [2] Guest houses shall only be permitted when a single-family dwelling is the primary use on the lot.
- [3] A secondary dwelling unit shall only be permitted on lots with an area greater than 10,000 square feet. Secondary dwelling units on a historic site or detached secondary units that exceed the height of the primary dwelling shall require an AUP.
- [4] Used vehicle sales are permitted on up to 20 percent of the sales space of a vehicle sales and leasing business.
- [5] Markets may not be located less than 1,000 feet from another market.
- [6] See Chapter 17.16 (Property Maintenance and Use) for applicable screening and location standards for outdoor storage.
- ~~[7] Not permitted as part of a food establishment, unless conducted outside.~~
- [8] [7] Only temporary off-site construction yards, mobile home residences, and work trailers are permitted pursuant to Chapter 17.41 (Temporary Use Permits and Film Permits).
- [9] [8] Administrative telecommunication facilities are prohibited on sites occupied by a residential use.
- [10] [9] Telecommunication facilities shall be set back more than 200 feet from an existing residential property line and/or the nearest property line of a residential zone.
- [11] [10] Residential uses shall only be permitted within mixed-use and live/work developments, where each building on site meets the minimum floor area ratio requirement as specified in Section 17.05.030.

Chapter 17.07

TABLE 17.07-1 PERMITTED LAND USES IN THE INDUSTRIAL ZONES

Key P Permitted Use CUP Conditional Use Permit Req. AUP Admin. Use Permit Req. -- Use Not Allowed	Industrial Zones		Applicable Regulations
	Light Industrial (LI)	General Industrial (GI)	
Telecommunication Facilities [4][5]			Ch. 17.40
<i>Administrative Telecom Facilities</i>	AUP	AUP	
<i>Minor Telecom Facilities</i>	AUP	AUP	
<i>Major Telecom Facilities</i>	CUP	CUP	
Wireless Telecommunication Facilities [4][5]	<i>Refer to Ch. 17.40</i>		

Notes:

- [1] Markets may not be located less than 1,000 feet from another market.
- [2] Health or fitness facilities may not be located less than 600 feet from another health or fitness facility.
- [3] Swap Meets and flea markets shall only be permitted as a temporary use per Chapter [17.41](#) (Temporary, Seasonal, and Special Events).
- ~~[4] Telecommunication facilities are prohibited on sites occupied by a residential use.~~
- ~~[5] Telecommunication facilities shall be set back more than 200 feet from an existing residential property line and/or the nearest property line of a residential zone.~~

Chapter 17.08

TABLE 17.08-1 PERMITTED LAND USES IN SPECIAL PURPOSE ZONES

Key P Permitted Use CUP Conditional Use Permit Req. AUP Admin. Use Permit Req. -- Use Not Allowed	Special Purpose Zones				Applicable Regulations
	Cable Airport (CA)	Public / Institutional (PB/I)	Open Space (OS)	Mining (M)	
Telecommunication Facilities [4][5]					Ch. 17.40
<i>Administrative Telecom Facilities</i>	AUP	AUP	AUP	AUP	
<i>Minor Telecom Facilities</i>	AUP	AUP	AUP	AUP	
<i>Major Telecom Facilities</i>	CUP	CUP	CUP	CUP	
Wireless Telecommunication Facilities	<i>Refer to Ch. 17.40</i>				

Notes:

- [1] Only permitted through a CUP as part of a gas station convenience store.

[2] A convenience store may be permitted as an ancillary use to the gas station.

[3] Swap Meets and flea markets shall only be permitted as a temporary use per Chapter [17.41](#) (Temporary, Seasonal, and Special Events).

~~[4] Telecommunication facilities are prohibited on sites occupied by a residential use.~~

~~[5] Telecommunication facilities shall be set back more than 200 feet from an existing residential property line and/or the nearest property line of a residential zone.~~

17.51.010 Definitions

~~**Telecommunication Facility** "Telecommunication(s) Facility," "Telecom Facility," "Wireless Communication Facility", or "Facility" means a facility consisting of any commercial antenna, monopole, microwave dish and/or other related equipment necessary to the transmission and/or reception of cellular, personal communication service, and/or data radio communications, and which has been granted a certificate of public convenience and necessity, or a wireless registration number by the California Public Utilities Commission, or otherwise provides wireless communications services to the public. (Ord. 1798 § 3 (part), 2006: prior code § 9500.3.020)~~

~~a. "Administrative Telecom Facilities" means voice telecommunications systems and/or circuits that are planned, managed, and used to conduct the business. This includes telephone handsets, video/audio teleconferencing equipment, customer premise equipment, cellular telephones, facsimile machines, pagers and related devices installed in offices and used primarily for administrative purposes.~~

~~b. "Minor Telecommunication Facilities" means a wireless telecommunications facility subject to review by the Development Services Director that is designed to be building mounted, or co-located on an existing structure with other facilities or wireless communications service providers.~~

~~c. "Major Telecommunication Facilities" means a communication facility subject to review by the Planning Commission. Major telecom facilities are facilities not clearly set forth and included in the definition of an administrative telecom facility or a minor telecom facility. Examples of major telecom facilities may include, but are not limited to, monopoles and other freestanding towers.~~



SECOND READING AND ADOPTION
Ord No. 1945 Date 9/14/20 Item No. 11C

STAFF REPORT

~~ITEM NO. 12.C.~~

DATE: August 10, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: ROBERT D. DALQUEST, DEVELOPMENT SERVICES DIRECTOR
SUBJECT: CONSIDERATION OF AN ORDINANCE ADDING CHAPTER 17.23.1 TO THE UPLAND MUNICIPAL CODE TO ESTABLISH REGULATIONS FOR SHORT-TERM RENTALS IN THE RESIDENTIAL SINGLE-FAMILY (RS) AND RESIDENTIAL MULTI-FAMILY ZONES (RM) AND RESIDENTIAL SPECIFIC PLANS

RECOMMENDED ACTION

It is recommended that the City Council hold first reading by title only, waive further reading, and introduce an Ordinance adding Chapter 17.23.1 (Short-Term Rentals) to the Upland Municipal Code to establish regulations for Short-Term Rentals in Residential Single-Family (RS) zones, Residential Multi-Family (RM) zones and residential specific plans which contain single-family detached and/or single-family attached (Townhomes) dwelling units.

GOAL STATEMENT

The proposed action supports the City's goal to periodically review and consider changes to the City's Zoning Code as land use issues arise or State legislation mandates zoning amendments.

BACKGROUND

The short-term rental market has experienced substantial growth over the last ten years due in part to the continued popularity of online hosting platforms such as AirBnB, VRBO, Homeaway and others. AirBnB for example, which started in 2007, now has over 6.1 Million listings worldwide. While the Short-Term Rental industry has long been a fixture in coastal and resort towns, there has been a growth in the use of these alternative lodging options in inland suburban communities.

Although growth in Short-Term Rentals has diversified lodging options and created a revenue opportunity for residents looking to rent extra rooms, this use has been known to result in

public nuisance impacts, particularly in single-family residential neighborhoods. Cities have employed a variety of approaches to regulating this use with varying success. In Upland, there are approximately fifty-three (53) listings for Short-Term Rentals according to a June 2020 analysis performed for Upland by Host Compliance; a Short-Term Rental compliance vendor which monitors over sixty (60) online hosting platforms. The rentals in Upland range from partial homes (51%) to entire homes (49%) with an average nightly rate of \$80. Locations are dispersed throughout the City in various residential zones (See **Exhibit 1**).

On July 8, 2020, the Planning Commission held a public hearing on Zoning Code Amendment No. 20-0002 to add regulations in the Zoning Code for Short-Term Rentals. By a vote of 5-0 (2 absent), the Planning Commission recommended that the City Council adopt the proposed Short-Term Rental Ordinance. The Commission made one minor change to allow the Development Services Director, on a case by case basis, to permit street parking along the frontage of the property to count toward meeting the required parking. The Commission believed that there may be some properties that may have difficulty in meeting the required parking on-site, and wanted the Director to have the discretion to count street parking where appropriate.

Current Zoning Code Regulations

Title 17 of the Upland Municipal Code, specifically Chapter 17.23 (Bed and Breakfast”), contains regulations for overnight occupancy of residential properties for compensation in the form of a “Bed and Breakfast Inn” (more than 5 guestrooms) or “Bed and Breakfast Homestay” (1 to 5 guestrooms). These regulations require a conditional use permit for both types of bed and breakfast uses. Also, listed in this chapter is “Air bed and breakfast” which is defined as a private, owner- or manager-occupied residence that provides more than five (5) guest rooms, and allows this by right in any residential zone with very limited requirements.

As part of adopting the new regulations for Short-Term Rentals, there are three (3) ancillary legislative changes that are part of the Zoning Code Amendment. Chapter 17.23 will be amended in two areas to remove “Air bed and breakfast” from being applicable to this chapter [17.23.020(3)], and the land use authority under this chapter [17.23.030(B)]. The third ancillary change will be in the definitions section of the Zoning Code (Section 17.51.010) to remove “Air bed and breakfast” from within the Bed and Breakfast definition which mirrors the change to 17.23.020(3) above.

Current Enforcement Efforts

From time to time, Code Enforcement has received complaints on properties that are being used as Short-Term Rentals and usually when the property is not the primary residence of the property owner. Complaints received are generally nuisance activities related to noise, parties, late night activities, property maintenance and cleaning crews consistently coming to the property. The lack of specific Municipal Code provisions pertaining to Short-Term Rentals has made it difficult to regulate this use. Short-Term Rental of residential property has not been a traditional use in Upland, and through the “sharing economy” and amplified by online hosting platforms, staff have been made aware of an increase in this use. Most concerning is the possibility of unpermitted construction that may be occurring which creates issues of life and safety for residents and guests. An example that has occurred in other cities is unpermitted construction where rooms in homes are being subdivided to increase the number of bedrooms and bathrooms to accommodate more guests within the dwelling unit, or the unpermitted conversion of a guest house or ancillary structures to increase capacity.

Thus, the proposed Short-Term Rental Ordinance is intended to not only address the public nuisance complaints but also to address potential unpermitted construction through the requirement for “biennial” inspections, as well as prohibit Short-term Rentals that are not the primary residence of the property owner. The latter issue exemplifies another trend not

originally seen in the sharing economy which is property being purchased with the sole intent for use only as a Short-Term Rental with the owner not living on site. This has a negative effect on neighborhoods in several ways, including changing the character of a neighborhood in that the owner has little interest in developing connections to the community, and neighborhoods may be impacted by tourists. In addition, exclusive Short-Term Rental use also has the effect of reducing available housing stock for long-term residential use.

ISSUES/ANALYSIS

Proposed Short-Term Rental Ordinance

Lacking specific definitions and regulations in the Code for Short-Term Rental use, the City is not only limited to effectively regulating this business activity but is also not able to collect Transient Occupancy Tax (TOT) from Short-Term Rental operators. All hotel and motel businesses in the City are required to pay TOT to the City at a rate of 10% of the nightly rate. Therefore, Staff is recommending regulations (See **Exhibit 2**) which focus on four goals:

1. Only allow Short-Term Rentals in homes which are the primary residence of the owner in order to protect the residential character of neighborhoods;
2. Create specific regulations to properly regulate this use and to enable Code Enforcement to address bad operators;
3. Address life and safety issues by ensuring that Short-Term Rentals meet all current State and local building and fire codes; and,
4. Ensure operators pay the proper TOT taxes, business license fees and building permit fees.

From a zoning and land use perspective, the proposed Ordinance would allow Short-Term Rentals in Residential Single-Family (RS) zones, which include: RS-20 (Minimum 20,000 sq. ft. lots); RS-15 (Minimum 15,000 sq. ft. lots); RS-10 (Minimum 10,000 sq. ft. lots); RS-7.5 (Minimum 7,500 sq. ft. lots); and RS-4 (Minimum 4,000 sq. ft. lots). The Ordinance would allow Short-Term Rentals in Residential Multi-Family (RM) zones which include: RM-10 (5 to 10 units per acre); RM-20 (10 to 20 units per acre); and RM-30 (15 to 30 units per acre). The Ordinance also allows Short-Term Rentals in specific plans that allow single-family detached and single-family attached (Townhomes) dwellings. For clarity, this would not include developments where dwelling units are all on the same parcel and under the same ownership, such as apartment-style units or townhome-style units. These type of dwelling units are multi-family units and not classified as single-family attached units. The City has approximately twelve (12) specific plans which have all or a component of residential land use designations.

The proposed Ordinance requires approval of an Administrative Use Permit (AUP) for a Short-Term Rental. The AUP (as opposed to a Conditional Use Permit which is approved by the Planning Commission) is a minor permit for conditionally permitted uses. Typically, an AUP is required for uses associated with operational characteristics that may be appropriate in certain zones but whose effects on site and surrounding properties must be evaluated and conditions of approval applied. An AUP is processed administratively by Staff and does not require any noticing of surrounding properties. The proposed ordinance provides a two (2) year term from the date of issuance and will expire and become null and void on the anniversary date of its issuance. The ordinance allows for the AUP to be renewed for two (2) additional years from the original expiration date, and there is no limitation on the number of renewals that may be granted by the Director. Approval of any renewal would be contingent upon the applicant's record of operating the Short-Term Rental in compliance with all requirements of this Ordinance and the Upland Municipal Code.

To achieve the above-stated goals, the proposed Ordinance has been developed that will:

- Establish a regulatory framework to legalize and regulate Short-Term Rentals in single-family detached and single-family attached dwellings in residential zones and residential specific plans through the Administrative Use Permit process;
- Requires hosts and Hosting Platforms to be accountable for the collection and remittance of Transient Occupancy Tax;
- Explicitly prohibits a Short-Term Rental at a property that is not the primary residence of the owner;
- Prohibits any person from advertising of a Short-Term Rental without a valid permit; and
- Requires Hosting Platforms to disclose to the City (on a regular basis) the name of the host, the address of each listing, the length of stay for each listing, and the price paid for each stay.
- Revocation of the Short-term Rental Permit for a third or subsequent violation of this Chapter within any period of time or for any violation of Chapter 3.12 (Transient Occupancy Tax) of the Code.
- Short-Term Rentals are prohibited from being used for weddings, receptions, auctions, commercial functions or any other similar event that is inconsistent with residential uses permitted by this Code.
- Posting a copy of the requirements of the Administrative Use Permit and "house rules" in a prominent area of the dwelling unit, and reviewing this with the guests and requiring the guests to sign an agreement to abide by the rules and requirements.

The requirement for a hosting platform to disclose to the City the location of properties and identification of the host is similar in other cities. This has been challenged legally but has been upheld as part of the proper exercise of police powers of a city in regulating land uses.

Lastly, Accessory Dwelling Units (ADUs) are often used for Short-Term Rentals as there is increased privacy for the host family and guest(s). The construction of ADUs has increased with recent changes to State law permitting these additions. New ADUs will continue to be covenant restricted to rental for more than 30 days and these units will not be permitted as Short-Term Rentals.

Environmental Assessment

Staff has determined that the proposed Zoning Code Amendment is exempt from the requirements of the California Environmental Quality Act (CEQA). The Amendment qualifies under the general rule that CEQA applies only to projects which have the potential for causing significant effect on the environment. Pursuant to State CEQA Guidelines, Section 15061(B) (3), where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

The proposed Amendment does not propose any physical change to the environment itself. The Amendment establishes the permitted zoning districts and regulations where an existing single-family detached or single-family attached dwelling unit can be used as a Short-Term Rental with the approval of an Administrative Use Permit. The Amendment is a procedural change and does not eliminate the need for future entitlements at specific locations that may be subject to CEQA. Therefore, the Amendment will not have a significant effect on the environment.

FISCAL IMPACTS

There is no fiscal impact associated with approving the proposed Ordinance. Implementation of the Ordinance will generate new revenue through the collection of Transient Occupancy Tax and business license fees. It is anticipated that a third party vendor will be hired to outsource

administration and enforcement which will be net-revenue positive for the City, while adding no or little additional workload for staff. Additionally, start-up will generally require no up-front investment, long-term commitment or complicated IT integration.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Exhibit 1: Map depicting locations of Short-Term Rentals in Upland

Exhibit 2: Draft Ordinance with Short Term Rental Regulations and Ancillary Legislative Changes

ORDINANCE NO. 1945

AN ORDINANCE OF THE CITY OF UPLAND AMENDING THE UPLAND MUNICIPAL CODE BY ADDING A NEW CHAPTER 17.23.1 TO REGULATE THE RENTAL OF RESIDENTIAL PROPERTY ON A SHORT-TERM BASIS AND AMENDING RELATED PROVISIONS OF THE UPLAND MUNICIPAL CODE

WHEREAS, the City's "Uniform Transient Occupancy Tax Ordinance" codified in Chapter 3.12 of the Upland Municipal Code requires payment of transient occupancy taxes by operators and owners of hotel establishments which are occupied for a period of 30 consecutive calendar days or less by transients.

WHEREAS, given the proliferation of internet platforms facilitating the short-term rental of residential properties, it is likely that there are privately owned residential dwellings being rented to transients by the owners of such residential dwellings or by their respective authorized agents or representatives as vacation rentals without the payment of transient occupancy taxes to the City.

WHEREAS, while the use of privately owned residential dwellings on a short-term basis provides the City with additional transient occupancy tax revenue, there are some secondary negative effects associated with the use of residential dwellings as vacation rentals on certain residential neighborhoods that need to be addressed via an appropriate city regulatory program.

WHEREAS, the proposed Zoning Code Amendments are consistent with the Upland General Plan and implement the following General Plan Goals and Policies:

Land Use Policy [LU-2.3]: Living Environment. Provide healthy, affordable and desirable living environments consistent with adopted code requirements that set forth the acceptable health and safety standards for the occupancy of housing.

Land Use Policy [LU-6.3]: Regulation of Nuisances and Code Violations. Prevent and address nuisances and code violations through educational efforts and enforcement of regulatory documents.

WHEREAS, After conducting a duly noticed public hearing on July 8, 2020, the Planning Commission recommended to the City Council that it adopt an ordinance allowing transient uses such as short-term rentals on a limited basis. On August 10, 2020, the City Council conducted a duly noticed public hearing regarding the proposed Zoning Code Amendments.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF UPLAND ORDAINS AS FOLLOWS:

Section 1. Findings. The City Council finds that each fact set forth in the preceding recitals are true.

Section 2. Table 17.04-1 (Permitted Land Uses in the Residential Zones) of Section 17.04.020 (Land Uses of Regulations for Residential Zones) of the Upland Municipal Code is hereby amended to add a new permitted use entitled "Short-Term Rentals" to the Table in alphabetical order, as shown below, with all other portions of Table 17.04-1 to remain the same:

Key	Residential Zones									Applicable Regulations
	RS-20	RS-15	RS-10	RS-7.5	RS-4	RS-MH	RM-10	RM-20	RM-30	
P Permitted Use										
CUP Conditional Use Permit Req.										
AUP Admin. Use Permit Req.										
-- Use Not Allowed										
Residential Land Uses										
Short-Term Rentals	AUP	AUP	AUP	AUP	AUP	---	AUP	AUP	AUP	Ch. 17.23.1

Section 3. Part 4 (Special Land Use Regulations) of Title 17 (Zoning Ordinance) of the Upland Municipal Code is hereby amended by adding a new Chapter 17.23.1 to regulate the rental of residential property on a short-term basis, to read as follows:

Chapter 17.23.1 Short-Term Rentals

17.23.1.010 Definitions.

17.23.1.020 Administrative Use Permit Required for Authorized Short-Term Rental.

17.23.1.030 Permit Application.

17.23.1.040 Application Investigation and Criteria for Approval or Denial of Permit.

17.23.1.050 Permit Expiration and Renewal.

17.23.1.060 Permit Revocation.

17.23.1.070 Appeals.

17.23.1.080 Permits Nontransferable.

17.23.1.090 Operating Conditions and Requirements.

17.23.1.100 Hosting Platform Requirements.

17.23.1.110 Enforcement and Penalties.

17.23.1.010 Definitions. The following words and phrases, whenever used in

this Chapter, shall mean as follows:

“Booking Transaction” means any reservation or payment service provided by a person who facilitates a short-term rental, home sharing, or similar transaction between a prospective guest and a host.

“Director” means the Development Services Director of the City of Upland.

“Dwelling Unit” means a structure or portion thereof which is used for human habitation, as more particularly described in Section 17.51.010. A dwelling unit for purposes of this chapter is a single family-detached unit or a single family-attached (Townhome) unit.

“Enforcement Officer” means the Director, Building Official, Fire Marshall, Code Enforcement Officer, or any other City employee designated by the Director or City Manager to enforce this chapter and the Upland Municipal Code.

“Guest” means a person who rents a short-term rental for a period of not more than thirty (30) days.

“Group” means a single guest or any number of guests who are occupying a short-term rental on a single rental agreement.

“Host” means a person engaged in providing short-term rental at their primary residence.

“Hosted Stay” means short-term rental activity whereby the host remains on the site of his or her primary residence throughout the duration of the guest’s stay, except during daytime and/or workhours.

“Hosting Platform” means a marketplace in whatever form or format which facilitates the short-term rental activity, through advertising, match-making, or any other means, using any medium of facilitation, and from which the operator of the hosting platform derives revenues, including booking fees or advertising revenues, from providing or maintaining the marketplace.

“Primary Residence” means the dwelling unit used as the permanent residence or usual place of return for housing by the host. A person may have only one primary residence.

“Short-Term Rental” means a dwelling unit, or any portion thereof, that is rented by the host to another party for a period of not more than thirty (30) consecutive days in exchange for any form of monetary or non-monetary consideration, including trade, fee, swap or any other consideration in lieu of cash payment. Hosted stays, Un-hosted stays, and vacation rentals are types of short-term rental.

“Transient Occupancy Tax” or “TOT” means the tax imposed on occupancies of thirty (30) consecutive calendar days or less under Chapter 3.12 of the Upland

Municipal Code.

“Un-Hosted Stay” means a short-term rental activity whereby the host remains off the site of his or her primary residence-site for some or all of the duration of the guest’s stay.

“Vacation Rental” means a dwelling unit that is not a primary residence, and which is available for temporary lodging, for compensation or any form of consideration. The term “vacation rental” shall not include: single-room occupancy buildings, bed and breakfast inns, hotels, a dwelling unit for which a tenant has a month-to-month rental agreement and the rental payments are made on a monthly basis, or corporate housing.

17.23.1.020 Administrative Use Permit Required for Authorized Short-Term Rental. No person, either for themselves or any other person, shall cause, allow, conduct, permit, maintain, or facilitate short-term rental at any dwelling unit within the City without first obtaining an Administrative Use Permit pursuant to this Code, and complying with all other applicable provisions of this Code. An Administrative Use Permit shall only be issued to authorize hosted stays and un-hosted stays. Vacation rentals are prohibited.

17.23.1.030 Permit Application. To apply for an Administrative Use Permit for a Short-Term Rental, a person seeking to become a host must file an application with the Director, accompanied by a nonrefundable processing fee in an amount established by resolution of the City Council. The application shall be in a form prescribed by the Director and shall contain, at a minimum, the following:

- A. The legal name, current address and telephone number of the applicant.
- B. Address of the short-term rental property, and if applicable, location telephone number.
- C. An index of all residents of the property with name and date of birth, juveniles may be listed by title and age only.
- D. Site Plan indicating the areas intended for use as short-term rental, and showing sufficient lawful parking on the property for all vehicles belonging to residents and guests pursuant to Section 17.23.1.090(D).
- E. Floor Plan of the dwelling unit for use as short-term rental which identifies sleeping areas, proposed maximum number of guests and approximate square footages.
- F. Documentation indicating the number of bedrooms within the dwelling unit and square footage of the dwelling unit for short-term rental, such as a record from the County Assessor’s Office.
- G. A copy of a valid business license issued pursuant to Title 5 of this Code.

- H. A copy of a valid transit occupancy registration certificate pursuant to Chapter 3.12 of the Upland Municipal Code.
- I. A Home Occupation Permit pursuant to Title 17 of this code is not required.
- J. Emergency contact information for 24-hour response within one hour.
- K. Certification by the applicant that the information contained in the application is true to his or her knowledge and belief.
- L. Documentation establishing that the dwelling unit proposed to be used as a short-term rental is the host's primary residence. Such documentation shall include at least two of the following and be in the name of the host: Motor vehicle registration, driver's license, voter registration, or tax documents showing the residential unit as the residence of the host.
- M. The applicant shall provide two passport size photographs.
- N. Any other information required by regulations promulgated pursuant to this Chapter or deemed necessary by the Director.

17.23.1.040 Application Investigation and Criteria for Approval or Denial of Permit. Upon receipt of a completed application, the Director, or his or her designee, shall cause an investigation of the applicant and the application as submitted. The investigation shall be completed in a timely manner as follows and the applicant shall be notified of the result in writing in a timely manner:

- A. The applicant shall be required to pay the established fees for such service in addition to the permit fee.
- B. Inspection of the property by city staff shall be scheduled within thirty (30) days of application.
- C. If, as a result of this investigation, the applicant is found to satisfy all of the requirements of Section 17.23.1.030 and no grounds for denial exist, the application shall be approved, and an Administrative Use Permit for a Short-Term Rental shall be issued to the applicant. The permit shall contain the name, address of the permittee, a description of the short-term rental to be offered, the date of issuance and term of the permit, photograph of the permittee, and the signature of the Director or his or her designee.
- D. An Administrative Use Permit application for a Short-Term Rental may be denied for any of the following reasons:
 - 1. Information contained in the application, or supplemental information requested from the applicant, is false or misleading in any material detail.

2. The applicant failed to provide a complete application, after having been notified of the requirement to produce additional information or documents.
3. The applicant is delinquent in payment of any city or county taxes, fines, or penalties in relation to short-term rental.
4. The applicant has previously held an Administrative Use Permit for a Short-Term Rental which was revoked by the City during the year prior to the application.
5. The applicant has failed to pay any previous administrative fines, remediate any other violations, and/or complete any other alternative disposition associated with a previous violation of this Chapter; or
6. The applicant has failed to demonstrate an ability to conform to the operating standards set forth in Section 17.23.1.090.

If the permit application is denied, written notice of such denial and the reasons therefore shall be provided to the applicant.

17.23.1.050 Permit Expiration and Renewal. An Administrative Use Permit for a Short-Term Rental shall be valid for two (2) years from the date of issuance and shall expire and become null and void on the anniversary date of its issuance.

- A. A person may apply for a permit renewal on a form provided by the City no later than thirty (30) days prior to the expiration of his or her active Administrative Use Permit for a Short-Term Rental and upon successfully completing an inspection by city staff.
- B. Renewal of the permit shall be valid for two (2) years from the original expiration date of the Administrative Use Permit for a Short-Term Rental. There is no limitation on the number of renewals that may be granted by the Director.
- C. The applicant shall be required to pay the Administrative Use Permit fee for the permit renewal in the amount established by City Council resolution at the time the renewal application is filed. Failure of the applicant to submit a complete application prior to the expiration date of the existing Administrative Use Permit for a Short-Term Rental shall be a basis for denial of the renewal.

17.23.1.060 Permit Revocation. The Director may revoke an Administrative Use Permit for a Short-Term Rental issued to a host for a third or subsequent violation of this Chapter within any period of time or for any violation of Chapter 3.12 relating to transient occupancy tax. A short-term rental host whose permit is revoked may apply for a new Administrative Use Permit for a Short-Term

Rental one year after the revocation of the permit.

17.23.1.070 Appeals. Any person whose Administrative Use Permit for a Short-Term Rental or a renewal is denied or revoked may appeal the decision in writing with the Development Services Department pursuant to the procedures established in Chapter 17.47.040 of this Code.

17.23.1.080 Permits Nontransferable. An Administrative Use Permit for a Short-Term Rental granted pursuant to this Chapter shall not be transferable to another person, parcel number, or to another property owner. Said permit shall not run with the land or property to which it applies.

17.23.1.090 Operating Conditions and Requirements. Short-Term rental hosts shall comply with the following conditions and requirements:

A. The host shall be:

1. The property owner or the spouse, parent or adult child of the property owner.
2. A tenant of the property who has occupied the property as his or her primary residence prior to making application for an Administrative Use Permit for a Short-Term Rental and who has submitted written authorization from the property owner to operate short-term rental at the residence.

B. The dwelling unit shall be the primary residence of the host.

C. The dwelling unit must be located within Residential Single Family (RS) zones, Residential Multi-Family (RM) zones, or is a legally established single-family-attached or single-family-detached residence in a Specific Plan. A short-term rental shall not be permitted in any Mixed-Use zone or any Commercial or Industrial zones.

D. The minimum number of parking required is one additional space for each bedroom of the house to be used for short-term rental. This requirement is in addition to the parking requirement for the dwelling unit pursuant to this Code. The Director on a case by case basis may allow parking on the street within the lot frontage of the dwelling unit to count toward meeting this parking requirement.

E. All advertising for the dwelling unit as a short-term rental that is displayed on a hosting platform or other media shall display the number of the current and valid permit as issued by the City, a street-view photo of the front of the house and the maximum number of guests based on the occupancy limit set forth in subsection E of this section.

F. The dwelling unit's occupancy, including the host, other residents of the dwelling unit, and guests, during a short-term rental shall not exceed two

times the number of bedrooms of the dwelling unit.

- G. The host shall comply with all requirements of and be subject to the Transient Occupancy Tax (TOT) pursuant to Chapter 3.12 and the business license fees pursuant to Title 5 of this Code for short-term rental use. The host shall have the duty and liability to ensure timely remittance of the TOT to the City in compliance with Chapter 3.12 of this Code.
- H. The Administrative Use Permit for a Short-Term Rental shall be conspicuously displayed within a prominent area of the dwelling unit available for occupancy.
- I. Any accessory dwelling unit (ADU) as defined and pursuant to Chapter 17.37 of this Code and/or subject to a covenant that specifically prohibits rentals of thirty (30) days or less shall not be used as a short-term rental.
- J. A single dwelling unit shall be limited to one group booking transaction at a time.
- K. The short-term rental shall comply with all applicable provisions of this Code and State law.
- L. Conditions that cause a public nuisance, as defined by this Code or State law are prohibited at the dwelling unit during a short-term rental.
- M. Un-hosted stays shall be limited to a total of 120 days within a calendar year at the same dwelling unit. Hosted stays shall not be limited.
- N. The dwelling unit for short-term rental shall comply with all current State and local building and fire codes.
- O. There shall be no exterior signs or advertising except as provided in Chapter 17.15, Sign Regulations those permitted for a dwelling use in the zone.
- P. The host shall provide access to the garage of the residence if that area has been included in the determination of the number of available on-site spaces for renters.
- Q. Noise from the short-term rental use shall comply with Chapter 9.40 of this Code. Pools and hot tubs shall have hours of operation clearly posted adjacent to the facility, and shall comply with the exterior noise standards in Chapter 9.40.
- R. Lighting on the premises shall be directed, controlled, screened or shaded in such a manner as not to shine directly on surrounding properties. All lighting shall comply with the standards in a residential zone pursuant to Chapter 17.14 of this Code.

- S. Structures not built for habitable use such as but not limited to trailers, tents, tree houses, garages, or temporary structures such as recreational vehicles shall not be used for short-term rentals or satisfy the host occupant requirement of this section.
- T. A host for a short-term rental must maintain for a period of three (3) years a detailed and accurate record of their guest information pertaining to hosting dates, and financial documentation, and make this information available to the City upon request.
- U. The host or authorized agent must be available to the Enforcement Officer by telephone 24 hours per day, seven (7) days per week when the short-term rental is rented. In addition, the host or authorized agent must be on the premise of the short-term rental unit within one hour of being notified by the Enforcement Officer to address an issue of permit compliance, public nuisance, or health, safety or welfare of the public.
- V. The permittee for an Administrative Use Permit for a Short-Term Rental shall to the fullest extent permitted by law, 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 permits for short-term rental; and (ii) any and all claims, lawsuits, liabilities, and/or actions arising out of, or related to the approval of permits for short-term rental 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 permit. Permittee'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 attorney's fees in any such lawsuit or action.
- W. Host for a short-term rental shall be responsible for informing their guests of the "House Rules". Such rules shall, at a minimum, include rules explained in this section. As part of the transaction for short-term rental, the guests shall sign an agreement acknowledging the house rules and promising to comply as follows:
 - 1. A copy of the house rules and the Administrative Use Permit for a Short-Term Rental has been reviewed by the guest and is displayed pursuant to subsection H of this section.
 - 2. In order to comply with all provisions of State law and this Code

related to emergency vehicle access, no limousine or bus parking, and no stopping without the driver's presence, shall be allowed in any manner that would interfere with emergency vehicle access.

3. Guests of the short-term rental shall maintain the property free of debris both on-site and in the street. Trash cans shall be maintained in a clean and sanitary manner in conformance with this Code. Trash cans shall not be placed on the street prior to 24 hours before scheduled pick-up day and shall be promptly removed from the street following service.
4. Quiet times shall be from 10:00 p.m. to 7:00 a.m. pursuant to the City's noise standards provided in Chapter 9.40.
5. The guests of the short-term rental shall not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of the Upland Municipal Code or any State law pertaining to noise or disorderly conduct. Further the host shall contact the Police Department in the event guests fail to comply with this Chapter and this Code.
6. No short-term rental unit may be used for any wedding, receptions, auction, commercial function or any other similar event that is inconsistent with residential uses permitted by this Code.
7. Guests shall park in the designated parking areas approved for the short-term rental.
8. Discharge of fireworks shall be prohibited at any time.
9. Maximum occupancy permitted for the duration of stay for the short-term rental shall be that established in subsection F of this section.

17.23.1.100 Hosting Platform Requirements.

- A. Hosting platforms shall be responsible for collecting all applicable Transient Occupancy Tax (TOT) and remitting the same to the City. The hosting platform shall be considered a managing agent of the host for purpose of TOT collections and remittance responsibilities as set forth in Chapter 3.12 of the Upland Municipal Code.
- B. Subject to applicable laws, hosting platforms shall disclose to the City on a regular basis each short-term rental listing located in the City, the names of the persons responsible for each such listing, the address of each such listing, the length of stay for each such listing and the price paid for each stay.
- C. Hosting platforms shall require hosts to include the City-issued registration number in their listing(s) in a format designated by the City. Upon notice from the City that a listing is non-compliant, hosting platforms shall cease any Short-Term Rental booking transactions for said listing(s) within five (5) business days. A hosting platform shall not complete any booking transaction for any residential property or unit subject to a City notice until notified by the City that the residential property or unit is in compliance with the local registration requirement.
- D. Hosting platforms shall not collect or receive a fee, directly or indirectly through an agent or intermediary, for facilitating or providing services ancillary to a vacation rental or unregistered short-term rental, including but not limited to, insurance, concierge services, catering, restaurant bookings, tours, guide services, entertainment, cleaning, property management, or maintenance of the dwelling unit.
- E. A hosting platform operating exclusively on the internet, which operates in compliance with subsections A., B., C., and D. above, shall be presumed to be in compliance with this Chapter.
- F. The provisions of this Section shall be interpreted in accordance with otherwise applicable State and Federal law(s) and will not apply if determined by the City to be in violation of, or preempted by, any such law(s).

17.23.1.110 Enforcement and penalties.

- A. Operating a short-term rental without a valid Administrative Use Permit for a Short-Term Rental, business license, and valid transit occupancy registration certificate is prohibited. Advertising shall be considered prima facie evidence of operation. Additional evidence of operation may include, but shall not be limited to, guest testimony, online reviews, rental agreements, receipts, or any other information deemed relevant by the City.

- B. A violation of this Chapter shall constitute a public nuisance, which may be abated by any means provided by law, including but not limited to injunctive relief, issuance of administrative fines pursuant to Chapter 1.10, and shall also constitute a misdemeanor punishable pursuant to Chapter 1.16.
- C. Each and every day, or portion thereof, a violation of this Chapter exists shall constitute a separate and distinct violation.
- D. The remedies provided herein are intended to be cumulative and may be used in lieu of or in addition to any other remedy provided by this Chapter or other law."

Section 4. Section 17.23.020 (Applicability) of Chapter 17.23 (Bed and Breakfasts) of the Upland Municipal Code is hereby amended to provide clarity that the applicable regulations for the provision of temporary accommodations in residential dwellings are the City's short-rental regulations by deleting subsection (A)(3) in its entirety.

Section 5. Section 17.23.030 (Authority) of Chapter 17.23 (Bed and Breakfasts) of the Upland Municipal Code is hereby amended in its entirety to remove references to "air bed and breakfast establishments," to read as follows:

"17.23.030. Authority

Bed and breakfast establishments, require a Conditional Use Permit, which is a discretionary action approved by the Planning Commission. Refer to Part 5 (Land Use and Development Approval Procedures) of the Zoning Ordinance for permit application procedures."

Section 6. Section 17.51.010 (Definitions) of the Upland Municipal Code is hereby amended by amending the definition of "Bed and Breakfast" to read as follows, with all other definitions remaining the same:

"Bed and Breakfast" means either a bed and breakfast homestay or a bed and breakfast inn depending on the number of guest rooms.

a. "Bed and breakfast homestay" means a private, owner-occupied residence, providing between one and five guest rooms.

b. "Bed and breakfast inn" means an owner- or manager-occupied residence, which provides more than five guest rooms.

Further, "Guest room" means a sleeping room occupied by a specific number of persons in either a bed and breakfast homestay or bed and breakfast inn."

Section 7. CEQA. The City Council finds that it can be seen with certainty that there is no possibility that the adoption of this Ordinance and the establishment of the regulations hereby will have a significant effect on the environment. This Ordinance

does not have the potential for causing such effects as it is a mechanism to ensure the collection of transient occupancy taxes, institutes a permit requirement to regulate the rental of homes on a short-term basis, and imposes limitations on such rentals in the City. This Ordinance will serve to reduce potential significant adverse environmental effects. The Ordinance is therefore exempt from review under the California Environmental Quality Act, pursuant to Title 14, Section 15061(b)(3) of the California Code of Regulations.

Section 8. Severability. If any sections, subsections, sentence, clause, or phrase of the Chapter adopted by this Ordinance is for any reason held to be invalid or unconstitutional by the decision or legislation of any court of competent jurisdiction, or by reason of preemptive legislation, such decision or legislation shall not affect the validity of the remaining portions of the Chapter. The City Council declares that it would have passed this Ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that one or more of the sections, subsections, sentences, clauses, or phrases thereof is declared invalid or unconstitutional.

Section 9. Publication and Certification. The City Clerk shall certify the adoption of this Ordinance and cause it to be published in the manner required by law.

PASSED, APPROVED, AND ADOPTED this 14th day of September, 2020.

Debbie Stone, Mayor

I, Keri Johnson, City Clerk of the City of Upland, California, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Upland held on the 10th day of August, 2020, and was adopted at a regular meeting of the City Council of the City of Upland on the 14th day of September, 2020, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAINED:

ATTEST: _____
Keri Johnson, City Clerk



STAFF REPORT

ITEM NO. 11.D.

DATE: September 14, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: STEPHEN PARKER, CPA, ASSISTANT CITY MANAGER
LONDA BOCK-HELMS, CPA, FINANCE OFFICER
SUBJECT: APPROVAL OF AUGUST WARRANT AND PAYROLL REGISTERS

RECOMMENDED ACTION

It is recommended that the City Council approve the August Warrant Registers (check numbers 31366-31663 and Direct Disbursements totaling \$8,979,865.49 and Payroll Registers totaling \$1,297,756.63 (check Numbers 161583-161605 and EFT's 22854-23328).

GOAL STATEMENT

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

BACKGROUND

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

ISSUES/ANALYSIS

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

FISCAL IMPACTS

Funds are available for the payment of the Warrant Registers, Direct Disbursements, and Payroll Registers in accordance with the FY 2020-21 operating budget.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

August Disbursements Register



City of Upland
Accounts Payable Check Reconciliation Register
08/01/20 - 08/31/20

CHECK #	CHECK DATE	CHECK TYPE	VENDOR	VENDOR NAME	CHECK AMOUNT
31366	08/05/2020	PRINTED	751	FIDELITY SECURITY LIFE INSURANCE COMF	\$ 2,688.94
31367	08/05/2020	PRINTED	207	ADLERHORST INTERNATIONAL LLC	\$ 118.53
31368	08/05/2020	PRINTED	851	ADVANTAGE SEALING SYSTEMS, INC	\$ 255.37
31369	08/05/2020	PRINTED	1291	AMTECH ELEVATOR SERVICES	\$ 2,245.68
31370	08/05/2020	PRINTED	99731	EUGENE M GIANUZZI	\$ 775.80
31371	08/05/2020	PRINTED	862	BADGER METER INC	\$ 75,640.50
31372	08/05/2020	PRINTED	291	CARQUEST AUTO PARTS	\$ 121.99
31373	08/05/2020	PRINTED	12511	CCSINTERACTIVE	\$ 125.00
31374	08/05/2020	PRINTED	1877	FRANCISCO MONRREAL	\$ 312.47
31375	08/05/2020	PRINTED	363	CHINO MOWER & ENGINE SERVICE	\$ 2,251.24
31376	08/05/2020	PRINTED	448	CINTAS CORPORATION	\$ 770.65
31377	08/05/2020	PRINTED	111301	CITY CLERK MANAGEMENT SERVICES	\$ 880.00
31378	08/05/2020	PRINTED	3613	CITY OF CLAREMONT	\$ 9,424.03
31379	08/05/2020	PRINTED	986	BOROCH, MARK	\$ 12,873.00
31380	08/05/2020	PRINTED	16636	DELL MARKETING LP	\$ 518.22
31381	08/05/2020	PRINTED	4402	VARGAS, LUPE B	\$ 330.00
31382	08/05/2020	PRINTED	10485	EXPERIAN	\$ 77.00
31383	08/05/2020	PRINTED	96251	FORD OF UPLAND	\$ 581.19
31384	08/05/2020	PRINTED	78	FRONTIER	\$ 91.40
31385	08/05/2020	PRINTED	78	FRONTIER	\$ 120.05
31386	08/05/2020	PRINTED	78	FRONTIER	\$ 120.29
31387	08/05/2020	PRINTED	58311	G H A TECHNOLOGIES	\$ 6,976.88
31388	08/05/2020	PRINTED	833	G4S SECURE SOLUTIONS (USA) INC	\$ 17,671.49
31389	08/05/2020	PRINTED	16687	GOOD FAITH LIEN SVCS INC	\$ 11.00
31390	08/05/2020	PRINTED	290	GRAINGER	\$ 2,363.18
31391	08/05/2020	PRINTED	90227	HEARD'S INVESTIGATIONS AND POLYGRAF	\$ 175.00
31392	08/05/2020	PRINTED	957	HUNTER CONSULTING INC	\$ 2,975.00
31393	08/05/2020	PRINTED	153	INLAND EMPIRE UTILITIES AGENCY	\$ 139,233.20
31394	08/05/2020	PRINTED	195	INLAND VALLEY DAILY BULLETIN	\$ 804.64
31395	08/05/2020	PRINTED	17528	INNOVATIVE PRINTING CONCEPTS	\$ 735.46
31396	08/05/2020	PRINTED	80	INTERNATIONAL BUSINESS INFORMATION	\$ 1,980.00
31397	08/05/2020	PRINTED	48371	JEEP CHRYSLER OF ONTARIO	\$ 937.81
31398	08/05/2020	PRINTED	841	JOHNSTONE SUPPLY	\$ 21.46
31399	08/05/2020	PRINTED	469	LONDA BOCK-HELMS	\$ 285.00
31400	08/05/2020	PRINTED	445	MATHISEN OIL CO INC	\$ 618.43
31401	08/05/2020	PRINTED	21341	MATT CHLOR INC	\$ 4,125.55
31402	08/05/2020	PRINTED	16233	MPOWER COMMUNICATIONS	\$ 233.37
31403	08/05/2020	PRINTED	117121	NUCKLES OIL COMPANY INC	\$ 20,198.94
31404	08/05/2020	PRINTED	6625	P F SERVICES INC	\$ 125.00
31405	08/05/2020	PRINTED	67381	ROUTE 66 CAR WASH INC	\$ 161.00
31406	08/05/2020	PRINTED	26331	SENDLDORFER, BRIAN	\$ 116.04

31407	08/05/2020 PRINTED	131121	SHRED-IT USA JV LLC	\$	200.35
31408	08/05/2020 PRINTED	77751	IDSC HOLDINGS LLC	\$	70.94
31409	08/05/2020 PRINTED	16607	STAPLES BUSINESS ADVANTAGE	\$	1,194.96
31410	08/05/2020 PRINTED	69231	STEP SAVER CA LLC	\$	1,044.12
31411	08/05/2020 PRINTED	11583	THOMPSON PLUMBING SUPPLY	\$	227.50
31412	08/05/2020 PRINTED	21671	TIME WARNER CABLE	\$	151.52
31413	08/05/2020 PRINTED	21671	TIME WARNER CABLE	\$	151.52
31414	08/05/2020 PRINTED	21671	TIME WARNER CABLE	\$	704.86
31415	08/05/2020 PRINTED	21671	TIME WARNER CABLE	\$	1,301.29
31416	08/05/2020 PRINTED	62321	U.S. TELEPACIFIC CORP	\$	1,742.06
31417	08/05/2020 PRINTED	62321	U.S. TELEPACIFIC CORP	\$	2,941.02
31418	08/05/2020 PRINTED	98	TRITECH SOFTWARE SYSTEMS	\$	31,381.00
31419	08/05/2020 PRINTED	11484	U S BANK	\$	5,750.00
31420	08/05/2020 PRINTED	62571	HD SUPPLY FACILITIES MAINTENANCE LTD	\$	1,254.65
31421	08/05/2020 PRINTED	133941	VERIZON	\$	1,460.49
31422	08/05/2020 PRINTED	14735	VERIZON WIRELESS	\$	2,277.52
31423	08/05/2020 PRINTED	999999	STEVE NIX	\$	56.03
31424	08/12/2020 PRINTED	17278	A T & T	\$	333.51
31425	08/12/2020 PRINTED	207	ADLERHORST INTERNATIONAL LLC	\$	140.08
31426	08/12/2020 PRINTED	88211	AIR-EX	\$	595.00
31427	08/12/2020 PRINTED	131971	ANNEALTA GROUP	\$	6,540.75
31428	08/12/2020 PRINTED	1769	BIO-TOX LABORATORIES	\$	1,011.00
31429	08/12/2020 PRINTED	120021	BRIGHTVIEW	\$	27,946.04
31430	08/12/2020 PRINTED	819	BRINKS, INC	\$	641.04
31431	08/12/2020 PRINTED	600	CALIFORNIA STREET LIGHTING	\$	23,400.00
31432	08/12/2020 PRINTED	291	CARQUEST AUTO PARTS	\$	1,078.58
31433	08/12/2020 PRINTED	448	CINTAS CORPORATION	\$	989.65
31434	08/12/2020 PRINTED	509	CITY OF ONTARIO	\$	83,595.91
31435	08/12/2020 PRINTED	163	CLINICAL LABORATORY OF SAN BERNARDI	\$	529.00
31436	08/12/2020 PRINTED	104521	CONNEY SAFETY	\$	65.46
31437	08/12/2020 PRINTED	35791	DEL NEGRO, VINCENT	\$	44.99
31438	08/12/2020 PRINTED	16636	DELL MARKETING LP	\$	22,855.41
31439	08/12/2020 PRINTED	631	E&M ELETRIC AND MACHINERY, INC	\$	8,240.00
31440	08/12/2020 PRINTED	82651	ECONOLITE SYSTEMS	\$	43,689.48
31441	08/12/2020 PRINTED	2435	EVERSOFT	\$	668.26
31442	08/12/2020 PRINTED	4456	FEDERAL EXPRESS	\$	22.68
31443	08/12/2020 PRINTED	3321	FOOTHILL VACUUM & JANITORIAL	\$	108.39
31444	08/12/2020 PRINTED	78	FRONTIER	\$	61.98
31445	08/12/2020 PRINTED	78	FRONTIER	\$	1,220.00
31446	08/12/2020 PRINTED	78	FRONTIER	\$	1,452.11
31447	08/12/2020 PRINTED	58311	G H A TECHNOLOGIES	\$	2,956.00
31448	08/12/2020 PRINTED	111251	GNA BROOK FIRE PROTECTION INC	\$	595.00
31449	08/12/2020 PRINTED	16687	GOOD FAITH LIEN SVCS INC	\$	66.00
31450	08/12/2020 PRINTED	290	GRAINGER	\$	3,922.37
31451	08/12/2020 PRINTED	90227	HEARD'S INVESTIGATIONS AND POLYGRAF	\$	175.00
31452	08/12/2020 VOID	4850	HI-WAY SAFETY INC	\$	816.21
31453	08/12/2020 PRINTED	329	HOLLIDAY ROCK CO INC	\$	2,046.86

31454	08/12/2020 PRINTED	953	HOME DEPOT U.S.A., INC	\$	181.01
31455	08/12/2020 PRINTED	629	HONEYCOTT, INC	\$	283.00
31456	08/12/2020 PRINTED	16340	INFOSEND INC	\$	8,401.31
31457	08/12/2020 PRINTED	195	INLAND VALLEY DAILY BULLETIN	\$	7,365.14
31458	08/12/2020 PRINTED	63221	J C I JONES CHEMICALS INC	\$	3,954.60
31459	08/12/2020 PRINTED	583	KING FENCING	\$	2,490.00
31460	08/12/2020 PRINTED	26101	KONICA MINOLTA	\$	4,369.27
31461	08/12/2020 PRINTED	15595	L D M ASSOCIATES INC	\$	2,560.00
31462	08/12/2020 PRINTED	267	LARA, JASON	\$	125.00
31463	08/12/2020 PRINTED	3020	LAW ENFORCEMENT MEDICAL SVCS	\$	1,920.00
31464	08/12/2020 PRINTED	16385	MAIN STREET SIGNS	\$	1,154.00
31465	08/12/2020 PRINTED	445	MATHISEN OIL CO INC	\$	1,427.63
31466	08/12/2020 PRINTED	238	MOUNTAIN VIEW CHEVROLET	\$	88.14
31467	08/12/2020 PRINTED	16233	MPOWER COMMUNICATIONS	\$	236.87
31468	08/12/2020 PRINTED	5109	MR KEYS-AABOC-JACKS	\$	72.75
31469	08/12/2020 PRINTED	473	MUNICIPAL MAINTENANCE EQUIPMENT II	\$	2,028.30
31470	08/12/2020 PRINTED	83491	NOBEL SYSTEMS	\$	20,100.00
31471	08/12/2020 PRINTED	4509	PARKHOUSE TIRE INC	\$	179.98
31472	08/12/2020 PRINTED	16032	PLUMBERS DEPOT INC	\$	108.20
31473	08/12/2020 PRINTED	62081	QUADIENT LEASING USA, INC	\$	1,863.42
31474	08/12/2020 PRINTED	349	RAIN MASTER IRRIGATION SYSTEMS	\$	235.90
31475	08/12/2020 PRINTED	969	SALCIDO, HECTOR	\$	281.00
31476	08/12/2020 PRINTED	606	SAN BERNARDINO COUNTY SHERIFF'S	\$	55.62
31477	08/12/2020 PRINTED	606	SAN BERNARDINO COUNTY SHERIFF'S	\$	20.00
31478	08/12/2020 PRINTED	2225	SAN BERNARDINO COUNTY FIRE	\$	380.00
31479	08/12/2020 PRINTED	2225	SAN BERNARDINO COUNTY FIRE	\$	25,104.48
31480	08/12/2020 PRINTED	98677	SAN BERNARDINO COUNTY FLOOD CONF	\$	24,051.00
31481	08/12/2020 PRINTED	131121	SHRED-IT USA JV LLC	\$	158.69
31482	08/12/2020 PRINTED	18062	SOFFA ELECTRIC INC	\$	480.00
31483	08/12/2020 PRINTED	861	SOUTHWEST MOBILE STORAGE, INC	\$	133.93
31484	08/12/2020 PRINTED	16607	STAPLES BUSINESS ADVANTAGE	\$	6.36
31485	08/12/2020 PRINTED	93351	STEVE'S FIVE STAR SERVICE INC	\$	885.00
31486	08/12/2020 PRINTED	678	SUN BADGE COMPANY INC	\$	210.65
31487	08/12/2020 PRINTED	516	SWAGIT PRODUCTIONS	\$	2,340.00
31488	08/12/2020 PRINTED	2439	T K E ENGINEERING INC	\$	61,285.00
31489	08/12/2020 PRINTED	972	THE LEW EDWARDS GROUP	\$	6,000.00
31490	08/12/2020 PRINTED	21671	TIME WARNER CABLE	\$	97.61
31491	08/12/2020 PRINTED	21671	TIME WARNER CABLE	\$	119.98
31492	08/12/2020 PRINTED	21671	TIME WARNER CABLE	\$	129.98
31493	08/12/2020 PRINTED	21671	TIME WARNER CABLE	\$	151.52
31494	08/12/2020 PRINTED	62321	U.S. TELEPACIFIC CORP	\$	1,740.96
31495	08/12/2020 PRINTED	84081	TRENCH PLATE RENTAL CO	\$	1,153.77
31496	08/12/2020 PRINTED	3557	UNDERGROUND SERVICE ALERT	\$	564.53
31497	08/12/2020 PRINTED	170	UPSCO POWERSAFE SYSTEMS INC	\$	970.00
31498	08/12/2020 PRINTED	14735	VERIZON WIRELESS	\$	35.22
31499	08/12/2020 PRINTED	14735	VERIZON WIRELESS	\$	38.01
31500	08/12/2020 PRINTED	14735	VERIZON WIRELESS	\$	38.01

31501	08/12/2020 PRINTED	14735	VERIZON WIRELESS	\$	53.44
31502	08/12/2020 PRINTED	14735	VERIZON WIRELESS	\$	107.46
31503	08/12/2020 PRINTED	14735	VERIZON WIRELESS	\$	114.05
31504	08/12/2020 PRINTED	14735	VERIZON WIRELESS	\$	190.05
31505	08/12/2020 PRINTED	14735	VERIZON WIRELESS	\$	266.07
31506	08/12/2020 PRINTED	14735	VERIZON WIRELESS	\$	278.43
31507	08/12/2020 PRINTED	14735	VERIZON WIRELESS	\$	423.51
31508	08/12/2020 PRINTED	14735	VERIZON WIRELESS	\$	772.82
31509	08/12/2020 PRINTED	14735	VERIZON WIRELESS	\$	2,012.13
31510	08/12/2020 PRINTED	14735	VERIZON WIRELESS	\$	2,224.42
31511	08/12/2020 PRINTED	14735	VERIZON WIRELESS	\$	3,291.77
31512	08/12/2020 PRINTED	14735	VERIZON WIRELESS	\$	4,601.20
31513	08/12/2020 PRINTED	760	WATER FACILITIES AUTHORITY	\$	1,008.16
31514	08/12/2020 PRINTED	392	WAXIE SANITARY SUPPLY	\$	5,671.23
31515	08/12/2020 PRINTED	766	WEST END CONSOLIDATED WATER CO	\$	17,459.20
31516	08/12/2020 PRINTED	635	WESTERN EXTERMINATOR COMPANY	\$	135.00
31517	08/12/2020 PRINTED	14050	WILLDAN FINANCIAL SERVICES	\$	3,403.00
31518	08/12/2020 PRINTED	297	WILLIAMS, MARCI	\$	90.45
31519	08/12/2020 PRINTED	826	YARDLEY ORGILL CO INC	\$	19,350.18
31520	08/12/2020 PRINTED	999999	HUI ZHANG	\$	299.77
31521	08/12/2020 PRINTED	999999	JASON FORSBERG	\$	125.00
31522	08/12/2020 PRINTED	999999	KEVIN NEAL	\$	45.24
31523	08/12/2020 PRINTED	999999	MATLOCK DESIGN BUILD	\$	306.00
31524	08/12/2020 PRINTED	999999	MOUNT ZION CHURCH	\$	430.00
31525	08/12/2020 PRINTED	999999	TORIN HALVORSON	\$	125.00
31526	08/12/2020 PRINTED	999999	VINCENT PARRA	\$	125.00
31527	08/12/2020 PRINTED	133641	MORNEAU SHEPELL LIMITED	\$	365.00
31528	08/12/2020 PRINTED	972	THE LEW EDWARDS GROUP	\$	6,000.00
31529	08/12/2020 PRINTED	971	VIGILANCE SOFTWARE, LLC	\$	2,411.20
31530	08/12/2020 PRINTED	999999	HILDA BIBB	\$	176.00
31531	08/19/2020 PRINTED	125761	CITY EMPLOYEE ASSOCIATES	\$	276.00
31532	08/19/2020 PRINTED	295	INLAND EMPIRE UNITED WAY	\$	26.00
31533	08/19/2020 PRINTED	736	UPLAND POLICE MANAGEMENT ASSN	\$	1,183.00
31534	08/19/2020 PRINTED	737	UPLAND POLICE OFFICERS ASSN	\$	5,445.00
31535	08/19/2020 PRINTED	120021	BRIGHTVIEW	\$	126,928.90
31536	08/19/2020 PRINTED	5944	BURRTEC WASTE INDUSTRIES	\$	785,932.30
31537	08/19/2020 PRINTED	600	CALIFORNIA STREET LIGHTING	\$	12,050.00
31538	08/19/2020 PRINTED	291	CARQUEST AUTO PARTS	\$	489.58
31539	08/19/2020 PRINTED	12511	CCSINTERACTIVE	\$	125.00
31540	08/19/2020 PRINTED	363	CHINO MOWER & ENGINE SERVICE	\$	275.75
31541	08/19/2020 PRINTED	448	CINTAS CORPORATION	\$	812.94
31542	08/19/2020 PRINTED	475	CITY OF MONTCLAIR	\$	4,552.05
31543	08/19/2020 PRINTED	984	CO-LINE WELDING, INC	\$	4,000.00
31544	08/19/2020 PRINTED	45421	COSTAR REALTY INFORMATION GROUP IN	\$	473.58
31545	08/19/2020 PRINTED	98828	COUNTY SANITATION DISTRICT	\$	1,831.59
31546	08/19/2020 PRINTED	4696	CUCAMONGA VALLEY WATER DISTRICT	\$	134.22
31547	08/19/2020 PRINTED	16636	DELL MARKETING LP	\$	2,278.53

31548	08/19/2020 PRINTED	5380	EMPIRE LASER INC	\$	159.00
31549	08/19/2020 PRINTED	21131	ESRI INC	\$	6,800.00
31550	08/19/2020 PRINTED	78	FRONTIER	\$	45.83
31551	08/19/2020 PRINTED	78	FRONTIER	\$	545.66
31552	08/19/2020 PRINTED	58311	G H A TECHNOLOGIES	\$	758.00
31553	08/19/2020 PRINTED	775	GRANICUS, LLC	\$	5,157.00
31554	08/19/2020 PRINTED	329	HOLLIDAY ROCK CO INC	\$	6,791.26
31555	08/19/2020 PRINTED	629	HONEYCOTT, INC	\$	371.00
31556	08/19/2020 PRINTED	957	HUNTER CONSULTING INC	\$	1,870.00
31557	08/19/2020 PRINTED	153	INLAND EMPIRE UTILITIES AGENCY	\$	56,317.17
31558	08/19/2020 PRINTED	195	INLAND VALLEY DAILY BULLETIN	\$	5,545.76
31559	08/19/2020 PRINTED	284	J G BAUTISTA CONSULTING	\$	5,400.00
31560	08/19/2020 PRINTED	529	KAISER FOUNDATION HEALTH PLAN	\$	23,246.04
31561	08/19/2020 PRINTED	529	KAISER FOUNDATION HEALTH PLAN	\$	26,914.00
31562	08/19/2020 PRINTED	529	KAISER FOUNDATION HEALTH PLAN	\$	120,925.63
31563	08/19/2020 PRINTED	80561	KEENAN & ASSOCIATES	\$	1,254,215.61
31564	08/19/2020 PRINTED	583	KING FENCING	\$	1,000.00
31565	08/19/2020 PRINTED	944	KOSMONT COMPANIES	\$	1,032.99
31566	08/19/2020 PRINTED	91491	LIBRARY SYSTEMS & SERVICES LLC	\$	7,514.91
31567	08/19/2020 PRINTED	399	MADOLE & ASSOCIATES	\$	8,300.00
31568	08/19/2020 PRINTED	23581	MAGNOLIA COLONY APARTMENTS	\$	169.92
31569	08/19/2020 PRINTED	16385	MAIN STREET SIGNS	\$	15,907.19
31570	08/19/2020 PRINTED	849	MITCHELL REPAIR INFO CO LLC	\$	1,608.00
31571	08/19/2020 PRINTED	133641	MORNEAU SHEPELL LIMITED	\$	438.00
31572	08/19/2020 PRINTED	771	NETWRIX CORPORATION	\$	3,974.60
31573	08/19/2020 PRINTED	7734	OFFICE DEPOT	\$	7.50
31574	08/19/2020 PRINTED	64331	PACIFIC TELEMAGEMENT SERVICE	\$	63.00
31575	08/19/2020 PRINTED	67381	ROUTE 66 CAR WASH INC	\$	269.00
31576	08/19/2020 PRINTED	601	SAN ANTONIO WATER CO	\$	431,896.18
31577	08/19/2020 PRINTED	606	SAN BERNARDINO COUNTY SHERIFF'S	\$	660.00
31578	08/19/2020 PRINTED	2225	SAN BERNARDINO COUNTY FIRE DEPT	\$	282.54
31579	08/19/2020 PRINTED	653	SAVANT SOLUTIONS INC	\$	26,624.50
31580	08/19/2020 PRINTED	107	SITEONE LANDSCAPE SUPPLY HOLDING LL	\$	341.16
31581	08/19/2020 PRINTED	127551	STEVE'S HEATING AND AIR	\$	315.00
31582	08/19/2020 PRINTED	2439	T K E ENGINEERING INC	\$	41,690.00
31583	08/19/2020 PRINTED	21671	TIME WARNER CABLE	\$	704.86
31584	08/19/2020 PRINTED	946	TIP TOP 3M HOME RENEW CO.	\$	1,040.00
31585	08/19/2020 PRINTED	62321	U.S. TELEPACIFIC CORP	\$	2,988.85
31586	08/19/2020 PRINTED	912	TRIAD MEDICAL TRAINING, INC	\$	2,008.99
31587	08/19/2020 PRINTED	392	WAXIE SANITARY SUPPLY	\$	825.09
31588	08/19/2020 PRINTED	97071	WEST VALLEY MRF	\$	7,179.59
31589	08/19/2020 PRINTED	826	YARDLEY ORGILL CO INC	\$	9,692.03
31590	08/19/2020 PRINTED	826	YARDLEY ORGILL CO INC	\$	386.20
31591	08/19/2020 PRINTED	999999	SEAN DAVID FLINT	\$	1,132.26
31592	08/26/2020 PRINTED	751	FIDELITY SECURITY LIFE INSURANCE COMF	\$	2,686.17
31593	08/26/2020 PRINTED	114711	METROPOLITAN LIFE INSURANCE CO	\$	6,156.69
31594	08/26/2020 PRINTED	462	AMERIGAS	\$	452.07

31595	08/26/2020 PRINTED	117291	ANDERSON, CAROLYN	\$	100.00
31596	08/26/2020 PRINTED	131971	ANNEALTA GROUP	\$	20,480.00
31597	08/26/2020 PRINTED	308	ASPINALL, ROBIN JEAN	\$	100.00
31598	08/26/2020 PRINTED	6683	ATMAA INC	\$	2,720.00
31599	08/26/2020 PRINTED	55	BABCOCK & SONS, INC	\$	644.00
31600	08/26/2020 PRINTED	1007	CALDWELL, CHRISTINE	\$	100.00
31601	08/26/2020 PRINTED	83401	CARL WARREN & CO	\$	3,968.08
31602	08/26/2020 PRINTED	291	CARQUEST AUTO PARTS	\$	299.78
31603	08/26/2020 PRINTED	177	CONSOLIDATED ELECTRICAL DISTRIBUTOR	\$	4,622.05
31604	08/26/2020 PRINTED	82791	CHEM PRO LABORATORY INC	\$	298.00
31605	08/26/2020 PRINTED	448	CINTAS CORPORATION	\$	1,039.58
31606	08/26/2020 PRINTED	16636	DELL MARKETING LP	\$	96,347.40
31607	08/26/2020 PRINTED	124	DEPARTMENT OF JUSTICE	\$	290.00
31608	08/26/2020 PRINTED	64901	DESIGN WEST ENGINEER	\$	28,625.00
31609	08/26/2020 PRINTED	19101	DURAN, MAURICE	\$	55.12
31610	08/26/2020 PRINTED	2435	EVERSOFT	\$	928.26
31611	08/26/2020 PRINTED	1011	FOOTHILLS BANK	\$	90,678.00
31612	08/26/2020 PRINTED	58311	G H A TECHNOLOGIES	\$	378.09
31613	08/26/2020 PRINTED	833	G4S SECURE SOLUTIONS (USA) INC	\$	18,347.28
31614	08/26/2020 PRINTED	111251	GNA BROOK FIRE PROTECTION INC	\$	2,846.13
31615	08/26/2020 PRINTED	989	GRAHN, THOMAS	\$	100.00
31616	08/26/2020 PRINTED	290	GRAINGER	\$	3,940.38
31617	08/26/2020 PRINTED	90227	HEARD'S INVESTIGATIONS AND POLYGRAF	\$	175.00
31618	08/26/2020 PRINTED	629	HONEYCOTT, INC	\$	472.00
31619	08/26/2020 PRINTED	4495	HOSE-MAN INC	\$	202.24
31620	08/26/2020 PRINTED	16340	INFOSEND INC	\$	4,033.26
31621	08/26/2020 PRINTED	36271	INLAND EMPIRE PRINTING	\$	230.05
31622	08/26/2020 PRINTED	153	INLAND EMPIRE UTILITIES AGENCY	\$	457,864.00
31623	08/26/2020 PRINTED	195	INLAND VALLEY DAILY BULLETIN	\$	2,916.25
31624	08/26/2020 PRINTED	106951	INTEGRATED TECHNOLOGY	\$	4,002.22
31625	08/26/2020 PRINTED	23581	MAGNOLIA COLONY APARTMENTS	\$	160.24
31626	08/26/2020 PRINTED	82811	MARK CHRISTOPHER AUTO CENTER	\$	198.43
31627	08/26/2020 PRINTED	950	MAYER, SERGE	\$	100.00
31628	08/26/2020 PRINTED	746	MOTTOMOBILE, INC	\$	7,500.00
31629	08/26/2020 PRINTED	473	MUNICIPAL MAINTENANCE EQUIPMENT II	\$	1,179.61
31630	08/26/2020 PRINTED	16877	NEXTDAY DELIVERY SERVICE, LLC	\$	157.22
31631	08/26/2020 PRINTED	117121	NUCKLES OIL COMPANY INC	\$	19,944.40
31632	08/26/2020 PRINTED	925	SMIDT-JOHNSON, INC	\$	89.74
31633	08/26/2020 PRINTED	42771	OCCU-MED LTD	\$	2,909.50
31634	08/26/2020 PRINTED	7734	OFFICE DEPOT	\$	55.05
31635	08/26/2020 PRINTED	6625	P F SERVICES INC	\$	150.00
31636	08/26/2020 PRINTED	515	PACIFIC WESTERN BANK	\$	90,159.33
31637	08/26/2020 PRINTED	16032	PLUMBERS DEPOT INC	\$	196.48
31638	08/26/2020 PRINTED	62081	QUADIENT LEASING USA, INC	\$	210.02
31639	08/26/2020 PRINTED	1731	R E S ENVIRONMENTAL INC	\$	1,560.00
31640	08/26/2020 PRINTED	234	SAN BERNARDINO LAFCO	\$	233.40
31641	08/26/2020 PRINTED	17582	SCHWARY, GARY	\$	100.00

31642	08/26/2020	PRINTED	949	SHIM, PATRICK Y	\$	100.00
31643	08/26/2020	PRINTED	2570	SIX BASINS WATERMASTER DEPT	\$	22,104.00
31644	08/26/2020	PRINTED	637	SMART & FINAL IRIS CO	\$	27.58
31645	08/26/2020	PRINTED	3835	SOUTH COAST A Q M D	\$	421.02
31646	08/26/2020	PRINTED	16607	STAPLES BUSINESS ADVANTAGE	\$	470.37
31647	08/26/2020	PRINTED	211	STATEWIDE TRAFFIC SAFETY AND SIGNS IN	\$	68.44
31648	08/26/2020	PRINTED	69231	STEP SAVER CA LLC	\$	1,199.56
31649	08/26/2020	PRINTED	952	T TACTICAL SOLUTIONS, INC	\$	1,402.91
31650	08/26/2020	PRINTED	126761	THE LINCOLN NATIONAL LIFE INS	\$	2,545.56
31651	08/26/2020	PRINTED	43	URBAN FUTURES BOND ADMINISTRATION	\$	2,475.00
31652	08/26/2020	PRINTED	617	VAN LANT & FANKLHANEL, LLP	\$	12,000.00
31653	08/26/2020	PRINTED	760	WATER FACILITIES AUTHORITY	\$	429,597.43
31654	08/26/2020	PRINTED	392	WAXIE SANITARY SUPPLY	\$	533.80
31655	08/26/2020	PRINTED	134051	WEST COAST LIGHTS AND SIRENS	\$	15,897.73
31656	08/26/2020	PRINTED	766	WEST END CONSOLIDATED WATER CO	\$	19,614.47
31657	08/26/2020	PRINTED	14050	WILLDAN FINANCIAL SERVICES	\$	1,218.00
31658	08/26/2020	PRINTED	826	YARDLEY ORGILL CO INC	\$	44,710.22
31659	08/26/2020	PRINTED	999999	DANNY M ZENDEJAS	\$	300.00
31660	08/26/2020	PRINTED	999999	JANICE ELLIOTT	\$	50.00
31661	08/26/2020	PRINTED	999999	PATRICIA CASH CORNEJO	\$	60.00
31662	08/26/2020	PRINTED	999999	RAUL NARANJO	\$	25.00
31663	08/26/2020	PRINTED	999999	SONIA SANCHEZ	\$	160.00
80320000	08/03/2020	MANUAL	65181	CALPERS	\$	500.00
80320001	08/03/2020	MANUAL	627	STATE OF CALIFORNIA EMPLOYMENT DEV	\$	18,261.00
80420001	08/04/2020	MANUAL	43651	U S BANK NATIONAL ASSN	\$	18,467.50
80420002	08/04/2020	MANUAL	32091	SOUTHERN CALIF EDISON CO	\$	143,320.69
80520001	08/05/2020	MANUAL	543	SOUTHERN CALIF GAS COMPANY	\$	965.84
80620000	08/06/2020	MANUAL	65181	CALPERS	\$	154,141.55
80720000	08/07/2020	MANUAL	132551	AMERICAN FIDELITY ASSURANCE	\$	4,957.26
81120001	08/11/2020	MANUAL	83401	CARL WARREN & CO	\$	29,970.46
81320000	08/13/2020	MANUAL	132551	AMERICAN FIDELITY ASSURANCE	\$	4,349.52
81320001	08/13/2020	MANUAL	618	ICMA-RC	\$	2,025.00
81320002	08/13/2020	MANUAL	621	KAREN LONG	\$	672.00
81320003	08/13/2020	MANUAL	441	MIDAMERICA ADMIN & RETIREMENT SOLI	\$	1,206.22
81320004	08/13/2020	MANUAL	622	UPLAND CITY EMPLOYEE ASSOCIATION	\$	870.00
81420000	08/14/2020	MANUAL	624	DEPT OF THE TREASURY	\$	350.00
81420001	08/14/2020	MANUAL	733	MASSACHUSETTS MUTUAL LIFE INSURANC	\$	44,211.70
81420002	08/14/2020	MANUAL	91491	LIBRARY SYSTEMS & SERVICES LLC	\$	77,267.00
81820001	08/18/2020	MANUAL	32091	SOUTHERN CALIF EDISON CO	\$	59,379.18
81820002	08/18/2020	MANUAL	960	MUNICIPAL DENTAL POOL	\$	24,260.69
81820003	08/18/2020	MANUAL	754	PUBLIC AGENCY COALITION ENTERPRISE	\$	98,262.46
81820004	08/18/2020	MANUAL	441	MIDAMERICA ADMIN & RETIREMENT SOLI	\$	24,637.20
81920001	08/19/2020	MANUAL	116231	NEOPOST USA INC	\$	5,000.00
82020001	08/20/2020	MANUAL	11484	U S BANK	\$	2,318,550.00
82520000	08/25/2020	MANUAL	65181	CALPERS	\$	155,400.16
82720000	08/27/2020	MANUAL	132551	AMERICAN FIDELITY ASSURANCE	\$	4,957.26
82720001	08/27/2020	MANUAL	132551	AMERICAN FIDELITY ASSURANCE	\$	4,246.05

82720002	08/27/2020	MANUAL	618	ICMA-RC	\$	2,025.00	
82720003	08/27/2020	MANUAL	621	KAREN LONG	\$	672.00	
82720004	08/27/2020	MANUAL	441	MIDAMERICA ADMIN & RETIREMENT SOLI	\$	1,241.26	
82820000	08/28/2020	MANUAL	624	DEPT OF THE TREASURY	\$	350.00	
82820001	08/28/2020	MANUAL	733	MASSACHUSETTS MUTUAL LIFE INSURANC	\$	45,646.36	
82820002	08/28/2020	MANUAL	11484	U S BANK	\$	412,568.75	
CHECK REPORT TOTALS (329 COUNT)						<u>\$</u>	<u>8,979,865.49</u>



STAFF REPORT

ITEM NO. 11.E.

DATE: September 14, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: STEPHEN PARKER CPA, ASSSITANT CITY MANAGER
LONDA BOCK-HELMS CPA, FINANCE OFFICER
SUBJECT: TREASURY REPORTS JUNE AND JULY, 2020

RECOMMENDED ACTION

It is recommended that the City Council receive and file the June and July 2020 Treasury Reports.

GOAL STATEMENT

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

BACKGROUND

Per California Government Code Section 53646(b), the City's treasurer or fiscal officer shall render a treasury report to the City Council (at a minimum) on a quarterly basis. This report shall include the type of investment, issuer, date of maturity, par, and dollar amount invested on all securities, current market value as of the date of the report, investments and monies held by the local agency, and shall additionally include a description of any of the local agency's funds, investments, or programs, that are under the management of contracted parties, including lending programs. The report shall state compliance to the City's investment policy (approved June 22, 2020) and shall include a statement noting the City's ability to meet its expenditure requirements for the next six months.

ISSUES/ANALYSIS

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

FISCAL IMPACTS

There is no fiscal impact associated with this action.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Treasury Report June 2020

Treasury Report July 2020

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

For Period Ended
June 30, 2020

Investment Portfolio	Cost	Par Value	Market Value	% of Portfolio
State Local Agency Investment Fund	\$ 41,894,234	N/A	\$ 42,100,052	36.9%
Bank Accounts and Change Funds	10,596,544	N/A	10,596,544	9.3%
Negotiable Certificates of Deposit	13,994,843	\$ 13,978,000	14,403,845	12.6%
Money Market Fund	8,982,037	\$ 8,982,037	8,982,037	7.9%
Government Agency Securities	37,000,891	37,000,000	37,195,865	32.7%
Corporate Bonds	598,343	600,000	626,274	0.5%
Total Cash and Investments	\$ 113,066,891	\$ 60,560,037	\$ 113,904,617	100.0%

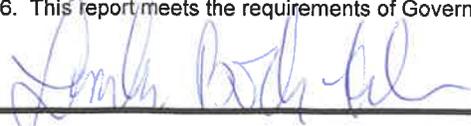
PARS Investment Portfolio	Cost	Market Value	% of Portfolio
115 Trust-OPEB Investment as of 06/30/20	1,165,050	1,165,050	14.1%
Pension Trust Investment as of 06/30/20	7,092,232	7,092,232	85.9%
Total Cash and Investments	\$ 8,257,281	\$ 8,257,281	100.0%

Weighted Average Days to Maturity	486.31
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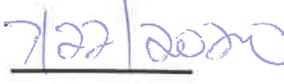
Blended Yield:	1.410%
Benchmarks:	
LAIF	1.217%
2yr U.S. Treasury	0.160%
5yr U.S. Treasury	0.290%

Restricted Funds with Fiscal Agent	Book Value	Market Value
Water System Lease Revenue Refunding Bonds 2011	15	15
Colonies CFD Area #2 2015	2,663,163	2,663,163
Colonies CFD Area #1 2012	3,450,088	3,450,088
Upland 54 CFD 2004	296,705	296,705
Successor Agency TAN 2013 / TAN 2016- Merged Project	2,255,985	2,255,985
Harvest at Upland CFD 2016-1	2,682,711	2,682,711
Sycamore Hills CFD 2015-1	5,623,664	5,623,664
Total Restricted Funds	\$ 16,972,330	\$ 16,972,330

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



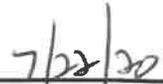
Finance Officer



Date



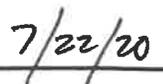
Assistant City Manager



Date



City Manager



Date

TREASURY REPORT

City of Upland - Successor Agency - Public Financing Authority

State Local Agency Investment Fund

**For Period Ended
June 30, 2020**

Fund or Account		Account Balance	
City	95-36-642	<u>41,894,234</u>	
			Market Value
			(See Note 4)
	Totals	<u>\$ 41,894,234</u>	<u>\$ 42,100,052</u>
Yield for Period Ended	6/30/2020	<u>1.217%</u>	

TREASURY REPORT

City of Upland - Successor Agency - Public Financing Authority

Bank Accounts and Change Funds

**For Period Ended
June 30, 2020**

<u>Account Name</u>	<u>Institution</u>	<u>Insured Deposits</u>	<u>Collateralized Deposits</u>	<u>Total Deposits</u>
Petty Cash City of Upland	City of Upland	\$ -	\$ 11,900	\$ 11,900
City of Upland Payroll Zero Balance Account	Chase	-	-	-
City of Upland Checking Account	Chase	250,000	7,087,923	7,337,923
City of Upland Successor Agency	Chase	-	3,246,721	3,246,721
	Totals	\$ 250,000	\$ 10,346,544	\$ 10,596,544

TREASURY REPORT
City of Upland - Successor Agency - Public Financing Authority
For Period Ended
June 30, 2020

Investment Name	Cusip #	Cost	Market Value	Stated Rate	Maturity Date
Negotiable Certificates of Deposit					
TCF National Bank CD	87227RCN2	250,000	250,035	2.600%	07/02/2020
Wells Fargo Bank CD	949763SP2	249,873	250,505	2.794%	07/27/2020
Bank Pontiac ILL CD	064455AM0	250,000	250,685	2.344%	08/14/2020
Bank of Hope CD	062683BX4	250,000	251,380	2.785%	09/14/2020
Comenity CAP BK CD	20033AXY7	250,000	251,473	1.988%	10/23/2020
First Internet CD	32056GDD9	250,000	253,553	2.958%	12/28/2020
Live Oak CD	538036DX9	250,000	254,365	2.949%	02/09/2021
Beal BK USA LAS CD	07370Y3N0	250,000	252,505	1.584%	03/03/2021
Eagle Bank CD	27002YDY9	250,000	254,678	2.798%	03/08/2021
Safra NATL BANK CD	78658RCZ2	250,000	252,168	1.239%	04/07/2021
CitiBank NA CD	17312QH93	250,000	255,145	2.695%	04/12/2021
Bell ST BK TR CD	07815ABF3	250,000	251,913	1.092%	04/16/2021
Federal SVGS BK CD	313812DM8	250,000	252,030	1.141%	04/20/2021
Capital One NA CD	14042RFV8	246,218	254,028	2.214%	05/24/2021
Synovus Bank GA CD	87164DQV5	250,000	253,288	1.579%	05/27/2021
SB One BK CD	78414TBY7	250,000	253,420	1.578%	06/07/2021
BMW Bank NA CD	05580ANK6	250,000	257,340	2.914%	07/13/2021
First National Bank CD	32117BDW5	250,000	254,153	1.672%	07/30/2021
Capital One Bank CD	14042TBG1	250,000	255,273	2.057%	08/02/2021
Cathay Bank CD	149159PL3	250,000	254,175	1.574%	08/30/2021
Abacus Federal CD	00257TBA3	250,000	257,973	2.810%	08/31/2021
First Fid Bank CD	32024FAB7	250,000	258,063	2.761%	09/14/2021
Wells Fargo Bank CD	949763LT1	250,000	257,420	2.185%	12/08/2021
Synchorony Bank CD	87164WYK8	250,000	260,578	2.590%	03/08/2022
Sterling Bank CD	85916VCW3	250,000	262,308	2.955%	03/09/2022
Morgan Stanley CD	61690UFC9	250,000	261,105	2.681%	03/14/2022
Amerant BK NATL CD	02357QAM9	250,000	253,720	1.035%	03/30/2022
CenterState BK CD	15201QCX3	250,000	255,253	1.371%	03/30/2022
Bank of Santa CD	06424KBC3	250,000	253,933	1.083%	03/31/2022
American CD	02587DN38	249,675	255,255	2.361%	04/05/2022
American Express CD	02589AB84	250,000	255,083	1.323%	04/07/2022
First Northeast CD	33583FAB8	239,570	254,983	1.937%	04/19/2022
Old Missouri CD	68002LBL1	250,000	263,340	2.943%	05/05/2022
American Express CD	02587CFU9	250,000	260,928	2.299%	08/29/2022
Cross Riv Bank CD	227563BJ1	250,000	259,388	1.783%	11/07/2022
Flagstar Bank FSB CD	33847E2V8	250,000	259,163	1.736%	11/15/2022
Wells Fargo Natl CD	949495AF2	250,000	259,840	1.780%	12/30/2022
Goldman Sachs CD	38148PYQ4	250,000	266,650	2.625%	02/28/2023
Sallie Mae Bank CD	795450P66	250,000	270,603	2.956%	05/09/2023
Discover Bank Greenwood Del CD	254673RF5	250,000	272,373	3.029%	07/11/2023
Nicolet NATL CD	654062JS8	250,000	257,185	1.215%	09/27/2023
Lakeside Bank CD	51210SSA6	250,000	258,005	1.308%	09/29/2023
Raymond James C D	75472RAT8	250,000	262,283	1.716%	12/29/2023
Bank Princeton CD	064520BB4	250,000	250,070	0.400%	12/29/2023
BMO Harris Bank CD	05581W4Y8	250,000	250,393	1.997%	01/30/2024
Bank Hapoalim BM CD	06251AW48	246,233	256,585	2.656%	03/25/2024
Celtic Bank C D	15118RUQ8	250,000	257,675	1.213%	04/02/2024
UBS Bank USA CD	90348JJQ4	260,650	273,053	2.655%	04/03/2024
Morgan Stanley CD	61760AZR3	250,000	272,038	2.527%	05/02/2024
State Bank of CD	856285RS2	252,625	266,348	1.924%	11/27/2024
Enerbank USA CD	29278TMR8	250,000	263,703	1.706%	01/29/2025
JP Morgan Chase CD	48128LE70	250,000	250,388	2.047%	01/31/2025
Merrick Bank CD	59013KFH4	250,000	263,130	1.663%	01/31/2025
Medallion BK CD	58404DGK1	250,000	257,905	1.066%	03/27/2025
Partners Bank CD	70212YAZ5	250,000	254,373	0.983%	04/02/2025
Tandem Bk Tucker CD	87537YAB0	250,000	250,655	0.549%	06/23/2025
Negotiable Certificates of Deposit Fund Subtotal		\$ 13,994,843	\$ 14,403,845		

TREASURY REPORT
City of Upland - Successor Agency - Public Financing Authority
For Period Ended
June 30, 2020

Investment Name	Cusip #	Cost	Market Value	Stated Rate	Maturity Date
<u>Money Market Fund</u>					
City of Upland					
US Bank	31846V203	8,982,037	8,982,037	0.01%	N/A
Money Market Fund Subtotal		8,982,037	8,982,037		
<u>Government Securities</u>					
Federal Home Loan Bks DEB	313382J53	1,508,501	1,505,640	1.744%	09/28/2020
Federal National Mortgage Assoc DEB	3135G0RM7	1,499,295	1,507,245	1.623%	10/30/2020
Federal National Mortgage Assoc	3135G0F73	1,492,515	1,508,070	1.492%	11/30/2020
Federal National Mortgage Assoc	3135G0Q89	1,481,400	1,522,470	1.355%	10/07/2021
Federal Farm Credit Bks	3133EFPT8	2,020,180	2,048,580	1.915%	11/19/2021
Federal Farm Credit Bks DEB	3133ELUS1	1,000,000	1,001,350	0.999%	06/30/2022
Federal Farm Credit Bks DEB	3133EKVP8	3,000,000	3,002,760	2.109%	07/22/2022
Federal Farm Credit Bks DEB	3133ELFS8	1,999,000	2,068,280	1.606%	12/27/2022
Federal Home LN Corp MTN	3134GVZ92	1,500,000	1,498,320	0.511%	12/29/2023
Federal Farm Credit Bks DEB	3133ELP57	1,500,000	1,498,770	0.590%	03/25/2024
Federal Farm Credit Bks DEB	3133ELL93	1,500,000	1,499,565	0.710%	06/17/2024
Federal Home LN Corp MTN	3134GU5Y2	2,000,000	2,001,940	1.799%	07/30/2024
Federal Farm Credit Bks DEB	3133EKZN9	1,500,000	1,502,055	2.058%	08/13/2024
Federal Home LN Corp MTN	3134GUBY5	1,500,000	1,504,290	1.996%	09/18/2024
Federal Home Loan Bks	3130AH7F4	1,250,000	1,253,413	1.996%	10/02/2024
Federal Farm Credit Bks	3133ELE83	2,000,000	1,998,000	0.731%	12/03/2024
Federal Home LN Bks DEB	3130AHN66	1,000,000	1,006,680	1.928%	12/16/2024
Federal Home LN Bks DEB	3130AHZF3	2,000,000	2,002,460	1.874%	02/04/2025
Federal Home LN Corp MTN	3134GVAQ1	2,000,000	2,013,900	1.739%	02/12/2025
Federal Home LN Corp MTN	3134GVDM7	1,250,000	1,251,988	1.748%	02/25/2025
Federal Home LN Corp MTN	3134GVEF1	1,000,000	1,001,410	1.748%	02/28/2025
Federal Home LN Corp MTN	3134GVF94	1,500,000	1,500,285	0.830%	06/09/2025
Federal Home LN Corp MTN	3134GVZ84	1,500,000	1,498,395	0.751%	06/30/2025
Government Securities Subtotal		37,000,891	37,195,865		
<u>Corporate Bonds</u>					
State Street Corp	857477AS2	103,593	100,284	2.545%	08/18/2020
Apple Inc	037833DE7	494,750	525,990	2.289%	01/13/2023
Corporate Bonds Subtotal		598,343	626,274		
Total Portfolio		\$ 60,576,115	\$ 61,208,021		

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

June 30, 2020	Market Value	Availability 06/30/20 07/01/20	No. of days until maturity	weight	days to maturity weighted average	Total by maturity	
Petty Cash	11,900	07/01/20	1	0.0%	0.00		
Checking Account	7,337,923	07/01/20	1	6.4%	0.06		
Successor Agency	3,246,721	07/01/20	1	2.9%	0.03	10,596,544	
Total Bank Accounts	10,596,544						
State Local Agency Investment Fund	42,100,052	07/01/20	1	37.0%	0.37	42,100,052	
US Bank	8,982,037	07/01/20	1	7.9%	0.08	8,982,037	
Total Money Market Accounts	8,982,037						
TCF National Bank CD	250,035	07/02/20	2	0.2%	0.00		
Wells Fargo Bank CD	250,505	07/27/20	27	0.2%	0.06	500,540	
Negotiable Certificates of Deposit	500,540					62,179,173	1 - 30 days
Bank Pontiac ILL CD	250,685	08/14/20	45	0.2%	0.10	250,685	
Negotiable Certificates of Deposit	250,685						
State Street Corp	100,284	08/18/20	49	0.1%	0.04	100,284	
Corporate Bonds	100,284					350,969	31 - 60 days
Federal Home Loan Bks DEB	1,505,640	09/28/20	90	1.3%	1.19	1,505,640	
Government Securities	1,505,640						
Bank of Hope CD	251,380	09/14/20	76	0.2%	0.17		
Comenity CAP BK CD	251,473	10/23/20	115	0.2%	0.25	502,853	
Negotiable Certificates of Deposit	502,853					2,008,493	61 - 120 days
Federal National Mortgage Assoc DEB	1,507,245	10/30/20	122	1.3%	1.61	1,507,245	
Government Securities	1,507,245					1,507,245	121 - 180 days
Federal National Mortgage Assoc	1,508,070	11/30/20	153	1.3%	2.03	1,508,070	
Government Securities	1,508,070						
First Internet CD	253,553	12/28/20	181	0.2%	0.40		
Live Oak CD	254,365	02/09/21	224	0.2%	0.50		
Beal BK USA LAS CD	252,505	03/03/21	246	0.2%	0.55		
Eagle Bank CD	254,678	03/08/21	251	0.2%	0.56		
Safra NATL BANK CD	252,168	04/07/21	281	0.2%	0.62		
CitiBank NA CD	255,145	04/12/21	286	0.2%	0.64		
Bell ST BK TR CD	251,913	04/16/21	290	0.2%	0.64		
Federal SVGS BK CD	252,030	04/20/21	294	0.2%	0.65		
Capital One NA CD	254,028	05/24/21	328	0.2%	0.73		
Synovus Bank GA CD	253,288	05/27/21	331	0.2%	0.74	2,533,670	
Negotiable Certificates of Deposit	2,533,670					4,041,740	181 - 1 year
Federal National Mortgage Assoc	1,522,470	10/07/21	464	1.3%	6.20		
Federal Farm Credit Bks	2,048,580	11/19/21	507	1.8%	9.12		
Federal Farm Credit Bks DEB	1,001,350	06/30/22	730	0.9%	6.42	4,572,400	
Government Securities	4,572,400						
SB One BK CD	253,420	06/07/21	342	0.2%	0.76		
BMW Bank NA CD	257,340	07/13/21	378	0.2%	0.85		
First National Bank CD	254,153	07/30/21	395	0.2%	0.88		
Capital One Bank CD	255,273	08/02/21	398	0.2%	0.89		
Cathay Bank CD	254,175	08/30/21	426	0.2%	0.95		
Abacus Federal CD	257,973	08/31/21	427	0.2%	0.97		
First Fid Bank CD	258,063	09/14/21	441	0.2%	1.00		
Wells Fargo Bank CD	257,420	12/08/21	526	0.2%	1.19		
Synchorony Bank CD	260,578	03/08/22	616	0.2%	1.41		
Sterling Bank CD	262,308	03/09/22	617	0.2%	1.42		
Morgan Stanley CD	261,105	03/14/22	622	0.2%	1.43		
Amerant BK NATL CD	253,720	03/30/22	638	0.2%	1.42		
CenterState BK CD	255,253	03/30/22	638	0.2%	1.43		

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

June 30, 2020	Market Value	Availability 06/30/20 07/01/20	No. of days until maturity	weight	days to maturity weighted average	Total by maturity	
Bank of Santa CD	253,933	03/31/22	639	0.2%	1.42		
American CD	255,255	04/05/22	644	0.2%	1.44		
American Express CD	255,083	04/07/22	646	0.2%	1.45		
First Northeast CD	254,983	04/19/22	658	0.2%	1.47		
Old Missouri CD	263,340	05/05/22	674	0.2%	1.56	4,623,370	
Negotiable Certificates of Deposit	4,623,370					9,195,770	1- 2 years
Federal Farm Credit Bks DEB	3,002,760	07/22/22	752	2.6%	19.82		
Federal Farm Credit Bks DEB	2,068,280	12/27/22	910	1.8%	16.52	5,071,040	
Government Securities	5,071,040						
Apple Inc	525,990	01/13/23	927	0.5%	4.28	525,990	
Corporate Bonds	525,990						
American Express CD	260,928	08/29/22	790	0.2%	1.81		
Cross Riv Bank CD	259,388	11/07/22	860	0.2%	1.96		
Flagstar Bank FSB CD	259,163	11/15/22	868	0.2%	1.97		
Wells Fargo Natl CD	259,840	12/30/22	913	0.2%	2.08		
Goldman Sachs CD	266,650	02/28/23	973	0.2%	2.28	1,305,968	
Negotiable Certificates of Deposit	1,305,968					6,902,998	2- 3 years
Federal Home LN Corp MTN	1,498,320	12/29/23	1,277	1.3%	16.80		
Federal Farm Credit Bks DEB	1,498,770	03/25/24	1,364	1.3%	17.95		
Federal Farm Credit Bks DEB	1,499,565	06/17/24	1,448	1.3%	19.06	4,496,655	
Government Securities	4,496,655						
Sallie Mae Bank CD	270,603	05/09/23	1,043	0.2%	2.48		
Discover Bank Greenwood Del CD	272,373	07/11/23	1,106	0.2%	2.64		
Nicolet NATL CD	257,185	09/27/23	1,184	0.2%	2.67		
Lakeside Bank CD	258,005	09/29/23	1,186	0.2%	2.69		
Raymond James C D	262,283	12/29/23	1,277	0.2%	2.94		
Bank Princeton CD	250,070	12/29/23	1,277	0.2%	2.80		
BMO Harris Bank CD	250,393	01/30/24	1,309	0.2%	2.88		
Bank Hapoalim BM CD	256,585	03/25/24	1,364	0.2%	3.07		
Celtic Bank C D	257,675	04/02/24	1,372	0.2%	3.10		
UBS Bank USA CD	273,053	04/03/24	1,373	0.2%	3.29		
Morgan Stanley CD	272,038	05/02/24	1,402	0.2%	3.35	2,880,260	
Negotiable Certificates of Deposit	2,880,260					7,376,915	3- 4 years
Federal Home LN Corp MTN	2,001,940	07/30/24	1,491	1.8%	26.21		
Federal Farm Credit Bks DEB	1,502,055	08/13/24	1,505	1.3%	19.85		
Federal Home LN Corp MTN	1,504,290	09/18/24	1,541	1.3%	20.35		
Federal Home Loan Bks	1,253,413	10/02/24	1,555	1.1%	17.11		
Federal Farm Credit Bks	1,998,000	12/03/24	1,617	1.8%	28.36		
Federal Home LN Bks DEB	1,006,680	12/16/24	1,630	0.9%	14.41		
Federal Home LN Bks DEB	2,002,460	02/04/25	1,680	1.8%	29.53		
Federal Home LN Corp MTN	2,013,900	02/12/25	1,688	1.8%	29.84		
Federal Home LN Corp MTN	1,251,988	02/25/25	1,701	1.1%	18.70		
Federal Home LN Corp MTN	1,001,410	02/28/25	1,704	0.9%	14.98		
Federal Home LN Corp MTN	1,500,285	06/09/25	1,805	1.3%	23.77		
Federal Home LN Corp MTN	1,498,395	06/30/25	1,826	1.3%	24.02	18,534,815	
Government Securities	18,534,815						
State Bank of CD	266,348	11/27/24	1,611	0.2%	3.77		
Enerbank USA CD	263,703	01/29/25	1,674	0.2%	3.88		
JP Morgan Chase CD	250,388	01/31/25	1,676	0.2%	3.68		
Merrick Bank CD	263,130	01/31/25	1,676	0.2%	3.87		
Medallion BK CD	257,905	03/27/25	1,731	0.2%	3.92		
Partners Bank CD	254,373	04/02/25	1,737	0.2%	3.88		
Tandem Bk Tucker CD	250,655	06/23/25	1,819	0.2%	4.00	1,806,500	
Negotiable Certificates of Deposit	1,806,500					20,341,315	4- 5 years
Total Investments	\$ 113,904,617			100.00%	486.31	\$ 113,904,617	

TREASURY REPORT

City of Upland - Successor Agency - Public Financing Authority

June 30, 2020	Market Value	Availability 06/30/20 07/01/20	No. of days until maturity	weight	days to maturity weighted average	Total by maturity
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Average Maturity in Days	486.31
Average Maturity in Years:	1.332

LAI F Amortized Cost	\$ 101,110,343,833
LAI F Fair Value	<u>\$ 101,607,078,218</u>
Check:	1.004912795

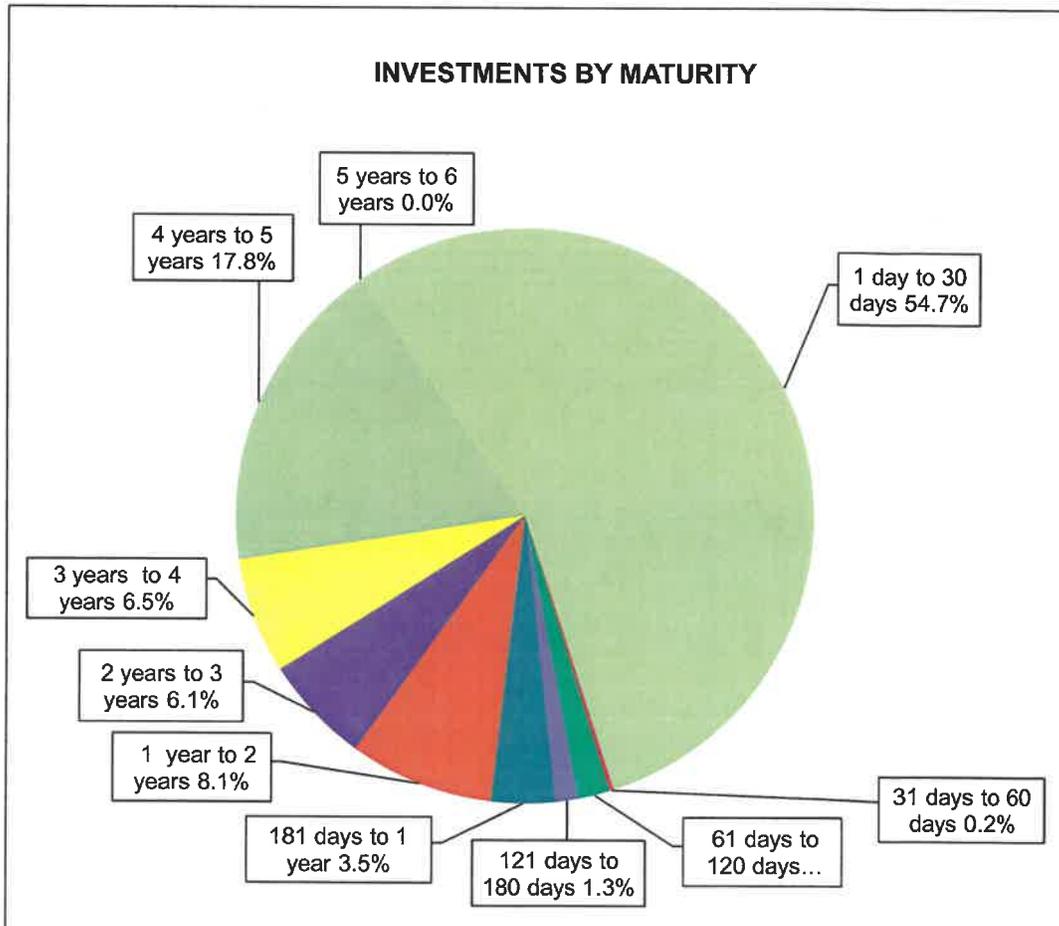
TREASURY REPORT

City of Upland - Successor Agency - Public Financing Authority

June 30, 2020

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

Investment Portfolio	1 day to 30 days	31 days to 60 days	61 days to 120 days	121 days to 180 days	181 days to 1 year	1 year to 2 years	2 years to 3 years	3 years to 4 years	4 years to 5 years	5 years to 6 years
State Local Agency Investment Fund	42,100	-	-	-	-	-	-	-	-	-
Bank Accounts and Change Funds	10,597	-	-	-	-	-	-	-	-	-
Negotiable Certificates of Deposit	501	251	503	-	2,534	4,623	1,306	2,880	1,807	-
ABS	-	-	-	-	-	-	-	-	-	-
Government Securities	-	-	1,506	1,507	1,508	4,572	5,071	4,497	18,535	-
Money Market Fund	8,982	-	-	-	-	-	-	-	-	-
Corporate Bonds	100	-	-	-	-	-	526	-	-	-
US Treasury	-	-	-	-	-	-	-	-	-	-
Total Cash and Investments	62,279	252	2,008	1,507	4,042	9,196	6,903	7,377	20,340	-
Percentage	54.7%	0.2%	1.8%	1.3%	3.5%	8.1%	6.1%	6.5%	17.8%	0.0%



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

For Period Ended
July 31, 2020

Investment Portfolio	Cost	Par Value	Market Value	% of Portfolio
State Local Agency Investment Fund	\$ 37,047,115	N/A	\$ 37,230,668	34.8%
Bank Accounts and Change Funds	8,095,393	N/A	8,095,393	7.6%
Negotiable Certificates of Deposit	12,994,971	\$ 12,978,000	13,409,044	12.6%
Money Market Fund	13,565,885	\$ 13,565,885	13,565,885	12.7%
Government Agency Securities	33,500,891	33,500,000	33,681,123	31.6%
Corporate Bonds	598,343	600,000	624,376	0.6%
Total Cash and Investments	\$ 105,802,596	\$ 60,643,885	\$ 106,606,489	100.0%

PARS Investment Portfolio	Cost	Market Value	% of Portfolio
115 Trust-OPEB Investment as of 07/31/20	1,200,820	1,200,820	14.2%
Pension Trust Investment as of 07/31/20	7,249,455	7,249,455	85.8%
Total Cash and Investments	\$ 8,450,275	\$ 8,450,275	100.0%

Weighted Average Days to Maturity	475.57
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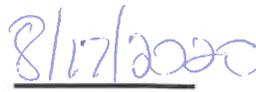
Blended Yield:	1.220%
Benchmarks:	
LAIF	0.920%
2yr U.S. Treasury	0.110%
5yr U.S. Treasury	0.210%

Restricted Funds with Fiscal Agent	Book Value	Market Value
Water System Lease Revenue Refunding Bonds 2011	15	15
Colonies CFD Area #2 2015	2,663,176	2,663,176
Colonies CFD Area #1 2012	3,450,105	3,450,105
Upland 54 CFD 2004	296,706	296,706
Successor Agency TAN 2013 / TAN 2016- Merged Project	2,255,996	2,255,996
Harvest at Upland CFD 2016-1	2,682,724	2,682,724
Sycamore Hills CFD 2015-1	5,623,705	5,623,705
Total Restricted Funds	\$ 16,972,427	\$ 16,972,427

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



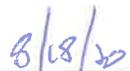
Finance Officer



Date



Assistant City Manager



Date



City Manager



Date

TREASURY REPORT

City of Upland - Successor Agency - Public Financing Authority

State Local Agency Investment Fund

**For Period Ended
July 31, 2020**

<u>Fund or Account</u>		<u>Account Balance</u>	
City	95-36-642	<u>37,047,115</u>	
			Market Value (See Note 4)
	Totals	<u>\$ 37,047,115</u>	<u>\$ 37,229,120</u>
Yield for Period Ended	7/31/2020	<u>0.920%</u>	

TREASURY REPORT

City of Upland - Successor Agency - Public Financing Authority

Bank Accounts and Change Funds

**For Period Ended
July 31, 2020**

<u>Account Name</u>	<u>Institution</u>	<u>Insured Deposits</u>	<u>Collateralized Deposits</u>	<u>Total Deposits</u>
Petty Cash City of Upland	City of Upland	\$ -	\$ 11,900	\$ 11,900
City of Upland Payroll Zero Balance Account	Chase	-	-	-
City of Upland Checking Account	Chase	250,000	4,586,772	4,836,772
City of Upland Successor Agency	Chase	-	3,246,721	3,246,721
	Totals	\$ 250,000	\$ 7,845,393	\$ 8,095,393

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

Investment Name	Cusip #	Cost	Market Value	Stated Rate	Maturity Date
<u>Negotiable Certificates of Deposit</u>					
Bank Pontiac ILL CD	064455AM0	250,000	250,220	2.344%	08/14/2020
Bank of Hope CD	062683BX4	250,000	250,830	2.791%	09/14/2020
Comenity CAP BK CD	20033AXY7	250,000	251,103	1.991%	10/23/2020
First Internet CD	32056GDD9	250,000	252,985	2.965%	12/28/2020
Live Oak CD	538036DX9	250,000	253,803	2.955%	02/09/2021
Beal BK USA LAS CD	07370Y3N0	250,000	252,225	1.586%	03/03/2021
Eagle Bank CD	27002YDY9	250,000	254,148	2.803%	03/08/2021
Safra NATL BANK CD	78658RCZ2	250,000	251,968	1.240%	04/07/2021
CitiBank NA CD	17312QH93	250,000	254,623	2.700%	04/12/2021
Bell ST BK TR CD	07815ABF3	250,000	251,753	1.092%	04/16/2021
Federal SVGS BK CD	313812DM8	250,000	251,863	1.141%	04/20/2021
Capital One NA CD	14042RFV8	246,218	253,705	2.217%	05/24/2021
Synovus Bank GA CD	87164DQV5	250,000	253,035	1.581%	05/27/2021
SB One BK CD	78414TBY7	250,000	253,175	1.580%	06/07/2021
BMW Bank NA CD	05580ANK6	250,000	256,895	2.919%	07/13/2021
First National Bank CD	32117BDW5	250,000	253,925	1.674%	07/30/2021
Capital One Bank CD	14042TBG1	250,000	255,005	2.059%	08/02/2021
Cathay Bank CD	149159PL3	250,000	253,970	1.576%	08/30/2021
Abacus Federal CD	00257TBA3	250,000	257,508	2.815%	08/31/2021
First Fid Bank CD	32024FAB7	250,000	257,613	2.766%	09/14/2021
Wells Fargo Bank CD	949763LT1	250,000	257,125	2.188%	12/08/2021
Synchrony Bank CD	87164WYK8	250,000	260,213	2.594%	03/08/2022
Sterling Bank CD	85916VCW3	250,000	261,858	2.960%	03/09/2022
Morgan Stanley CD	61690UFC9	250,000	260,720	2.685%	03/14/2022
Amerant BK NATL CD	02357QAM9	250,000	253,713	1.035%	03/30/2022
CenterState BK CD	15201QCX3	250,000	255,170	1.372%	03/30/2022
Bank of Santa CD	06424KBC3	250,000	253,923	1.083%	03/31/2022
American CD	02587DN38	249,675	255,036	2.363%	04/05/2022
American Express CD	02589AB84	250,000	255,018	1.232%	04/07/2022
First Northeast CD	33583FAB8	239,570	254,810	1.939%	04/19/2022
Old Missouri CD	68002LBL1	250,000	262,930	2.948%	05/05/2022
American Express CD	02587CFU9	250,000	260,790	2.301%	08/29/2022
Cross Riv Bank CD	227563BJ1	250,000	259,433	1.783%	11/07/2022
Flagstar Bank FSB CD	33847E2V8	250,000	259,233	1.736%	11/15/2022
Wells Fargo Natl CD	949495AF2	250,000	259,980	1.779%	12/30/2022
Goldman Sachs CD	38148PYQ4	250,000	266,693	2.625%	02/28/2023
Sallie Mae Bank CD	795450P66	250,000	270,705	2.955%	05/09/2023
Discover Bank Greenwood Del CD	254673RF5	250,000	272,678	3.026%	07/11/2023
Nicolet NATL CD	654062JS8	250,000	257,945	1.211%	09/27/2023
Lakeside Bank CD	51210SSA6	250,000	258,750	1.304%	09/29/2023
Raymond James C D	75472RAT8	250,000	263,063	1.711%	12/29/2023
Bank Princeton CD	064520BB4	250,000	251,115	0.400%	12/29/2023
Bank Hapoalim BM CD	06251AW48	246,233	257,238	2.649%	03/25/2024
Celtic Bank C D	15118RUQ8	250,000	258,693	1.208%	04/02/2024
UBS Bank USA CD	90348JJQ4	260,650	273,770	2.648%	04/03/2024
Morgan Stanley CD	61760AZR3	250,000	272,820	2.520%	05/02/2024
State Bank of CD	856285RS2	252,625	267,638	1.915%	11/27/2024
Enerbank USA CD	29278TMR8	250,000	265,125	1.697%	01/29/2025
Merrick Bank CD	59013KFH4	250,000	264,563	1.654%	01/31/2025
Medallion BK CD	58404DGK1	250,000	259,488	1.060%	03/27/2025
Partners Bank CD	70212YAZ5	250,000	256,010	0.977%	04/02/2025
Tandem Bk Tucker CD	87537YAB0	250,000	252,458	0.545%	06/23/2025
Negotiable Certificates of Deposit Fund Subtotal		\$ 12,994,971	\$ 13,409,044		

Money Market Fund

City of Upland

US Bank	31846V203	13,565,885	13,565,885	0.01%	N/A
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TREASURY REPORT
City of Upland - Successor Agency - Public Financing Authority
For Period Ended
July 31, 2020

Investment Name	Cusip #	Cost	Market Value	Stated Rate	Maturity Date
Money Market Fund Subtotal		13,565,885	13,565,885		
<u>Government Securities</u>					
Federal Home Loan Bks DEB	313382J53	1,508,501	1,503,675	1.746%	09/28/2020
Federal National Mortgage Assoc DEB	3135G0RM7	1,499,295	1,505,340	1.624%	10/30/2020
Federal National Mortgage Assoc	3135G0F73	1,492,515	1,506,795	1.493%	11/30/2020
Federal National Mortgage Assoc	3135G0Q89	1,481,400	1,521,945	1.356%	10/07/2021
Federal Farm Credit Bks	3133EFPT8	2,020,180	2,046,500	1.916%	11/19/2021
Federal Farm Credit Bks DEB	3133ELUS1	1,000,000	1,000,950	0.999%	06/30/2022
Federal Farm Credit Bks DEB	3133ELFS8	1,999,000	2,068,400	1.605%	12/27/2022
Federal Home LN Corp MTN	3134GVZ92	1,500,000	1,500,180	0.510%	12/29/2023
Federal Farm Credit Bks DEB	3133ELP57	1,500,000	1,500,105	58.997%	03/25/2024
Federal Farm Credit Bks DEB	3133ELL93	1,500,000	1,500,135	0.710%	06/17/2024
Federal Farm Credit Bks DEB	3133EKZ99	1,500,000	1,500,555	2.059%	08/13/2024
Federal Home LN Corp MTN	3134GUBY5	1,500,000	1,502,715	1.997%	09/18/2024
Federal Home Loan Bks	3130AH7F4	1,250,000	1,252,413	1.996%	10/02/2024
Federal Farm Credit Bks	3133ELE83	2,000,000	2,000,080	0.730%	12/03/2024
Federal Home LN Bks DEB	3130AHN66	1,000,000	1,005,710	1.929%	12/16/2024
Federal Home LN Bks DEB	3130AHZF3	2,000,000	2,000,100	1.875%	02/04/2025
Federal Home LN Corp MTN	3134GVAQ1	2,000,000	2,012,780	1.739%	02/12/2025
Federal Home LN Corp MTN	3134GVDM7	1,250,000	1,250,900	1.749%	02/25/2025
Federal Home LN Corp MTN	3134GVEF1	1,000,000	1,000,690	1.749%	02/28/2025
Federal Home LN Corp MTN	3134GVF94	1,500,000	1,500,270	0.830%	06/09/2025
Federal Home LN Corp MTN	3134GVZ84	1,500,000	1,500,345	0.750%	06/30/2025
Federal National Mortgage Assoc	3136G4A45	1,500,000	1,500,540	0.710%	07/22/2025
Government Securities Subtotal		33,500,891	33,681,123		
<u>Corporate Bonds</u>					
State Street Corp	857477AS2	103,593	100,086	2.548%	08/18/2020
Apple Inc	037833DE7	494,750	524,290	2.288%	01/13/2023
Corporate Bonds Subtotal		598,343	624,376		
Total Portfolio		\$ 60,660,090	\$ 61,280,427		

TREASURY REPORT

City of Upland - Successor Agency - Public Financing Authority

	Market Value	Availability 07/31/20 08/01/20	No. of days until maturity	weight	days to maturity weighted average	Total by maturity	
July 31, 2020							
Petty Cash	11,900	08/01/20	1	0.0%	0.00		
Checking Account	4,836,772	08/01/20	1	4.5%	0.05		
Successor Agency	3,246,721	08/01/20	1	3.0%	0.03	8,095,393	
Total Bank Accounts	8,095,393						
State Local Agency Investment Fund	37,229,120	08/01/20	1	34.9%	0.35	37,229,120	
US Bank	13,565,885	08/01/20	1	12.7%	0.13	13,565,885	
Total Money Market Accounts	13,565,885						
State Street Corp Corporate Bonds	100,086	08/18/20	18	0.1%	0.02	100,086	
Bank Pontiac ILL CD Negotiable Certificates of Deposit	250,220	8/14/2020	14	0.2%	0.03	250,220	
						59,240,704	1 - 30 days
Bank of Hope CD Negotiable Certificates of Deposit	250,830	09/14/20	45	0.2%	0.11	250,830	
Federal Home Loan Bks DEB Government Securities	1,503,675	09/28/20	59	1.4%	0.83	1,503,675	
						1,754,505	31 - 60 days
Federal National Mortgage Assoc DEB Government Securities	1,505,340	10/30/20	91	1.4%	1.28	1,505,340	
Comenity CAP BK CD Negotiable Certificates of Deposit	251,103	10/23/20	84	0.2%	0.20	251,103	
						1,756,443	61 - 120 days
First Internet CD Negotiable Certificates of Deposit	252,985	12/28/20	150	0.2%	0.36	252,985	
						252,985	121 - 180 days
Federal National Mortgage Assoc Government Securities	1,506,795	11/30/20	122	1.4%	1.72	1,506,795	
Live Oak CD	253,803	02/09/21	193	0.2%	0.46		
Beal BK USA LAS CD	252,225	03/03/21	215	0.2%	0.51		
Eagle Bank CD	254,148	03/08/21	220	0.2%	0.52		
Safra NATL BANK CD	251,968	04/07/21	250	0.2%	0.59		
CitiBank NA CD	254,623	04/12/21	255	0.2%	0.61		
Bell ST BK TR CD	251,753	04/16/21	259	0.2%	0.61		
Federal SVGS BK CD	251,863	04/20/21	263	0.2%	0.62		
Capital One NA CD	253,705	05/24/21	297	0.2%	0.71		
Synovus Bank GA CD	253,035	05/27/21	300	0.2%	0.71		
SB One BK CD	253,175	06/07/21	311	0.2%	0.74		
BMW Bank NA CD	256,895	07/13/21	347	0.2%	0.84		
First National Bank CD Negotiable Certificates of Deposit	253,925	07/30/21	364	0.2%	0.87	3,041,115	
						4,547,910	181 - 1 year
Federal National Mortgage Assoc	1,521,945	10/07/21	433	1.4%	6.18		
Federal Farm Credit Bks	2,046,500	11/19/21	476	1.9%	9.14		
Federal Farm Credit Bks DEB Government Securities	1,000,950	06/30/22	699	0.9%	6.56	4,569,395	
Capital One Bank CD	255,005	08/02/21	367	0.2%	0.88		
Cathay Bank CD	253,970	08/30/21	395	0.2%	0.94		
Abacus Federal CD	257,508	08/31/21	396	0.2%	0.96		
First Fid Bank CD	257,613	09/14/21	410	0.2%	0.99		
Wells Fargo Bank CD	257,125	12/08/21	495	0.2%	1.19		
Synchrony Bank CD	260,213	03/08/22	585	0.2%	1.43		
Sterling Bank CD	261,858	03/09/22	586	0.2%	1.44		
Morgan Stanley CD	260,720	03/14/22	591	0.2%	1.45		
Amerant BK NATL CD	253,713	03/30/22	607	0.2%	1.44		
CenterState BK CD	255,170	03/30/22	607	0.2%	1.45		
Bank of Santa CD	253,923	03/31/22	608	0.2%	1.45		
American CD	255,036	04/05/22	613	0.2%	1.47		

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

July 31, 2020	Market Value	Availability 07/31/20 08/01/20	No. of days until maturity	weight	days to maturity weighted average	Total by maturity	
American Express CD	255,018	04/07/22	615	0.2%	1.47		
First Northeast CD	254,810	04/19/22	627	0.2%	1.50		
Old Missouri CD	262,930	05/05/22	643	0.2%	1.59	3,854,608	
Negotiable Certificates of Deposit	3,854,608					8,424,003	1- 2 years
Federal Farm Credit Bks DEB		12/27/22	879	1.9%	17.05	2,068,400	
Federal Farm Credit Bks DEB	2,068,400						
Government Securities	2,068,400						
Apple Inc	524,290	01/13/23	896	0.5%	4.41	524,290	
Corporate Bonds	524,290						
American Express CD	260,790	08/29/22	759	0.2%	1.86		
Cross Riv Bank CD	259,433	11/07/22	829	0.2%	2.02		
Flagstar Bank FSB CD	259,233	11/15/22	837	0.2%	2.04		
Wells Fargo Nati CD	259,980	12/30/22	882	0.2%	2.15		
Goldman Sachs CD	266,693	02/28/23	942	0.3%	2.36		
Sallie Mae Bank CD	270,705	05/09/23	1,012	0.3%	2.57		
Discover Bank Greenwood Del CD	272,678	07/11/23	1,075	0.3%	2.75	1,849,510	
Negotiable Certificates of Deposit	1,849,510					4,442,200	2- 3 years
Federal Home LN Corp MTN	1,500,180	12/29/23	1,246	1.4%	17.53		
Federal Farm Credit Bks DEB	1,500,105	03/25/24	1,333	1.4%	18.76		
Federal Farm Credit Bks DEB	1,500,135	06/17/24	1,417	1.4%	19.94	4,500,420	
Government Securities	4,500,420						
Nicolet NATL CD	257,945	09/27/23	1,153	0.2%	2.79		
Lakeside Bank CD	258,750	09/29/23	1,155	0.2%	2.80		
Raymond James C D	263,063	12/29/23	1,246	0.2%	3.07		
Bank Princeton CD	251,115	12/29/23	1,246	0.2%	2.93		
Bank Hapoalim BM CD	257,238	03/25/24	1,333	0.2%	3.22		
Celtic Bank C D	258,693	04/02/24	1,341	0.2%	3.25		
UBS Bank USA CD	273,770	04/03/24	1,342	0.3%	3.45		
Morgan Stanley CD	272,820	05/02/24	1,371	0.3%	3.51	2,093,393	
Negotiable Certificates of Deposit	2,093,393					6,593,813	3- 4 years
Federal Farm Credit Bks DEB	1,500,555	08/13/24	1,474	1.4%	20.75		
Federal Home LN Corp MTN	1,502,715	09/18/24	1,510	1.4%	21.28		
Federal Home Loan Bks	1,252,413	10/02/24	1,524	1.2%	17.90		
Federal Farm Credit Bks	2,000,080	12/03/24	1,586	1.9%	29.76		
Federal Home LN Bks DEB	1,005,710	12/16/24	1,599	0.9%	15.08		
Federal Home LN Bks DEB	2,000,100	02/04/25	1,649	1.9%	30.94		
Federal Home LN Corp MTN	2,012,780	02/12/25	1,657	1.9%	31.28		
Federal Home LN Corp MTN	1,250,900	02/25/25	1,670	1.2%	19.60		
Federal Home LN Corp MTN	1,000,690	02/28/25	1,673	0.9%	15.70		
Federal Home LN Corp MTN	1,500,270	06/09/25	1,774	1.4%	24.97		
Federal Home LN Corp MTN	1,500,345	06/30/25	1,795	1.4%	25.26		
Federal National Mortgage Assoc	1,500,540	07/22/25	1,817	1.4%	25.58	18,027,098	
Government Securities	18,027,098						
State Bank of CD	267,638	11/27/24	1,580	0.3%	3.97		
Enerbank USA CD	265,125	01/29/25	1,643	0.2%	4.09		
Merrick Bank CD	264,563	01/31/25	1,645	0.2%	4.08		
Medallion BK CD	259,488	03/27/25	1,700	0.2%	4.14		
Partners Bank CD	256,010	04/02/25	1,706	0.2%	4.10		
Tandem Bk Tucker CD	252,458	06/23/25	1,788	0.2%	4.23	1,565,280	
Negotiable Certificates of Deposit	1,565,280					19,592,378	4- 5 years
Total Investments	\$ 106,606,489			100.00%	475.57	\$ 106,606,489	

Average Maturity in Days 475.57
Average Maturity in Years: 1.303

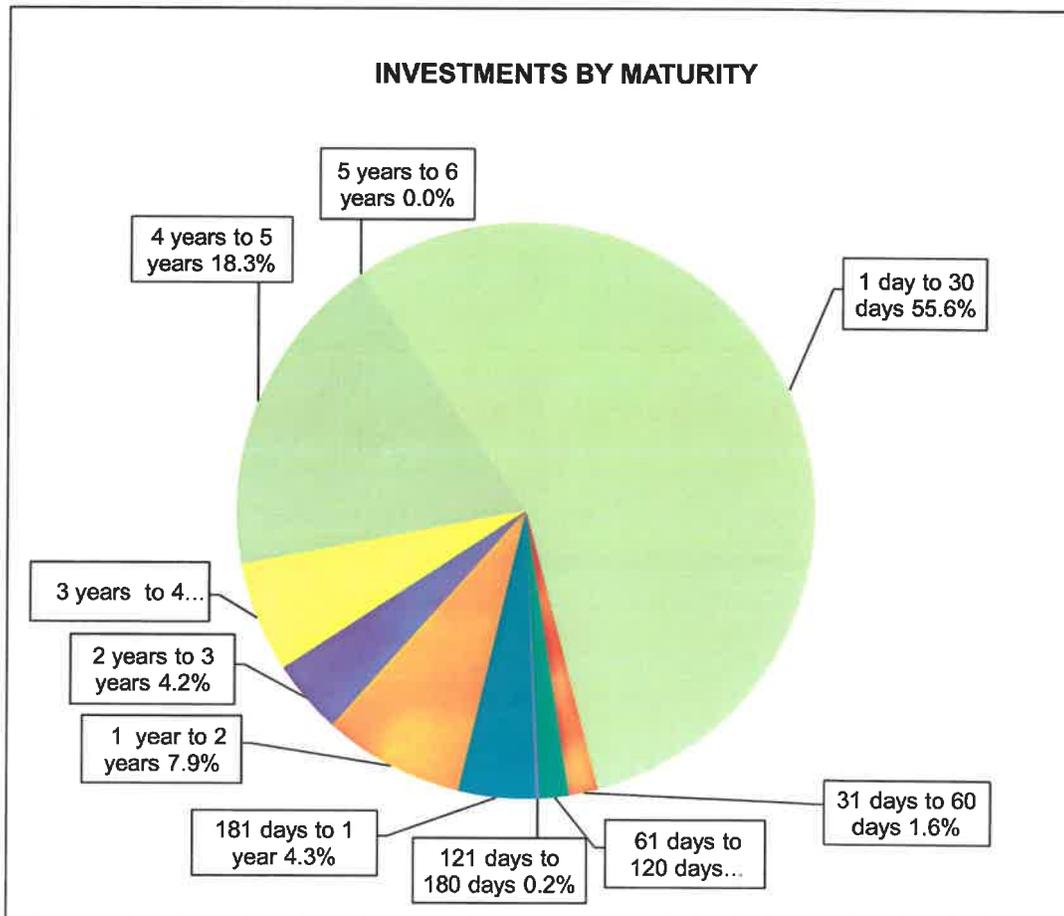
LAIF Amortized Cost \$ 113,538,147,683
LAIF Fair Value \$ 114,100,683,349
Check: 1.004954596

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

July 31, 2020

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

Investment Portfolio	1 day to 30 days	31 days to 60 days	61 days to 120 days	121 days to 180 days	181 days to 1 year	1 year to 2 years	2 years to 3 years	3 years to 4 years	4 years to 5 years	5 years to 6 years
State Local Agency Investment Fund	37,229	-	-	-	-	-	-	-	-	-
Bank Accounts and Change Funds	8,095	-	-	-	-	-	-	-	-	-
Negotiable Certificates of Deposit	250	251	251	253	3,041	3,855	1,850	2,093	1,565	-
ABS	-	-	-	-	-	-	-	-	-	-
Government Securities	100	-	1,505	-	1,507	4,569	2,068	4,500	18,027	-
Money Market Fund	13,566	-	-	-	-	-	-	-	-	-
Corporate Bonds	-	-	-	-	-	-	524	-	-	-
US Treasury	-	1,504	-	-	-	-	-	-	-	-
Total Cash and Investments	59,241	1,756	1,756	253	4,548	8,424	4,442	6,594	19,591	-
Percentage	55.6%	1.6%	1.6%	0.2%	4.3%	7.9%	4.2%	6.2%	18.3%	0.0%





STAFF REPORT

ITEM NO. 11.F.

DATE: September 14, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: STEPHEN PARKER ASSISTANT CITY MANAGER
KERI JOHNSON, CITY CLERK
SUBJECT: BIENNIAL REVIEW OF CITY'S CONFLICT OF INTEREST CODE

RECOMMENDED ACTION

It is recommended that the City Council accept notice that the City's Conflict of Interest Code requires amendments.

GOAL STATEMENT

The proposed action supports the City's goal to comply with State regulations.

BACKGROUND

The Political Reform Act requires every local government agency to biennially review its Conflict of Interest Code to determine if it is accurate, or if the Code must be amended. Once a determination is made that either amendments are required or that no amendments are necessary, a notice must be submitted to the code reviewing body (Council) no later than October 1st of even-numbered years.

The last update for the City, Successor Agency to the Upland Community Redevelopment Agency, and Public Financing Authority was completed in 2018.

ISSUES/ANALYSIS

The City Council is the code reviewing body for all City agencies. Since the last update, there have been only changes in City position titles and responsibilities requiring an update of the Conflict of Interest Code. The updated Code will be completed and presented to the City Council at the meeting on September 28, 2020.

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.G.

DATE: September 14, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: DARREN L GOODMAN, POLICE CHIEF
SUBJECT: CONSIDERATION OF A RESOLUTION IN SUPPORT OF PROPOSITION 20

RECOMMENDED ACTION

It is recommended that the City Council adopt a Resolution supporting a qualified statewide measure entitled "Proposition 20: Restricts parole for non-violent offenders. Authorizes felony sentences for certain offenses currently treated as misdemeanors," also known as the Reducing Crime and Keeping California Safe Act of 2020.

GOAL STATEMENT

The proposed action supports the Upland Police Department's efforts to reduce crime in our city through increased criminal accountability. It furthers the City of Upland's goal of supporting business owners, who are experiencing extraordinary losses to theft and increased insurance premiums. Supporting Proposition 20, demonstrates the City of Upland's commitment to community safety through demonstrating opposition to the early release of violent felons into our community.

BACKGROUND

The Keeping California Safe Initiative for public safety is grassroots effort to correct the most serious flaws in the legislation imposed by Propositions 47 and 57. Proposition 20 seeks to improve four key areas of Prop 47 & 57; Violent Crime, DNA Collection, Serial Theft, and Parole Violations.

ISSUES/ANALYSIS

Fixing the Flaws in Proposition 57

Recent changes to parole laws under Proposition 57 allow the early release of dangerous criminals by its failure to define certain crimes as "violent." Under Prop. 57, individuals convicted of sex trafficking of children, rape of an unconscious person, felony assault with a deadly weapon, battery on a police officer, and felony domestic violence are considered "non-violent" offenders. The Reducing Crime and Keeping California Safe Act will reform the law so that so that these so-called "non-violent" crimes are re-classified as "violent" — and that felons who violate the terms of their release can be brought back to court and held accountable. The initiative does not put any new people in jail or prison — it simply requires those convicted of these violent crimes to complete their court ordered sentence. At least 13 bills have been introduced in the legislature over the past 10 years to reclassify these so-called "non-violent" crimes as "violent" — crimes like pimping a child, murder for hire, rape of an unconscious person, etc. The legislature has rejected them all, so this initiative is our only hope to fix this injustice.

Addressing Prop 47's Crime Spree

Proposition 47 reduced certain felonies to misdemeanors while also raising the threshold for felony theft from \$450 to \$950. Since Proposition 47, California has seen an explosion of retail theft, smash-and-grab auto break-ins, and other misdemeanor crimes where offenders are typically not arrested, but given a citation, thus deceptively impacting arrest rates. The retail, auto, and property theft crimes that have increased since passage of Prop. 47 are so prevalent that many businesses and residents in communities around the state have given up reporting them, skewing crime data. Approximately \$78 worth of property is stolen every second in California under these new laws — totaling \$7.5 billion and counting since passage of Prop. 47. The "Reducing Crime and Keeping California Safe Act" will fix the flaws created by Prop. 47 and restore accountability — revising the theft threshold by adding a felony for serial theft when a person is caught for the third time stealing with a value of \$250.

FISCAL IMPACTS

There is no fiscal impact associated with this item

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Proposition 20 Support Resolution

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UPLAND SUPPORTING A QUALIFIED STATEWIDE MEASURE ENTITLED: "PROPOSITION 20: RESTRICTS PAROLE FOR NON-VIOLENT OFFENDERS. AUTHORIZES FELONY SENTENCES FOR CERTAIN OFFENSES CURRENTLY TREATED ONLY AS MISDEMEANORS," ALSO KNOWN AS THE REDUCING CRIME AND KEEPING CALIFORNIA SAFE ACT OF 2020.

Intent of the Parties and Findings

(i) Protecting every person in our state, including our most vulnerable children, from violent crime is of the utmost importance. Murderers, rapists, child molesters and other violent criminals should not be released early from prison; and

(ii) Since 2014, California has had a larger increase in violent crime than the rest of the United States; and

(iii) Since 2013, violent crime in Los Angeles has increased 69.5%. Violent crime in Sacramento rose faster during the first six months of 2015 than in any of the 25 largest U.S. cities tracked by the FBI; and

(iv) The FBI Preliminary Semiannual Uniform Crime Report for 2017, which tracks crimes committed during the first six months of the past year in U. S. cities with populations over 100,000, indicates that last year violent crime increased again in most of California's largest cities; and

(v) Recent changes to parole laws allowed the early release of dangerous criminals by the law's failure to define certain crimes as "violent." These changes allowed individuals convicted of sex trafficking of children, rape of an unconscious person, felony assault with a deadly weapon, battery on a police officer or firefighter, and felony domestic violence to be considered "nonviolent offenders"; and

(vi) As a result, these so-called "non-violent" offenders are eligible for early release from prison after serving only a fraction of the sentence ordered by a judge; and

(vii) The Reducing Crime and Keeping California Safe Act of 2018 ("Act") reforms the law so felons who violate the terms of their release can be brought back to court and held accountable for such violations; and

(viii) Nothing in this act is intended to create additional "strike" offenses which would increase the state prison population, nor is it intended to affect the ability of the California Department of Corrections and Rehabilitation to award educational and merit credits; and

(ix) Recent changes to California law allow individuals who steal repeatedly to face few consequences, regardless of their criminal record or how many times they steal; and

(x) As a result, between 2014 and 2016, California had the 2nd highest increase in theft and property crimes in the United States, while most states have seen a steady decline; and

(xi) According to the California Department of Justice, the value of property stolen in 2015 was \$2.5 billion with an increase of 13 percent since 2014, the largest single-year increase in at least ten years; and

(xii) Grocery store operators around the state have seen unprecedented increases in the amount of losses associated with shoplifting in their stores, with some reporting up to 150% increases in these losses from 2012 to present, with the largest jumps occurring since 2014; and

(xiii) Shoplifting incidents have started to escalate in such a manner that have endangered innocent customers and employees; and

(xiv) Individuals who repeatedly steal often do so to support their drug habit, but recent changes to California law have reduced judges' ability to order individuals convicted of repeated theft crimes into effective drug treatment programs; and

(xv) California needs stronger laws for those who are repeatedly convicted of theft related crimes, which will encourage those who repeatedly steal to support their drug problem to enter into existing drug treatment programs, and this Act would enact such reforms; and

(xvi) Collecting DNA from criminals is essential to solving violent crimes. Over 450 violent crimes including murder, rape and robbery have gone unsolved because DNA is being collected from fewer criminals; and

(xvii) DNA collected in 2015 from a convicted child molester solved the rape-murders of two six-year-old boys that occurred three decades ago in Los Angeles County; and DNA collected in 2016 from an individual caught driving a stolen car solved the 2012 San Francisco Bay Area rape/murder of an 83-year-old woman; and

(xviii) Recent changes to California law unintentionally eliminated DNA collection for theft and drug crimes, but this Act restores DNA collection from persons convicted for such offenses; and

(xix) Permitting collection of more DNA samples will help identify suspects, clear the innocent and free the wrongly convicted, and

(xx) This Act does not affect existing legal safeguards that protect the privacy of individuals by allowing for the removal of their DNA profile if they are not charged with a crime, are acquitted, or are found innocent.

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

Resolution No.

Page

Section 1. The City of Upland hereby supports the Reducing Crime and Keeping California Safe Act of 2020.

Section 2. 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 14th day of September, 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 14th day of September, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

ATTEST:

Keri Johnson, City Clerk



STAFF REPORT

ITEM NO. 11.H.

DATE: September 14, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: DARREN L. GOODMAN, POLICE CHIEF
MARCELO BLANCO, POLICE CAPTAIN
ASHLEY ESQUIVEL, HOMELESS COORDINATOR
SUBJECT: HOMELESS SERVICES REALLOCATION OF FUNDS

RECOMMENDED ACTION

It is recommended the City Council approve a budget adjustment to purchase a vehicle for the Homeless Coordinator with unspent funds budgeted for the homeless coordinator position for FY 19/20 and FY 20/21 in the Housing Fund.

GOAL STATEMENT

The proposed action supports the City's goal of providing safe and effective law enforcement services and homeless service outreach to the Upland community.

BACKGROUND

The Housing Department's FY 19/20 and FY 20/21 budget includes funds to cover 50% of the Homeless Coordinator position.

In the spring of 2020, modifications were made to the City's use of funds provided by the Homeless Emergency Aid Program (HEAP) to ensure they were spent according to State guidelines that were revised due to COVID-19 needs. Those changes included fully funding the salary and benefits of the Homeless Coordinator with HEAP funds.

ISSUES/ANALYSIS

With the Homeless Coordinator position covered by HEAP funds in both FY 19/20 and FY 20/21, staff met to determine how Housing Fund money budgeted for homeless outreach could best be utilized to further efforts of homeless outreach. Staff's recommendation is to apply those funds towards the purchase of a homeless outreach vehicle.

The proposed vehicle would be marked as a Homeless Outreach vehicle to help in reducing the fear of individuals being contacted by the Homeless Coordinator. In addition, the dedicated vehicle will aid in showing the community our Homeless Coordinator is working in the field and making contacts with homeless individuals where they reside.

The Homeless Coordinator is currently dependent on an officer and a police vehicle to transport homeless clients to shelters, providers, and other resources to connect them with housing stability. Providing the Homeless Coordinator with a vehicle other than a police car will assist in minimizing the anxiety and reluctance clients have when being transported in a police unit.

FISCAL IMPACTS

The Homeless Coordinator's FY 20/21 budgeted salary of \$38,765 in the Housing Fund (Fund 201) will be reclassified to vehicles. In addition, unused FY 19/20 housing fund appropriations of \$12,100 would be allocated to FY 20/21 to increase the appropriation in the vehicle account.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

No Attachments Available



STAFF REPORT

ITEM NO. 11.I.

DATE: September 14, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: DARREN L. GOODMAN, POLICE CHIEF
CLIFFORD MATHEWS, POLICE CAPTAIN
SUBJECT: MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF
UPLAND AND THE UPLAND UNIFIED SCHOOL DISTRICT FOR A
SCHOOL RESOURCE OFFICER

RECOMMENDED ACTION

It is recommended that the City Council authorize the Police Chief to execute a Memorandum of Understanding (MOU) with the Upland Unified School District to provide one (1) Upland Police Department School Resource Officer (SRO) to the School District.

GOAL STATEMENT

The proposed action supports the City's goal of providing safe and effective law enforcement for the citizens of Upland.

BACKGROUND

The City of Upland and the Upland Unified School District (School District) have historically agreed that it best serves the interests of both the City and the School District to have a School Resource Officer (SRO) assigned to various Upland schools during the school year. To accomplish this, the School District has agreed to pay 1/2 of the School Resource Officer's salary and benefits during the 10-month school year. The School Resource Officer position is filled from one of the Police Department's authorized positions and not in addition. This MOU details the roles and responsibilities of both parties, as well as the agreed-upon financial arrangements. The Memorandum of Understanding can be cancelled by either party after giving thirty (30) days written notice.

ISSUES/ANALYSIS

The Chief of Police and Superintendent of Schools met to discuss the goals and impact of this MOU. It was decided that the citizens of Upland would benefit through the added safety and security of having a police officer assigned as a School Resource Officer. Staffing a School Resource Officer also benefits the Police Department by handling the majority of calls for service associated with incidents on Upland Unified School District campuses.

FISCAL IMPACTS

The School District will reimburse the City a total of \$95,740 for the period of August, 2020 through May, 2021 under this memorandum of understanding. The Fiscal Year 2020/21 operating budget already includes the salary of the school resources officer and the associated revenue as estimated during the budget process. No budget adjustments are necessary at this time.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

School Resource Officer Memorandum of Understanding



CITY OF UPLAND
POLICE DEPARTMENT

"Proud to Serve"

DARREN L. GOODMAN | CHIEF OF POLICE



Memorandum of Understanding
August 25, 2020

The following agreement is entered into by the Upland Unified School District and the Upland Police Department. The intent of this Memorandum is to clarify the respective roles and responsibilities of the Upland Unified School District and the Upland Police Department in regards to the continuation of the School Resource Officer Program.

PARTICIPATING AGENCIES:

Upland Unified School District:
Lynn Carmen Day
Superintendent

Upland Police Department:
Darren L. Goodman
Chief of Police

ROLES AND RESONSIBILITIES:

Upland Police Department shall select a School resource Officer who has a minimum of three years police experience. The officer selected shall have the abilities to communicate effectively, interact with young people, and present a positive role model to the students. The School Resource Officer's primary objective will be the investigation and enforcement of crimes occurring on campus at Upland High School. 555 West 11th Street. In addition to the primary objective, the School Resource Officer will have the following goals and objectives:

- To develop communication between the school and the Police Department and a cooperative program for the guidance of young people.
 - To create a greater respect for law enforcement by bringing police personnel and students together in a favorable atmosphere.
 - To strive for the reduction of juvenile criminal action and the promotion of responsible behavior.
 - To develop a positive image with the students.
 - To become familiar with potential gang members or crime problems occurring on campus.
- The School Resource Officer will be required to make arrest of violators on campus and to assist the school in removing non-students, keeping the peace and preventing drug abuse on campus.

Upland Unified School District:

The Upland Unified School District will provide cooperation and support for the School Resource Officer so that the program objective involving students, school personnel and parents can be archived during the course of the program.



CITY OF UPLAND
POLICE DEPARTMENT

"Proud to Serve"

DARREN L. GOODMAN | CHIEF OF POLICE



The School District will provide the service of school administrators, counselors, facilitators, peer leaders, advisors and instructors in order to further the goals of the program.

FINANCIAL ARRANGMENTS:

The cost of a School Resource Officer will be based upon one full-time, E Step, Police Officer's salary and benefits. This figure may be adjusted annually to reflect salary and benefit increase.

The Upland Unified school District agrees to pay the City 50% of 10 month's salary and benefits of the School Resource Officer.

The cost calculation is as follow:

One (1) E Step Police Officer, salary and benefits= \$229,758 x 83.34% (10 months) = \$191,480 x 50% = \$95,740.

TERMINATION

The Memorandum of the Understanding will remain in effect, unless terminated by either party by giving thirty (30) day written notice of their intention to do so.

I DO HEREBY AGREE TO THE RESPONSABILITIES FOR MY AGENCY AS OUTLINED IN THE MEMORANDUM OF UNDERSTANDING.

Chief of Police

I hereby agree to the term of the above- reference and enclosed Memorandum of Understanding for the 2020/2021 Fiscal Year.

Upland Unified School District Superintendent



STAFF REPORT

ITEM NO. 11.J.

DATE: September 14, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: STEVEN NIX, INTERIM PUBLIC WORKS DIRECTOR
SUBJECT: ACCEPTANCE OF UNDERGROUNDING IN LIEU FEE REQUEST FOR CLAREMONT COLLEGES

RECOMMENDED ACTION

It is recommended that the City Council adopt a Resolution approving an in-lieu fee in satisfaction of Condition No. 26 of TPM 18989, CUP 14-19 and SP 08-10 concerning the undergrounding of overhead utility lines for the Claremont Colleges East Campus Project located on the south west corner of Monte Vista Avenue and Foothill Blvd.

GOAL STATEMENT

The proposed action supports the facilitation of development in an orderly, cost effective and appropriate manner for the benefit of the community.

BACKGROUND

On May 23, 2016, the City Council adopted Resolution No. 6334 approving EIR No. 1492, CUP 14-19, SP 08-10, TPM 18989 and DA 16-01 for Claremont Colleges East Campus Project, for the development of athletic fields, ancillary buildings, parking and a retention basin generally located west of Monte Vista Avenue between Foothill Blvd and Arrow Highway. The developer was conditioned to underground utility distribution lines on Monte Vista Avenue in accordance with the Upland Municipal Code (UMC) development requirements.

The developer has requested the City accept an alternative in-lieu fee as an acceptable substitute for the undergrounding requirement for a portion of the project. This project has frontages along Arrow Highway, Monte Vista Ave and Foothill Blvd with existing overhead utility lines along Arrow Hwy and Foothill Blvd. The Developer is only seeking relief on the Foothill Blvd. frontage and is committed to underground the existing overhead lines on Arrow Hwy. Based on a review of the site, the following comments support the consideration of a

substitute in-lieu fee:

- The utility poles on Foothill Boulevard are larger than typical as they carry both transmission and distribution facilities;
- The utility poles on Foothill Boulevard will remain even if distribution and communication facilities are underground because the high voltage transmission lines will need to remain as overhead facilities;
- Roadway improvements required on the south side of Foothill Boulevard to provide the dedicated right turn lane can be accommodated without modification to the existing power poles; and
- Foothill Boulevard was recently improved to the west of the project within the City of Claremont. None of the existing distribution and transmission powerlines were undergrounded as part of the improvement project; For these reasons, the developer is requesting the City accept the in-lieu fee as a substitute for the required undergrounding.

ISSUES/ANALYSIS

The UMC requires developments to underground distribution utility facilities. The code does allow for the consideration of an alternative in-lieu fee.

In response to this request, staff performed a review of the site and the offer to pay an in-lieu fee. Staff considers the site to be unique for the reasons presented in the background section above and supports the acceptance of an in-lieu fee as a reasonable alternative to undergrounding.

The developer provided the city with an estimate of cost for the undergrounding of all overhead utilities with the exception of the transmission facilities on the subject powerpoles. The value of the estimate provided is \$261,303 which equates to approximately \$850 per lineal foot. Staff has reviewed the provided estimate and found it to be reasonable and comparable to other estimates for similar undergrounding projects within the city.

FISCAL IMPACTS

The city will receive a fee in lieu of undergrounding of \$261,303 which will be deposited in the City's General Capital project fund and will be reserved for use on a future utilities undergrounding project.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Resolution

Location Map

In Lieu Request

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UPLAND APPROVING AN IN-LIEU FEE IN SATISFACTION OF CONDITION 26 OF TENTATIVE PARCEL MAP 18989 FOR THE DEVELOPMENT OF ATHLETIC FIELDS, ANCILLARY BUILDINGS, PARKING AND A RETENTION BASIN ON REAL PROPERTY LOCATED ON THE WEST SIDE OF MONTE VISTA AVENUE BETWEEN ARROW HIGHWAY AND FOOTHILL BLVD.

Intent of the Parties and Findings

(i) The Planning Commission of the City of Upland passed Resolution No. 6334 on May 23, 2016 approving Tentative Parcel Map 18989, CUP 14-19 and SP 08-10 to develop Athletic Fields, Ancillary Buildings, Parking and Retention Basin on a 75 acre vacant parcel of which 40 acres lie within the City of Upland, generally located west of Monte Vista Avenue between Arrow Highway and Foothill Blvd ("Development"); and

(ii) Condition 26 of Resolution No. 6334 requires the undergrounding of electrical distribution telephone and cable lines, on the project site and frontage shall be underground in accordance with the Upland Municipal Code; and

(iii) The Claremont Colleges ("Developer") will install the underground conduit infrastructure necessary to implement the underground requirements within the project site.; and

(iv) The Developer received estimates from Southern California Edison (SCE) and Verizon for SCE services to underground the existing overhead on Foothill Boulevard in an amount of \$261,303; and

(v) The Developer is requesting the City Council accept in the alternative an in-lieu fee to satisfy the undergrounding development condition for Foothill Boulevard of the Claremont College; and

(vi) City staff performed a site review and determined that the existing power poles on Monte Vista Avenue cannot be removed due to the fact that they support high voltage transmission lines; and

(vii) The City Council finds that the Developer's proposed in-lieu fee of two hundred sixty one thousand three hundred three dollars (\$261,303.00) is reasonable, considering the work completed, the cost of the remainder items and that the funds will be used to support undergrounding efforts that will provide a benefit to the community.

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

Section 1. All of the above recitals are true and correct and are incorporated herein by reference.

Section 2. That Condition 26 of Tentative Parcel Map 18989, CUP 14-19 and SP 08-10 to develop Athletic Fields, Ancillary Buildings, Parking and Retention Basin regarding the undergrounding on Foothill Boulevard may be satisfied in the alternative with the payment of an in-lieu fee of two hundred sixty one thousand three hundred three dollars (\$261,303.00) to be used to support undergrounding projects in the City.

Section 3. 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 14th day of September, 2020.

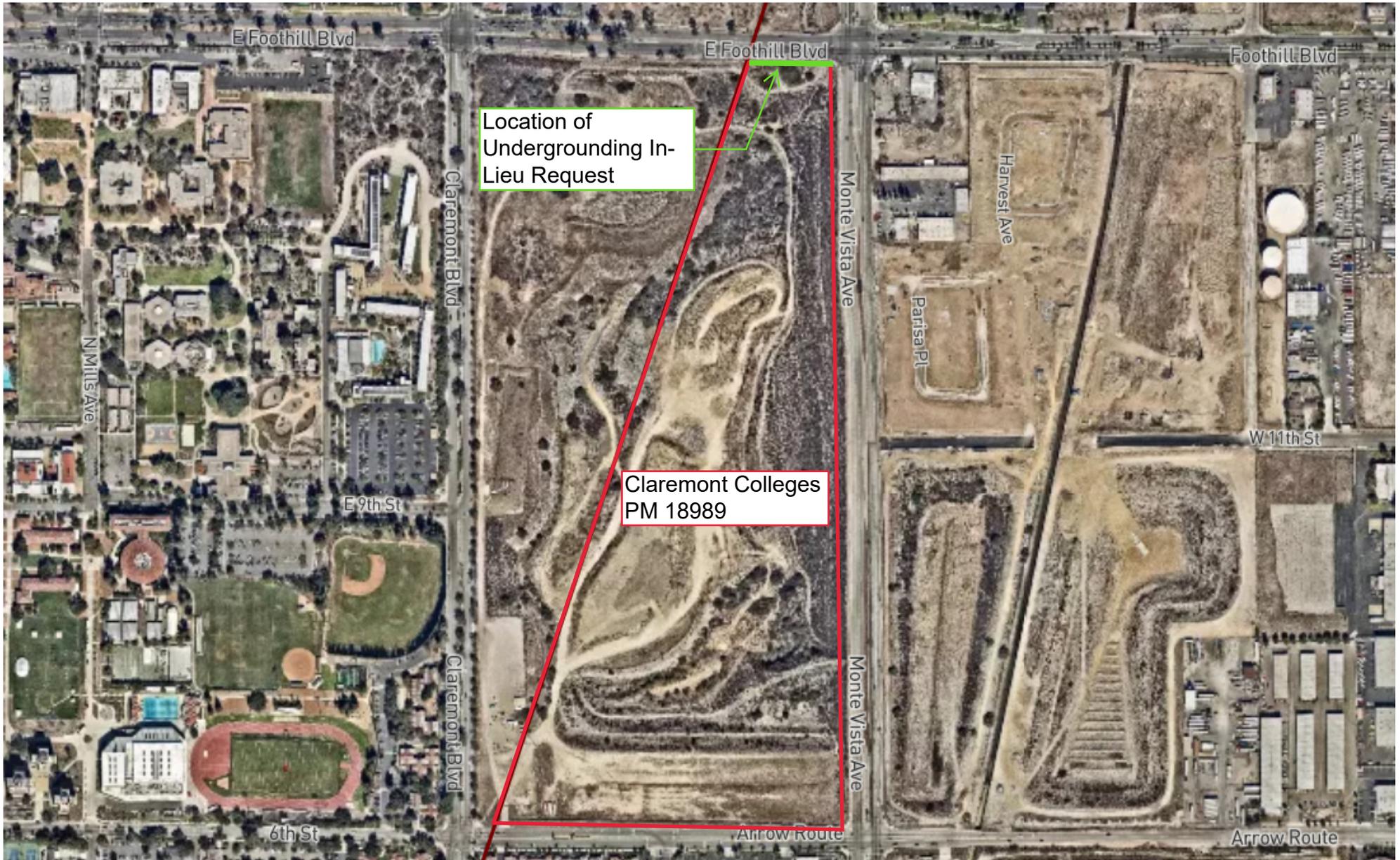
Debbie Stone, Mayor

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 14th day of September, 2020, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAINED:

ATTEST: _____
Keri Johnson, City Clerk

Site Map Claremont Colleges



1" = 556 ft	Sub Title	08/27/2020	
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This map may represent a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.



July 13, 2020

Steve Nix
Interim Public Works Director
City of Upland
1370 N. Benson Avenue
Upland, CA 91786

Via email: Snix@ci.upland.ca.us

Subject: Claremont Colleges East Campus Project, Offsite Improvements. Request for exception to underground utilities on Foothill Blvd.

Dear Mr. Nix:

On behalf of the Claremont Colleges, including The Claremont Colleges Services, Claremont McKenna College, and Pitzer College (the Colleges), as applicants and developers of the East Campus project, we are submitting this request. On May 23, 2016, the City Council of the City of Upland approved the Claremont Colleges' East Campus project for the development of the former "pit" located south of Foothill Blvd., west of Monte Vista Avenue, and north of Arrow Route. The development will include sports fields and facilities for the Claremont Colleges. City of Upland approvals include EIR No. 2010021040, Tentative Parcel Map No. 18989, Master Site Plan No. 08-10, Conditions Use Permit No. 14-19, and Development Agreement No. 16-01

As a condition of approval, the Colleges are required to improve project frontage along Foothill Blvd. As you are aware, Foothill Boulevard within the City of Claremont was improved as part of the City of Claremont Foothill Boulevard project. The City of Claremont conditioned the Colleges to pay a fee to the City instead of making the improvements on Foothill Blvd.; this fee served as the Colleges' completion of improvements along Foothill Blvd. in the City of Claremont.

When the City of Claremont completed its improvements along Foothill Blvd., the improvements did not include the undergrounding of any of the existing utilities. The City of Claremont has confirmed that the Colleges' responsibility for improvements to Foothill Blvd. has been fully completed. For consistency, the Colleges request the exception of undergrounding of those utilities within the remaining portion of Foothill Boulevard fronting the project site within the City of Upland.

The utility lines located on the poles in this area include both transmission and distribution lines for Southern California Edison (SCE) and telecom lines for AT&T and Charter. Because 66kV transmission lines cannot be placed underground, we cannot remove the poles, so only the SCE distribution lines and the telecom lines would be removed and placed underground.

We understand that the City of Upland has an option wherein the applicant can request an exception to the undergrounding with payment of an in lieu fee. Therefore, we would like to make this request with a payment of an in lieu fee of \$261,303, which is the cost of undergrounding the lines as shown on the attached estimate.

The project is also conditioned to underground the utility lines of 33kV and under along the Arrow Route project frontage. Because there are 66kV lines on those poles as well, the poles will remain, however the Colleges will place the lower lines underground. We are not requesting an exception to that condition.

In summary, our request is the exception to placing the utility lines within the City of Upland along the Foothill Blvd frontage within the City of Upland with the following reasoning:

1. The poles will remain in place because of the existing 66kV lines.
2. The City of Claremont did not underground any of the utility lines within their jurisdiction to the immediate west of the City of Upland Frontage.
3. The Colleges propose to pay an in lieu fee in the amount that the undergrounding would be, \$261,303.
4. The Colleges are not asking for exception to undergrounding the required lines along the Arrow Route frontage.

Please let us know how we can assist in the City's review of this request.

Sincerely,

Pamela Steele
Principal

cc: The Claremont Colleges Services (formerly called Claremont University Consortium, CUC)
Claremont McKenna College
Pitzer College.



17291 IRVINE BLVD, SUITE 264. TUSTIN, CA 92780

FOOTHILL BLVD UNDERGROUNDING (33kv & Below)

Off-Tract: Dry Utilities (SCE)

Client: MIG
 Contact: Lisette Sanchez-Mendoza
 Tel: 951-787-9222 Ext 822
 Email: lsmendoza@miacom.com

Paul Rodriguez
 DUEX
paul@duexperts.com
 Tel: 714.883.9349
 5/12/2020

OPINION OF PROBABLE COSTS

Legend:	Product Type:	SFD
Blue = Formulated Cell	No. of Units (DU):	-
Red = Pending	Net Acres:	-
Red = Footnote	Graded Acres:	-
Red = Deduct	Gross Acres:	-
Black = Hard Coded	Linear Feet	305.0

The Opinion of Probable Costs contained within this document has been prepared by DUEX. The Opinion of Probable Costs contained herein represents a good-faith effort by DUEX and is supported by the most current information (as available on the most current date of this document) that has been provided to DUEX and listed above. The Opinion of Probable Costs is based on DUEX's extensive qualifications and experience in the industry. This Opinion of Probable Costs is limited only to the conditions and factors expressly enumerated herein. All other conditions and factors that have not been expressly enumerated herein are excluded from this Opinion of Probable Costs. All Opinions of Probable Costs are expressed in U.S dollars as of the date of this document and do not account for future inflation and/or cost escalations.

This Opinion of Probable Costs is recognized and acknowledged to be a non-binding document. DUEX offers no guarantee or warranty, expressed or implied, for the information contained herein. Any individual or entity using the Opinion of Probable Costs for any purpose agrees to save and hold harmless DUEX from all costs or damages that may arise subsequent from said use of this Opinion of Probable Costs.

This data, as provided by DUEX, may not be modified or amended without the expressed permission of DUEX. If approval by DUEX is not requested and modifications are made, DUEX may take legal action to collect any damages and associated costs caused in the potential harming of the reputation of DUEX.

DRY UTILITIES - OFF-TRACT	<u>AMOUNT</u>	<u>\$ /LF</u>
A. CONTRACTOR CHARGES.....	52,534	172
B. CONTRACTOR CHARGES TAX COMPONENT.....	5,286	17
C. EDISON ELECTRIC CHARGES.....	128,340	421
D. TELCO CHARGES.....	37,572	123
E. CATV CHARGES.....	37,572	123
TOTAL: UTILITIES	261,303	857



17291 IRVINE BLVD, SUITE 264. TUSTIN, CA 92780

FOOTHILL BLVD UNDERGROUNDING (33kv & Below)

Off-Tract: Dry Utilities (SCE)

Item No.	A. CONTRACTOR CHARGES	Quantity	Unit	Price	Total
	<u>Trench</u>				
1.	• Joint Trench	305	LF	16.00	4,880
2.	• Electric Only	10	LF	10.00	100
3.	• Teleco (only)	10	LF	10.00	100
4.	• CATV (only)	10	LF	10.00	100
5.	Remove and Replace Asphalt	610	SF	20.00	12,200
	<u>Electric Conduit</u>				-
1.	• Electrical: 4-5" Primary	305	LF	24.00	7,320
2.	• Semi - Encasement	305	LF	21.00	6,405
	<u>Electric Structures</u>				
1.	•E Vault (5'x10'6"x7')	1	EA	12,000.00	12,000
	<u>Telephone Conduit</u>				-
1.	• Teleco: 1-4"(Main Distribution)	305	LF	5.00	1,525
	<u>Telephone Structure</u>				-
1.	• T Pullbox (2'x3'x3')	1	EA	1,500.00	1,500
	<u>CATV Conduit</u>				-
2.	• CATV: 1-4" (Main Distribution)	305	LF	5.00	1,525
	<u>CATV Structure</u>				-
1.	•TV PullBox (2'x3'x3')	1	EA	1,500.00	1,500
1.	Sand Bed: 3"	325	LF	2.00	650
2.	Sand Shade: 12"	305	LF	3.00	915
3.	Sand Shade: 6"	305	LF	2.75	839
4.	Sand Backfill: 12"	325	LF	3.00	975
	Sub-Total: CONTRACTOR CHARGES				52,534

Notes:

(1) This is only taking a tax on the material pricing only (labor and equipment are not included)



17291 IRVINE BLVD, SUITE 264. TUSTIN, CA 92780

FOOTHILL BLVD UNDERGROUNDING (33kv & Below)

Off-Tract: Dry Utilities (SCE)

<u>Item No.</u>	<u>B. CONTRACTOR CHARGES TAX COMPONENT</u>	<u>Quantity</u>	<u>Unit</u>	<u>Price</u>	<u>Total</u>
1.	Contractor Charges Tax Component	22,024	%	24%	5,286
Sub-Total: CONTRACTOR CHARGES TAX COMPONENT					5,286

<u>Item No.</u>	<u>C. EDISON ELECTRIC CHARGES</u>	<u>Quantity</u>	<u>Unit</u>	<u>Price</u>	<u>Total</u>
1.	Underground 33KV	305	LF	300.00	91,500
2.	New Riser	2	EA	3,000.00	6,000
3.	New Down Guy and Anchor	2	EA	3,000.00	6,000
4.	CIAC TAX Component	103,500	%	24%	24,840
Sub-Total: EDISON ELECTRIC CHARGES					128,340

<u>Item No.</u>	<u>D. TELCO CHARGES</u>	<u>Quantity</u>	<u>Unit</u>	<u>Price</u>	<u>Total</u>
1.	Underground Telco	305	LF	60.00	18,300
2.	New Riser	2	EA	3,000.00	6,000
3.	New Down Guy and Anchor	2	EA	3,000.00	6,000
4.	CIAC TAX Component	30,300	%	24%	7,272
Sub-Total: TELCO CHARGES.....					37,572

<u>Item No.</u>	<u>E. CATV CHARGES</u>	<u>Quantity</u>	<u>Unit</u>	<u>Price</u>	<u>Total</u>
1.	Underground CATV	305	LF	60.00	18,300
2.	New Riser	2	EA	3,000.00	6,000
3.	New Down Guy and Anchor	2	EA	3,000.00	6,000
4.	CIAC TAX Component	30,300	%	24%	7,272
Sub-Total: CATV CHARGES.....					37,572



STAFF REPORT

ITEM NO. 11.K.

DATE: September 14, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: STEVEN NIX, INTERIM PUBLIC WORKS DIRECTOR
JESUS SANCHEZ, ASSISTANT ENGINEER
SUBJECT: ACCEPTANCE OF UNDERGROUNDING IN LIEU FEE REQUEST FOR
MESA COURT APARTMENTS

RECOMMENDED ACTION

It is recommended that the City Council adopt a Resolution approving an in-lieu fee in satisfaction of Condition No. 30.22 of TPM 19435, Site Plan No. 19-02, Conditional Use Permit No. 19-05, and Design Review 19-02 concerning the undergrounding of overhead utility lines for the Mesa Court Apartments Project located on 790 East Mesa Court, east of Campus Ave. and south of Foothill Blvd.

GOAL STATEMENT

The proposed action supports the facilitation of development in an orderly, cost effective and appropriate manner for the benefit of the community.

BACKGROUND

On January 22, 2020, the City Council adopted Resolution No. 4910 approving TPM 19434 (TPM 19-01), CUP 19-05, SP 19-02 and DR 19-02 for the development of 60 townhouse apartments located on 790 East Mesa Court. The developer was conditioned to underground utility distribution lines on public on frontage alleys in accordance with the Upland Municipal Code (UMC) development requirements. The developer has requested the City accept an alternative in-lieu fee as an acceptable substitute for the undergrounding requirement for the public on frontage alleys.

Based on a review of the site, the following support the consideration of a substitute in-lieu fee:

- The existing overhead utilities along the alley frontage provide service connections for all properties adjacent to the project. The conditioned undergrounding would require that all existing overhead service connections for the adjoining properties be converted to underground services.
- The cost that would be needed to provide underground service connections to all adjacent properties is an unreasonable burden for this developer to assume.

For this reason, the developer is requesting the City accept the in-lieu fee as a substitute for the required undergrounding.

ISSUES/ANALYSIS

The UMC requires developments to underground distribution utility facilities. The code does allow for the consideration of an alternative in-lieu fee. In response to the request by the developer, staff performed a review of the site, existing facilities and the offer to pay an in-lieu fee. Staff considers the site to be unique for the reasons presented in the background section above and supports the acceptance of an in-lieu fee as a reasonable alternative to undergrounding.

The developer provided the city with an estimate of cost for the undergrounding of all overhead utilities. The value of the estimate provided is \$226,610 which equates to approximately \$412 per lineal foot. This amount is half the estimated total cost of undergrounding the entire utility lines, half of which serves the properties on the other side of the alley. Staff has reviewed the provided estimate and found it to be reasonable and comparable to other estimates for similar undergrounding projects within the city.

FISCAL IMPACTS

The City will receive \$226,610 in lieu of undergrounding utilities, which will be recorded in the City's capital project fund. No additional appropriations are needed, as the City does not have a utility undergrounding plan at this time.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

In lieu resolution

Undergrounding In lieu fee request and estimate

Site Map

Resolution 4910

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UPLAND APPROVING AN IN-LIEU FEE IN SATISFACTION OF CONDITION 30.22 OF TENTATIVE PARCEL MAP NO. 19435 (TPM-19-01), SITE PLAN NO. 19-02, CONDITIONAL USE PERMIT NO. 19-05, AND DESIGN REVIEW-NO. 19-02 FOR THE DEVELOPMENT OF 60 TOWNHOUSE APARTMENT UNITS LOCATED AT 790 MESA COURT (APN: 1046-102-13).

Intent of the Parties and Findings

(i) The Planning Commission of the City of Upland passed Resolution No. 4910 on January 22, 2020 approving Tentative Parcel Map 19435 (TPM 19-01) to develop, the 60 townhouse apartment units on a 2.5 acre parcel of real property located at 790 Mesa Court, east of Campus Avenue ("Development"); and

(ii) Condition 30.22 of Resolution No. 4910 requires the undergrounding of electrical distribution telephone and TV cable lines, on the project site and frontage shall be underground in accordance with the Upland Municipal Code; and

(iii) Power Design and Development ("Developer") will install the underground conduit infrastructure necessary to implement the underground requirements within the project site.; and

(iv) The Developer provided estimates for Southern California Edison (SCE), Frontier and Charter/Spectrum using other forces to underground the existing overhead facilities in the public frontage of the alley, west of the project site, in an amount of \$453,219; and

(v) The Developer is requesting the City Council accept the alternative of an in-lieu fee, which is half of the undergrounding effort to cover the east side of the facilities. The west side is serving the existing units via overhead lines which accounts for the other half of the cost for undergrounding, which will satisfy the undergrounding development condition; and

(vi) City staff performed a site review and determined that the existing power poles on the public frontage alley serve the properties adjacent to the project. The conditioned undergrounding would require that all existing overhead service connections for the adjoining properties be converted to underground services. The cost that would be needed to provide underground service connections to the adjacent properties is an unreasonable burden for the Developer to assume.

(vii) The City Council finds that the Developer's proposed in-lieu fee of two hundred and twenty six thousand six hundred and ten dollars (\$226,610.00) is reasonable, considering the work completed, the cost of the remainder items and

that the funds will be used to support undergrounding efforts that will provide a benefit to the community.

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

Section 1. All of the above recitals are true and correct and are incorporated herein by reference.

Section 2. The Conditions 30.22 of Tentative Parcel Map No. 19435 (TPM 19-01) regarding the underground on public on frontage alley may be satisfied in the alternative with the payment of an in-lieu fee of two hundred and twenty six thousand six hundred and ten dollars (\$226,610.00) to be used to support undergrounding projects in the City.

Section 3. 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 14th day of September, 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 14th day of September, 2020, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAINED:

ATTEST: _____
Keri Johnson, City Clerk

July 21, 2020

Jesus Sanchez, PE
Assistant Engineer
City of Upland Public Works Department

Re: Request of in-lieu fee for undergrounding public alley utilities for Mesa Court Apartments project located at 760-790 Mesa Court, Upland, CA

Dear, Mr. Sanchez:

Resolution No. 4910, for the infill project consisting of 60-unit townhouse apartments on 2.5 acres, was approved by the Planning Commission on January 22, 2020. The approval included Conditional Use Permit No. CUP-19-05, Tentative Parcel Map No. 19435 (TPM-19-01), Site Plan No. SP-19-02, and Design Review No. DR-19-02.

Condition 30.22 of the resolution indicates: "The existing overhead utilities (including telephone, cable and SCE distribution lines) on the project site and frontage shall be underground in accordance with Upland Municipal Code." Condition 30.23 continues: "Undergrounding of existing utilities shall be completed before issuance of first occupancy."

All on site utilities of the project will be underground, but the existing public utilities on frontage alleys are utility companies' distribution lines and serve other properties along the alley. The utility companies have no plan to underground the utilities in the alley and if they make such plans per their own timetable and priorities, it will include the entire properties along the public alley. The conditions of approval as noted above, will tie up the use of the proposed development for years. Therefore, we request that the in-lieu fee option be provided with following information:

1. Project consists of 60 new apartment units located at 760-790 Mesa Court.
2. The public utility lines serve other properties along the alley; see exhibit "B". It would not be feasible to get all other property owners to agree to this condition and the utility companies to perform the required tasks within the desired time.
3. The proposed in-lieu fee is \$226,610. This amount is half the estimated total cost of undergrounding the entire utility lines, half of which serves the properties on the other side of the alley. See exhibit A and B.
4. The public utility poles and lines are distribution lines serving properties on both sides of the alley.

I request to allow the project to move forward with the payment of the proposed "in-lieu fee" for

Powers Design & Development

790 Mesa Court, Upland California 91786

909.297.3463

undergrounding the utilities.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink on a light gray background. The signature is cursive and appears to read "Greg Powers".

Greg Powers
President
Powers Design Development



**DRY UTILITY COST ESTIMATE
POWERS DESIGN & DEVELOPMENT
ALLEY WAY CONVERSION ONLY**

LOTS: _____ TRACT _____
CITY: _____ **UPLAND** _____
DATE: _____ **July 14, 2020** _____

PREPARED BY: Gina White

****THIS DOES NOT INCLUDE THE TRENCHING OF SERVICES TO EACH OF THE EXISTING BUILDINGS, SINCE THAT INFORMATION IS UNKNOWN****

JOINT TRENCH (contract with the trencher/contractor not the utilities)

AMOUNT BELOW INCLUDES CROSSINGS & NO PAVING OR CUTTING OF THE PAVEMENT

JOINT TRENCH:	\$ 118,600.00	Cost Code: _____	550 TOTAL LF	\$ 215.64 \$/LF
SERVICES:	\$ -	Cost Code: _____	TOTAL LF	_____/LF
	\$ 118,600.00			

STREETLIGHTS

OF STREETLIGHTS: 0 SCE STREETLIGHTS
STREETLIGHTS: \$ - Cost Code: _____ PAYMENT TO SCE _____
ADVANCE ENERGY CHARGES: \$ - Cost Code: _____ PAYMENT TO SCE _____

ELECTRIC COSTS (payment to the utility company, not trencher/contractor)

ELECTRIC PROVIDER: SCE
PAYMENT TO SCE: \$ 208,009.00 SCE Cost Code: _____
REFUNDS FROM SCE: \$ - SCE Cost Code: _____
APPLICANT INSTALL COST: \$ - AI CONTRACTOR Cost Code: _____ (Paid to a contractor)

TELEPHONE COSTS (payment to the utility company, not trencher/contractor)

TELEPHONE PROVIDER: FRONTIER
PAYMENT TO THE TELE CO: \$ 96,250.00 CONVERSION Cost Code: _____
REFUNDS FROM THE TELE CO: _____ Cost Code: _____

CATV COSTS (payment to the utility company, not trencher/contractor)

CATV PROVIDER: CHARTER/SPECTRUM
PAYMENT TO THE CATV CO: \$ 30,360.00 CONVERSION Cost Code: _____
REFUNDS FROM THE CATV CO: \$ - Cost Code: _____

GAS COSTS (payment to the utility company, not trencher/contractor)

GAS PROVIDER: The Gas Company
PAYMENT TO THE GAS CO: \$ - Gas Co Install Cost Code: _____
REFUNDS FROM THE GAS CO: \$ - Gas Co Install Cost Code: _____
APPLICANT INSTALL COST: \$ - AI Cost Code: _____

TOTAL DRY UTILITY COST \$ 453,219.00 #DIV/0! cost per unit



EXHIBIT "B"
FROM UDS

ALL OF THESE OVERHEAD FEEDS ARE COMING FROM THESE POLES. IF THE POLES ARE REMOVED, YOU WILL HAVE TO TRENCH TO EACH PROPERTY BUILDING TO PROVIDE UNDERGROUND SERVICE OR SCE, TELE & CATV

MESA COURT
PROPERTY

MONTEREY
APARTMENTS

Google

Site Map Mesa Court Apartments



1" = 157 ft

Sub Title

08/27/2020



This map may represent a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.

RESOLUTION NO. 4910

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF UPLAND APPROVING CONDITIONAL USE PERMIT NO. 19-05, TENTATIVE PARCEL MAP NO. 19435 (TPM-19-01), SITE PLAN NO. 19-02, AND DESIGN REVIEW-NO. 19-02 TO SUBDIVIDE AN EXISTING 3.8 ACRE PARCEL INTO 2 PARCELS, ONE BEING 2.5 ACRES AND ONE BEING 1.3 ACRES AND THE APPROVAL FOR THE DEVELOPMENT OF 60 TOWNHOUSE APARTMENTS WITHIN ELEVEN BUILDINGS AT A DENSITY OF 24 UNITS PER ACRE INCLUDING ASSOCIATED IMPROVEMENTS ON THE 2.5 ACRE PARCEL LOCATED AT 790 MESA COURT (APN: 1046-102-13).

Intent of the Parties and Findings

WHEREAS, Soroush Rahbari. (Applicant) has filed applications requesting approval of the Project;

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 has determined that 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 and January 22, 2020, 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 as follows:

Section 1. Actions the Planning Commission has taken:

- A. Found that 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.
- B. Approve Conditional Use Permit No. CUP-19-05, Tentative Parcel Map No. 19435 (TPM-19-01), Site Plan No. SP-19-02, Design Review No. DR-19-02 to subdivide an existing 3.8 acre parcel into 2 parcels, one being 2.5 acres and one being 1.3 acres. The approval includes the development of 60 townhouse apartments within eleven buildings at a density of 24 units per acre including associated improvements on the 2.5 acre parcel.

Section 2. FINDINGS. The Planning Commission hereby makes the following findings and determinations in connection with the 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 LU-1.2 Permitted Densities and Intensities. Ensure existing and future zoning designations correspond to the permitted density and intensity ranges as listed in Table LU-1 of the Land Use Element.
Fact: The project density is 24 dwelling units/acre, which is allowed within the General Plan Land Use Designation and Zone.

2. Policy LU-1.5 Range of Housing Types and Densities. Provide high-quality housing in a range of types, densities, and unit sizes that meets the housing needs of residents of all income levels.

Fact the project provides townhome style apartment units that will meet the needs of housing seekers at the Market-rate level. The Project adds to the City's housing stock for renters in the City's efforts to address the housing needs of all income levels.

3. Policy LU-4.1 Infill Development. Encourage mixed-use, infill development on brownfields or underutilized parcels, particularly near public transit and within the historic downtown.

Fact: The project will fill a currently underutilized parcel. The site is site surrounded by built urban environment and is served by existing infrastructure and roadways.

4. Policy CC-2.5 Neighborhood Amenities. Encourage appropriately scaled community-supportive facilities and services within all neighborhoods to enhance neighborhood identity and provide convenient access within walking and biking distance of residents.

Fact: The project will provide multiple recreation facilities for its residents, including a central park with tot lot and exercise area, as well as two Barbecue areas. Further, the project is within walking distance to multiple Commercial uses, including the Upland Country Village shopping center.

- C. 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 location, size, design, and operating characteristics of the proposed use will be compatible with the existing and future land uses near the subject property in that the use is surrounded primarily by residential land uses. The development meets all applicable development standards and the operation of the use will not result in any significant impacts to the environment or surrounding 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 proposed use meets or exceeds all applicable development standards for the zone. The site provides for adequate fire lanes and access for emergency and/or public service vehicles.

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. The project will result in the elimination of a large vacant property. The project will not result in any significant impacts to the environment or surrounding uses.

- D. Upland Municipal Code Section 17.44.080(F) provides that the Planning Commission, before it may approve a Tentative Tract Map shall make the following findings:

1. Finding: No Lots shall be created without frontage on a public street, except lots created in conjunction with approved private access easements.

Evidence: The 2.5-acre Parcel will be landlocked as a result of the subdivision, therefore the applicant will dedicate an easement for public use along the existing drive isle at the east boundary of the site, from Mesa Court to the southern boundary of the project site. The dedication will result in a minimum 26-foot drive isle with curb gutter, and a 5 foot sidewalk provided for pedestrian access to the site.

2. Finding: The side lines of the lots shall run at right angles or radially to the street upon which the lot fronts, except where impractical by reason of unusual topography.

Evidence: The side lines of all lots run at right angles or radially to the street upon which the lot fronts.

3. Finding: Lots shall be equal or larger in measure than the prevalent size of existing lots in the surrounding area except where a deliberate change in the character of the area has been initiated by the adoption of a specific plan, a change in zone or general plan designation.

Evidence: The project will result in 2 parcels, one being 2.5 acres and one being 1.3 acres. Surrounding parcels range from .25 acres to 2.8 acres, therefore the new lots are consistent with the lots in the surrounding the Project.

4. Finding: The site is physically suitable for the proposed type and density of development.

Evidence: The site is physically suitable for the proposed type and density of development in that, the proposed density is within the limitations for the zone, the site contains adequate common open space amenities and parking for the project, the site meets all applicable development standards, and the site maintains adequate space for needed infrastructure improvements.

5. Finding: The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

Evidence: The project site has no value as a habitat for endangered, rare or threatened species and approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality, therefore, the design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

6. Finding: The design of the subdivision or type of improvements is not likely to cause problems to the public health, safety, or welfare.

Evidence: The design of the subdivision provides for access improvements that provide for adequate emergency vehicle access, vehicle and pedestrian circulation. The type of improvements meet the requirements of the Upland Zoning Code. The project was reviewed and appropriately conditioned by Police and Fire services. Therefore, the design of the subdivision or type of improvements is not anticipated to cause problems to the public health, safety, or welfare of the community.

7. Finding: The design of the subdivision and the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision. In this connection, the review authority may approve a map if it finds that alternative easements, for access or for use, will be provided, and that these will be substantially equivalent to ones previously acquired by the public.

Evidence: The Public Works Department has reviewed the proposed design of the subdivision and has determined there are no conflicts with existing easements.

8. Finding: The design of the subdivision provides to the extent feasible, for future passive or natural heating or cooling opportunities in the subdivision.

Evidence: The project provides adequate space between buildings to allow for natural airflow. The subdivision provides adequate space for trees in the project which will provide some natural shading. Buildings will include eaves that provide additional shade on building walls and all roofs will be solar ready as required by the California Building Code. Buildings are also required to comply with Title 24 energy requirements.

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 project includes the construction of a private drive isle and circulation improvements. The project meets or exceeds required development standards including open space and parking requirements. A traffic analysis was prepared for the project and found that the project would not result in any significant impacts to the surrounding neighborhood. Therefore, the proposed project will not interfere with the use and enjoyment of 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 proposed architectural design makes use of gable pop-outs, varied setbacks and recessed porches, masonry materials and stucco walls in multiple colors that create aesthetically appealing buildings. Conditions of approval are included to ensure the buildings 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: The preliminary landscape plan proposes the use of plant material that provide varied color and texture. The plans shows landscaping that includes a variety of plants materials, distinct in color and size, as well a large number of new trees all of which will be maintained by the property owner. Conditions of approval are included requiring the submittal of Final Landscape and Irrigation plans for review and approval. Therefore, the proposed landscaping design is sufficient in terms of 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 proposed design includes adequate Emergency Vehicle Access. The project has been conditioned by the Upland Police Department with multiple safety requirements, and will include complete plan check reviews by the Upland Building Division and San Bernardino County Fire Department thereby protecting safety and welfare. Improvements in the vicinity of the project include improved circulation around the project site, beneficial to the properties in the vicinity of the proposed project. Therefore, 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.

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 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 The project shall comply with development standards and guidelines prescribed within the Upland Municipal Code.
- 10.3 Prior to issuance of future permits, all tract maps and development plans shall be subject to plan check with the Planning Division, Building Division, Engineering Division, Public Works Department and Fire Department.
- 10.4 No construction or grading shall commenced until the applicable final maps, final grading and improvement plans have been approved.
- 10.5 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.
- 10.6 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.
- 10.7 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 project; and (ii) any and all claims, lawsuits, liabilities, and/or actions arising out of, or related to the approval of Conditional Use Permit No. CUP-19-05, Tentative Parcel Map No. TPM-19-01, Site Plan No. SP-19-02, Design Review No. DR-19-02 (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.

- 10.8 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.
- 10.9 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.
- 10.10 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.
- 10.11 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 The applicant shall submit Final Map exhibits to the Public Works Department for review and approval prior to recordation.

- 20.2 Prior to final approval of the last building permit for the project, all existing chain-link fence on the project site shall be removed and replaced with decorative masonry walls. Walls may include decorative wrought iron screening elements. In addition, any fences/walls proposed for the project shall be of decorative masonry materials, and may include decorative wrought iron screening elements (e.g. 6-foot tall split face block columns with 3 foot block walls topped with decorative wrought iron/tubular steel).
- 20.3 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.
- 20.4 Prior to the issuance of permits, the applicant shall include, on the plans submitted for plan check, bicycle parking as required by Upland Municipal Code section 17.11.060. Bicycle parking shall be installed prior to Final Inspection of the last building.
- 20.5 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.

20.6 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 SUBDIVISION MAPS (EASEMENTS-MONUMENTS-BONDS)

Map/Lot Merger

- 30.1 The approval of this project is subject to, and contingent upon, the recordation of a Final Map/Lot merger. Said Final Map/ Lot Merger shall have adequate reservations of public and/or private utility easements and abandonment of existing utility easements to the satisfaction of the Public Works Director. Required easement outside of the project boundaries currently owned by this project's developer shall be dedicated to the public thru separate instruments.
- 30.2 The submittal, approval, and recordation of the final map/lot merger shall be in accordance with the provisions of the State Subdivision Map Act, state and federal laws, and Upland Municipal Code.
- 30.3 The developer shall provide for reciprocal access between the two parcels and residents of the two properties.
- 30.4 Existing easement running on the project site shall be abandoned/vacated by the City upon recordation of the map/merger.
- 30.5 Final Tract Map/ Lot Merger shall be submitted for City approval.

Right-of-Way Dedication and Easements

- 30.6 The project shall reserve and record easements for ingress and egress for the adjacent parcel/lots.
- 30.7 Minimum twenty-six-foot-wide easement shall be dedicated for ingress and ingress and as utility easement as required for the proposed onsite improvement.

Monuments

- 30.8 The Owner/Developer shall comply with Assembly Bill 1414, which was enacted into law and effective January 1, 1995. This bill amended Section 8771 of the Business and Professions Code (of the Land Surveyors Act). The County Surveyor requires that two corner records be filed; they are when:
- a. Monuments exist that controls the location of subdivisions or tracts, streets or highways; or provides survey control. The monuments are located and referenced by a licensed Land Surveyor before any streets or highways are reconstructed or relocated. The corner record(s) of the references are filed with the County Surveyor.
 - b. Monuments are reset in the surface of the new construction and a corner record is filed with the County Surveyor before recording of a Certificate (Notice) of Completion for the project.
- 30.9 Permanent survey monuments shall be set at the intersection of street centerlines, beginning, and end of curves in centerlines, and at other locations designated by the Director of Public Works/City Engineer. All other centerline monuments shall be in accordance with standard survey practice. A complete set of all street centerline ties (a minimum of three per monument) shall be submitted prior to final project acceptance.

Bonds

- 30.10 Before the recordation of the Map/Merger or the issuance of a permit, a security bond shall be posted in a form acceptable to the City. Also accompanying the surety shall be an agreement executed to the satisfaction of the Public Works Director and the City Attorney, guaranteeing completion of all public improvements.

II STREET IMPROVEMENTS

- 30.11 All deficient public improvements shall be upgraded to current City Standards and to the satisfaction of the Public Works Director.
- 30.12 Main access to the project site is from Mesa Court through an existing easement to the project site. Developer shall dedicate additional width to make a total of 32-foot wide easement from Mesa Court to the site. Additional easement shall be dedicated to include portion of the existing driveway from the east and additional easement towards the south connecting to the existing alley as shown on the developer's tentative exhibit. These entry ways and easement shall be improved with asphalt pavement, concrete sidewalk and curb and gutter as shown on the developer's exhibit.

- 30.13 Asphalt paving and similar other features damaged during construction shall be replaced to the City's satisfaction.
- 30.14 Improvement of entry ways from project site to Mesa Court shall include removal and replacement of damaged or deficient sidewalk, curb and gutter and asphalt slurry seal the street at a minimum. Additional width shall be constructed with full depth asphalt as determined thru calculations by the engineer. Truncated dome shall be placed at both ADA ramps at the Mesa Court/entry intersection. ADA compliant ramps shall be constructed at entrance/exit of the project. 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. Landscaping shall comply with the latest State Landscaping Code.
- 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 Director of Community Development.

III UTILITY (WATER – SEWER – ENVIRONMENTAL)

Utility General

- 30.16 All utility companies shall be contacted to establish appropriate easements to provide services to each lot/structure.
- 30.17 All lots/structures shall be served by utilities, allowing each lot/structure 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 and removed 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 lots/structures within this project 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 The existing overhead utilities (including telephone, cable and SCE distribution lines) on the project site and frontage shall be underground in accordance with Upland Municipal Code.
- 30.23 Undergrounding of existing utilities shall be completed before issuance of the first occupancy.

Environmental

- 30.24 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.
- 30.25 This project is required to submit a Site Specific 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.
- 30.26 Prior to issuance of any permit, the developer shall have completed the Site Specific Water Quality Management Plan (WQMP) and executed the WQMP Maintenance Agreement with the City.

Sewer

- 30.27 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.
- 30.28 Proposed on-site sewer line shall be private to be maintained by the owner. Drainage facilities shall also be maintained by the owner. Water mains shall be a private system maintained by the owner/developer.
- 30.29 City staff will inspect all newly installed sewer mains with the TV camera before acceptance of the line for public improvements.

30.30 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.

30.31 The Owner/Developer shall provide the necessary Sewer Service Backflow Prevention Device as required by the City.

Water

30.32 A separate water meter shall be provided for each lot/building (including any necessary easements to provide such services) prior to the recordation of the final map.

30.33 All new and upgraded developments shall meet the requirements of Chapter 7 "Municipal Water System," Article VII, of the Upland Municipal Code. This Code pertains to water system connection fees, water additive fees, and the transfer of water stock to the City of Upland.

30.34 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.

30.35 The provision of fire protection water systems, hydrants, and appropriate easements shall be in conformance with the San Bernardino County Fire and Public Works Department Standards.

30.36 Public on-site protection hydrant(s) and water systems shall be installed in accordance with the San Bernardino County Fire and Public Works Department Standards.

30.37 All landscape meter(s) and approved Backflow Device(s) shall be installed and inspected, in accordance with the Public Works Department Standards.

30.38 All water facilities shall be installed outside any driveways and drive approaches, and shall be in accordance with the Public Works Department Standards.

IV GRADING - STORM DRAIN - EROSION CONTROL

30.39 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.

- 30.40 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.
- 30.41 Each parcel/lot shall drain to the street or other approved drainage facility. Cross lot drainage is not allowed. Approval from City of Upland is required prior to tie-in to existing storm drain.
- 30.42 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).
- 30.43 Location, direction, and devices for conveying site drainage directed to a street shall be subject to review and approval by the Public Works Director.
- 30.44 Temporary drainage controls may be required during construction phases as directed by the Public Works Director.
- 30.45 All catch basins and Storm Drain Inlet Facilities shall be stenciled with the appropriate "No Dumping" message.
- 30.46 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.
- 30.47 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.
- 30.48 An erosion control plan shall be required as directed by the Public Works Director.
- 30.49 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.
- 30.50 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.
- 30.51 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.

V LANDSCAPING

- 30.54 All landscaping works proposed for this development shall comply with the latest State Landscaping Code.
- 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. Residential developments require one tree per forty feet of residential street frontage with a minimum on one tree per lot.
 - 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 Owner/Developer shall provide for maintenance of all landscape areas located on the project including parkways and alleys.

VI OTHER AGENCY

- 30.59 Approval and/or permits may be required from the following agencies among others:
- a. San Bernardino County;
 - b. Inland Empire Utilities Agency;
 - c. San Antonio Water Company; and
 - d. California Regional Water Quality Control Board, Santa Ana Region for an NPDES Permit or Clearance Letter.

VIII GENERAL ENGINEERING

- 30.60 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.
- 30.61 All 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, site specific WQMP, grading, EROSION CONTROL drainage, landscape and any appropriate reports and back up documents. Incomplete submittals shall be rejected.
- 30.62 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.
- 30.63 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.
- 30.64 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.
- 30.65 No certificate of occupancy, or any other final clearance needed prior to occupancy, shall be given until all other conditions are met.

IX MISCELLANEOUS CONDITIONS

Phases

- 30.66 In the event that developer/owner performs the works in phases, a phasing plan shall be submitted for City's approval prior to implementation.
- 30.67 Each phase must be fully independent and functional from each phase of the development especially considering onsite utility connections such as sewer, water, electric power, gas, drainage, handicap access ramps and communications utilities, among others.
- 30.68 Each phase shall have at least two points of access and construction traffic shall not be mixed with residents' traffic.
- 30.69 All phases shall comply with the conditions set forth for the mapmerger.
- 30.70 Adequate drainage/erosion control shall be provided at all times during each phase of the development (including model/sales trailer sites). Submit appropriate erosion control plans to the Public Works Director for approval.
- 30.71 The location of the temporary access road each phase shall be approved by the Public Works Director and it shall be paved to the satisfaction of the Public Works Director and Fire Chief.
- 30.72 Prior to occupancy in each phase, Owner/Developer shall complete the following minimum improvements:
 - a. Complete finish grading of all parcel/lots including submittal of grading certification to the Public Works Department.
 - b. Complete all underground utilities and their service lines for each unit.
 - c. Complete curb and gutter, sidewalk, street lighting, and street paving.
 - d. Provide "as-built" plans.

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 fencing to prevent access to construction areas by the public and to minimize theft of building materials and equipment. All fencing and gates shall meet the approval of the Fire Department and Police Department.

- 40.4 Graffiti abatement by the property owner 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 Units with front and rear drive access shall affix or paint 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 Prior to occupancy all private streets, parking areas, parking lots, and driveways shall be dedicated for off-road traffic, fire lane, soliciting, handicap, and loitering enforcement. The applicant must submit a written request to the City Clerk asking that a resolution from the City Council allow Police Enforcement of the above violations on the property. Once the resolution has been obtained, a sign shall be erected/posted at all access points stating the above listed locations and violations have been dedicated for enforcement by the Upland Police Department.
- 40.8 Prior to occupancy, the Police Department will conduct an on-site inspection of the property, checking proper lighting has been installed throughout the property, proper locks on exterior doors and doors leading to the interior are in place and functioning properly. In addition, the Police Department will check that proper addressing/lettering has been installed.
- 40.9 The applicant shall submit for review by the Police Department the design and specifications for all proposed lighting fixtures proposed for the buildings, drive aisles, parkways, parking areas, pathways, and surrounding areas within the development. The fixtures shall be reviewed for quality, aesthetics, illumination values, sustainability values such as LED and shall be decoratively and architecturally consistent with the building design. The number, location, height, style and design shall be reviewed and approved by the Police Department prior to issuance of building permits.

- 40.10 Submit a Photometric Study providing a minimum of two foot candle all around the structure and surveillance cameras all around the perimeter, common areas, and throughout the parking area, with the ability or resolution to make license plates discernable.
- 40.11 All exterior lighting lower than 12 feet from the ground level shall be enclosed in vandal-resistant covers.
- 40.12 Lighting shall be required in all area of public access.
- 40.13 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.
- 40.14 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.
- 40.15 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 public access areas such as guest parking lots, community clubhouse, pool area, and recreation areas.
- 40.16 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.
- 40.17 The applicant shall be responsible for maintaining the area adjacent to the premises over which they have control free of litter.
- 40.18 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).
- 40.19 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 A Demolition permit of existing building will only be issued after new building plan submittal.
- 50.5 To the satisfaction of the Building Official, abatement reports required prior to building demolition.

60.0 San Bernardino County Fire Protection District (SBCo FD)

- 60.1 Hydrant shall be within 300-feet of the proposed structure. SBCoFd 2016 Standard W-2
- 60.2 Permit Expiration Construction permits, including Fire Condition Letters, shall automatically expire and become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. Suspension or abandonment shall mean that no inspection by the Department has occurred with 180 days of any previous inspection. After a construction permit or Fire Condition Letter, becomes invalid and before such previously approved work recommences, a new permit shall be first obtained and the fee to recommence work shall be one-half the fee for the new permit for such work, provided no changes have been made or will be made in the original construction documents for such work, and provided further that such suspension or abandonment has not exceeded one year. A request to extend the Fire Condition Letter or Permit may be made in writing PRIOR TO the expiration date justifying the reason that the Fire Condition Letter should be extended.
- 60.3 Additional Requirements In addition to the Fire requirements stated herein, other onsite and offsite improvements may be required which cannot be determined from tentative plans at this time and would have to be reviewed after more complete improvement plans and profiles have been submitted to this office.
- 60.4 Inspection by the Fire Department Permission to occupy or use the building (certificate of Occupancy or shell release) will not be granted until the Fire Department inspects, approves and signs off on the Building and Safety job card for "fire final".
- 60.5 Building Plans. EZOP Online submittal submitted to the Fire Department for review and approval.

CONDITIONS THAT MUST BE MET PRIOR TO ISSUANCE OF BUILDING PERMITS

- 60.6 Fire Flow Test: Your submittal did not include a flow test report to establish whether the public water supply is capable of meeting your project fire flow demand. You will be required to produce a current flow test report from your water purveyor demonstrating that the fire flow demand is satisfied. This requirement shall be completed prior to combination inspection by Building and Safety. 1500 GPM at 20 PSI.
- 60.7 Access: The development shall have a minimum of two points of vehicular access. These are for fire/emergency equipment access and for evacuation routes.
- a. Single Story Road Access Width. All buildings shall have access provided by approved roads, alleys and private drives with a minimum twenty-six (26) foot unobstructed width and vertically to fourteen (14) feet six (6) inches in height. Other recognized standards may be more restrictive by requiring wider access provisions.
 - b. Multi-Story Road Access Width. Buildings three (3) stories in height or more shall have a minimum access of thirty (30) feet unobstructed width and vertically to fourteen (14) feet six (6) inches in height.
- 60.8 Street Sign: This project is required to have an approved street sign (temporary or permanent). The street sign shall be installed on the nearest street corner to the project. Installation of the temporary sign shall be prior any combustible material being placed on the construction site. Prior to final inspection and occupancy of the first structure, the permanent street sign shall be installed.

THE FOLLOWING PRIOR TO OCCUPANCY:

- 60.9 Fire Sprinkler Nf PA 13R: An automatic fire sprinkler system complying with NFPA Pamphlet #13R and the Fire Department standards for light Hazard Occupancies under 5,000 sq.ft and Multi-Residential Occupancies. The applicant shall hire a Fire Department approved fire sprinkler contractor. The fire sprinkler contractor shall submit plans with hydraulic calculations and manufacture's specification sheets to the Fire Department for approval. The required fees shall be paid at the time of plan submittal. Minimum water supply shall be a two (2) inch water meter for Commercial and one and one half (1½) inch for Residential
- 60.10 Fire Alarm: An automatic fire sprinkler monitoring fire alarm system complying with the California Fire Code, NFPA and all applicable codes is required. The applicant shall hire a Fire Department approved fire alarm contractor. The fire alarm contractor shall submit detailed plans to the Fire Department for review and approval. The required fees shall be paid at the time of plan submittal.

- 60.11 Commercial Addressing: Commercial and industrial developments of 100,000-sq. ft. or less shall have the street address installed on the building with numbers that are a minimum six (6) inches in height and with a three quarter (3/4) inch stroke. The street address shall be visible from the street. During the hours of darkness, the numbers shall be electrically illuminated (internal or external). Where the building is two hundred (200) feet or more from the roadway, additional non-illuminated contrasting six (6) inch numbers shall be displayed at the property access entrances.
- 60.12 Fire Extinguishers: Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department.
- 60.13 Fire Lanes: The applicant shall submit a fire lane plan to the Fire Department for review and approval. Fire lane curbs shall be painted red. The "No Parking, Fire Lane" signs shall be

70.0 Trash Services

- 70.1 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.
- 70.2 The project will require trash and mixed recyclables collection services and may require more than one pick up per week. Each enclosure shall have one bin each for trash and mixed recyclables with each enclosure capable of accommodating two 4-cubic yard bins.

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 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 22nd day of January, 2020.



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 22nd day of January, 2020, by the following vote:

AYES: Chair Aspinall, Vice Chair Schwary, Commissioner Brouse, Walker

NAYS: Commissioner Novikov

ABSENT: Commissioner Anderson

ABSTAIN: None



Robert D. Dalquest, SECRETARY



STAFF REPORT

ITEM NO. 11.L.

DATE: September 14, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: STEVEN NIX, INTERIM PUBLIC WORKS DIRECTOR
BOB CRITCHFIELD, ENGINEERING MANAGER
SUBJECT: ACCEPTANCE OF WORK FOR PROJECT NO. 9128, PUMP STATION
DEMOLITION

RECOMMENDED ACTION

It is recommended that the City Council accept the work; record the Notice of Completion; and, reduce the Faithful Performance Bond to 10% for Warrantee purposes for the Pump Station Demolition Project.

GOAL STATEMENT

The proposed action supports the City's goal to maintain water facilities in good operable condition in order to provide safe and reliable service to the community.

BACKGROUND

On April 27, 2020, the City Council awarded the Pump Station Demolition Project to American Wrecking, Inc. and authorized a total expenditure amount of \$100,000.00 (including contingencies). The project consisted of the demolition of the old pump station structure and surrounding concrete pads located at the northwest corner of Benson Avenue & 17th Street. This location will serve as the future Reservoir 15 replacement site, and completion of the demolition work will pave the way for the construction of a new 7.5 MG water reservoir.

ISSUES/ANALYSIS

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

project. The City will retain the 10% Warrantee for a period of twelve (12) months and will release it thereafter provided no warrantee issues exist.

FISCAL IMPACTS

The final construction cost of \$92,690.20 is within the original authorized appropriation amount of \$100,000.00. Therefore, no additional appropriation is necessary.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

NOC

Vicinity Map

Recording requested by
and when recorded mail to:

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

(Space above this line for Recorder's use)

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

Notice of Completion

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

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

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

The work was completed on that certain work known as **Project No. 9128, Pump Station Demolition** for the undersigned City of Upland, a Municipal Corporation, on the **15th** day of **July, 2020**.

The City accepted the job on the **14th** day of **September, 2020**.

The Contractor on said job was **American Wrecking, Inc.** of **South El Monte**, California.

The improvement(s) consisted of **demolition of an old pump station structure and surrounding concrete pads**; and the location of the improvements occurred at the northwest corner of Benson Avenue and 17th Street, in Upland, California.

The surety was **Berkley Insurance Company**.

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

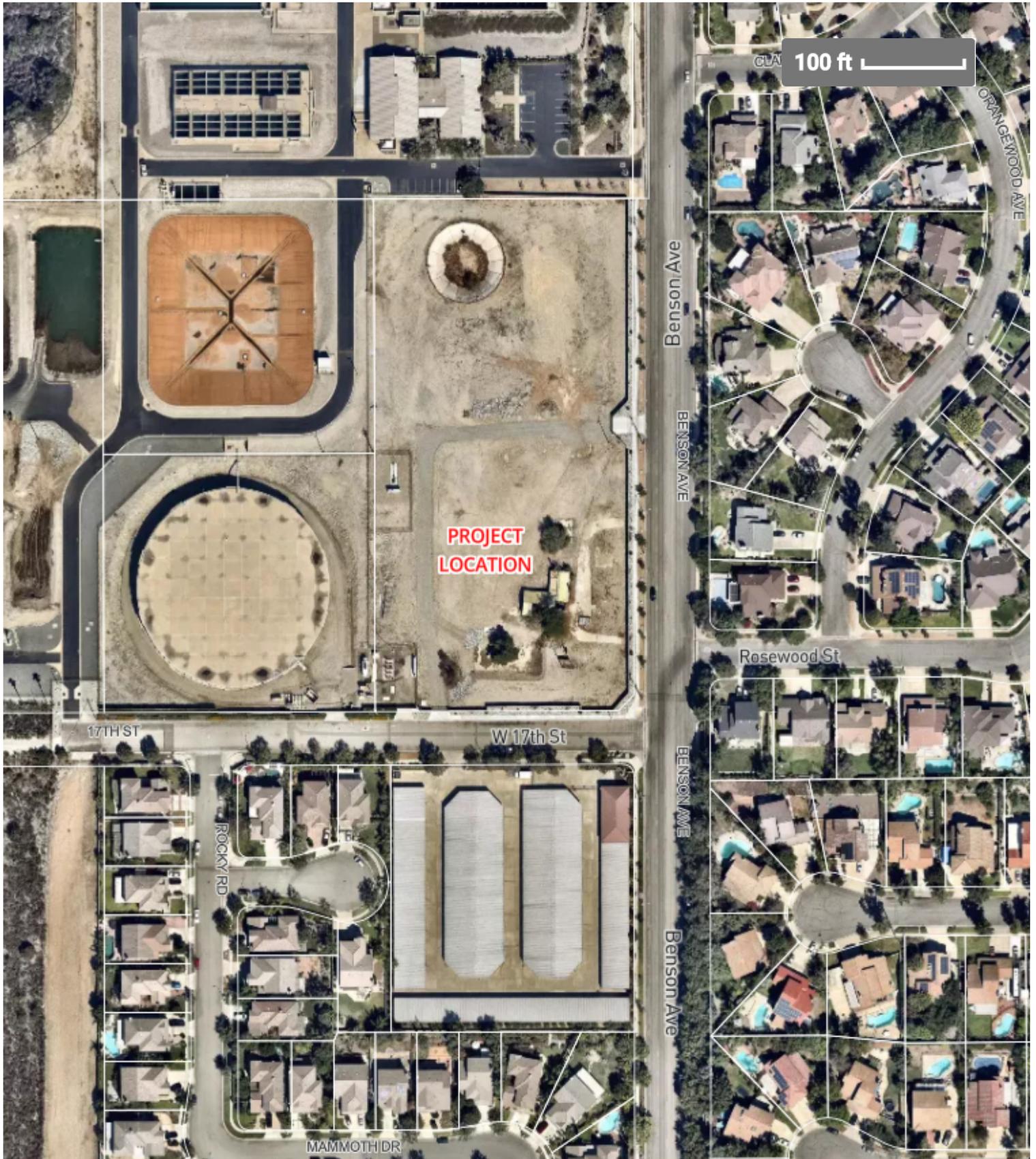
I hereby certify under penalty of perjury that the foregoing is true and correct.

Executed this **14th** day of **September, 2020** at Upland, California.

City of Upland, a Municipal Corporation

Rosemary Hoerning, City Manager

Vicinity Map



1" = 200 ft

Pump Station
Demolition

04/21/2020



This map may represent a visual display of related geographic information. Data provided here on is not guarantee of actual field conditions. To be sure of complete accuracy, please contact the responsible staff for most up-to-date information.



STAFF REPORT

ITEM NO. 11.M.

DATE: September 14, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: ROSEMARY HOERNING, CITY MANAGER
STEVEN L. FLOWER, INTERIM CITY ATTORNEY
SUBJECT: SAN ANTONIO REGIONAL HOSPITAL AGREEMENT: AMENDMENT
TO PURCHASE AND SALE AGREEMENT (MEMORIAL PARK, 1299
SAN BERNARDINO ROAD, A PORTION OF ASSESSORS PARCEL
NUMBER 1046-183-01)

RECOMMENDED ACTION

It is recommended that the City Council consider approval of a Second Amendment to the Purchase and Sale Agreement (PSA) with San Antonio Regional Hospital (SARH) regarding a 4.63-acre portion of Memorial Park, 1299 San Bernardino Road (portion of APN 1046-183-01).

GOAL STATEMENT

The proposed action supports the City Council's goals of allowing the voters to decide whether SARH should be allowed to purchase the property and minimizing the City's financial exposure to further legal challenges.

BACKGROUND

The PSA previously entered into by the City and SARH would allow the Hospital to purchase 4.63 acres of Memorial Park if certain conditions are met. One of the original conditions in the PSA was for the City to file a validation action to confirm that an election was not required. Some of the members of the public maintained that the City's voters must be given the opportunity to decide whether the property should be sold.

A validation action is a legal proceeding that a public entity may initiate to confirm the legal validity of certain actions. The City filed the validation action, but the court ultimately dismissed the City's case on the grounds that the PSA was not subject to the validation statutes. So the court never settled the question of whether an election is required. SARH later concluded for its own reasons that an election would be the best way forward and

requested that the City place a measure on the ballot at the November 3, 2020 election.

SARH also agreed to reimburse the City for certain costs related to the PSA, the Validation action, and the Measure Q Election.

The Council granted the request, and the matter will now go before the City's voters at the November election as Measure Q.

On August 27, 2020, members of the City Council proposed further amending the PSA so that it would terminate in the event the voters do not approve Measure Q. Councilmembers Velto and Zuniga later asked for this to appear on the Council's next regular meeting agenda.

ISSUES/ANALYSIS

SARH has agreed to cover a variety of the City's expenses and costs related to the PSA, the Validation action, and Measure Q. Pursuant to existing terms of the PSA and SARH's Reimbursement Agreement with the City, it is currently obligated for:

1. Reimbursement, without limitation, for all City costs related to calling the Election.
2. Reimbursement, up to \$130,000, for all City costs related to the PSA and/or the Validation Action.
3. Reimbursement, without limitation, for the cost of re-appraising the property, including at least one more reappraisal not less than 6 months prior to closing.
4. Indemnification & defense, without limitation, for all legal claims against the City related to the Election.
5. Indemnification, up to \$125,000, for any attorneys' fee award against the City in the Validation Action.

To date, the City has invoiced SARH for the following costs and expenses related to the PSA, and the Validation Action through July 2020 (Payment is due September 21, 2020):

Legal Expenses	\$109,904.63
Appraisal Expenses (Bronstein Co.)	\$5,800.00
Legal Description (Pfeiler & Assoc.)	\$5,715.00
Misc. Staff Time	\$425.00
<u>Negative Deposit Balance</u>	<u>\$4,423.22</u>
Total	\$126,267.85

SARH also agreed to amend the PSA requiring it to pay the City \$126,690 for parking license fees that had been suspended under the PSA and to reinstate monthly payments going forward at \$10,690 per month, with an annual escalator. The City has therefore invoiced SARH \$137,380 for reinstated parking fees through August 2020. *The City has received the payment of \$137,380, as requested.*

The proposed amendment to the PSA would add the following provisions to the City's agreement with SARH.

1. Voter approval of Measure Q would be a condition precedent to the City's obligation to proceed to closing. In the event Measure Q is not approved by the voters, the PSA would terminate, effective on the date the results of the Election are certified by City Council.
2. SARH would be required to indemnify and defend the City from any lawsuit challenging the PSA, the zoning change required for closing, and the CEQA decision for that zoning change.

The first change was suggested by members of the City Council at the August 27, 2020, Special Meeting.

The second change was suggested by City staff in anticipation of possible future legal challenges in the event the City eventually changes the zoning of the subject property as contemplated by the PSA.

FISCAL IMPACTS

There is no cost to the City of Upland for approving the proposed amendment to the PSA. Approving the proposed amendment to the PSA would protect the City from the cost of possible legal challenges to the possible zoning change contemplated by the PSA.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Second Amendment - Purchase & Sale Agreement

First Amendment - Purchase & Sale Agreement

Purchase and Sale Agreement

First Addendum to the Reimbursement Agreement

Reimbursement Agreement

SECOND AMENDMENT TO
AGREEMENT FOR PURCHASE AND SALE AND JOINT ESCROW
INSTRUCTIONS

THIS SECOND AMENDMENT TO AGREEMENT FOR PURCHASE AND SALE AND JOINT ESCROW INSTRUCTIONS (the “Second Amendment”) is dated as of September 14, 2020 and is entered into by and between the CITY OF UPLAND (“Seller”) and SAN ANTONIO REGIONAL HOSPITAL, a California public benefit corporation (“Buyer”).

RECITALS

A. Seller and Buyer entered into an Agreement for Purchase and Sale and Joint Escrow Instructions dated March 26, 2018 (the “PSA”) and further agreed to modify the terms of the PSA pursuant to the First Amendment to Agreement for Purchase and Sale And Joint Escrow Instructions dated July 27, 2020 (“First Amendment”). Capitalized terms used but not defined in this Second Amendment shall have the meanings ascribed thereto in the PSA and First Amendment.

B. The effectiveness of the First Amendment was conditioned in part upon the City Council of Seller calling an election on the question of discontinuing use of the Property as a public park, which City Council of Seller did on July 27, 2020. The question will appear as Measure Q (“Measure Q”) on the ballot of the November 3, 2020 general municipal election (the “Election”).

B. Seller and Buyer desire to further amend the PSA as set forth below.

NOW THEREFORE, In consideration of the foregoing recitals and other consideration, the adequacy of which is hereby acknowledged, Seller and Buyer hereby agree as follows:

1. Section 9 of the PSA is hereby amended by the addition of a new paragraph 9.2 to read as follows:

“9.2 Seller’s Conditions Precedent. Voter approval of Measure Q at the Election shall be a condition precedent to Seller’s obligation to proceed to Closing under this Agreement. In the event Measure Q is not approved by the voters, this agreement shall terminate, effective on the date the results of the Election are certified by City Council of Seller, and the Earnest Money shall be returned and paid to Buyer and neither party shall have any further obligation hereunder except those which expressly survive the termination of this Agreement. Notwithstanding the foregoing, nothing continued herein shall waive or diminish any right or remedy Seller may have for Buyer’s default or breach of this Agreement.

2. Section 17 of the PSA is hereby amended by the addition of a new paragraph 17.13 to read as follows:

17.13 “Indemnification, Hold Harmless, and Duty to Defend. To the fullest extent permitted by law, Buyer must indemnify, defend, and hold Seller, its elected officials, officers, contractors serving as City officers, and employees (collectively, "Indemnitees") free and harmless from any and all claims, lawsuits, liabilities, and/ or actions arising out of, or related to Seller’s approval of the PSA, any amendment to the PSA, the Foreseeable Project (including but not necessarily limited to the change of zoning for the Property to OP and the CEQA determination found in the Buyer’s Conditions Precedent), or any of these. Buyer'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. Buyer’s obligation to indemnify hereunder shall not be restricted to insurance proceeds, if any, received by Seller or Indemnitees but such proceeds shall be credited against any liability of Buyer under this paragraph. All duties of the parties under this paragraph shall survive termination of this Agreement.

3. General Provisions.

a. Entire Amendment. This Second Amendment constitutes the entire agreement between the parties pertaining to the subject matter hereof. This Second Amendment may not be modified, amended, supplemented, or otherwise changed, except by a writing executed by both parties hereto.

b. Waiver. No failure or delay by any party in the exercise of any right hereunder shall constitute a waiver thereof, nor shall any single or partial exercise of any such right preclude other or further exercise thereof, or any other right.

c. Counterparts. This Second Amendment may be executed in two or more counterparts and by different parties hereto on separate counterparts, each of which when so executed and delivered shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.

d. Governing Law. This Second Amendment shall be deemed to be a contract made under the laws of the State of California and for all purposes shall be governed by and construed in accordance with the laws of the State of California.

e. Attorneys’ Fees and Costs. If a dispute between the parties arises under or in connection with this Second Amendment (including, without limitation, the enforcement or interpretation of this Amendment), the prevailing party (as determined by

the trier of fact) shall be entitled to recover its reasonable attorneys' fees and costs from the other party.

IN WITNESS WHEREOF, Buyer and Seller have entered into this agreement as of the day and year first above written.

“SELLER”:
CITY OF UPLAND

“BUYER”:
SAN ANTONIO REGIONAL HOSPITAL

Debbie Stone
Mayor

By: _____

Print: _____

Title: _____

ATTEST:

Keri Johnson
City Clerk

APPROVED AS TO FORM:

Steven L. Flower
Interim City Attorney

**FIRST AMENDMENT TO
AGREEMENT FOR PURCHASE AND SALE AND JOINT ESCROW
INSTRUCTIONS**

THIS FIRST AMENDMENT TO AGREEMENT FOR PURCHASE AND SALE AND JOINT ESCROW INSTRUCTIONS (the "Amendment") is dated as of July 27, 2020 and is entered into by and between the CITY OF UPLAND ("Seller") and SAN ANTONIO REGIONAL HOSPITAL, a California public benefit corporation ("Buyer").

RECITALS

A. Seller and Buyer entered into an Agreement for Purchase and Sale and Joint Escrow Instructions dated March 26, 2018 (the "PSA"). Capitalized terms used but not defined in this Amendment shall have the meanings ascribed thereto in the PSA.

B. Seller and Buyer desire to amend the PSA to modify the purchase price and other terms thereunder.

NOW, THEREFORE, in consideration of the foregoing recitals, the payment under Section 1(ii) below by Buyer to Seller, and other consideration, the adequacy of which is hereby acknowledged, Seller and Buyer hereby agree as follows:

1. Conditions Precedent. The effectiveness of this Amendment is conditioned upon (i) the City Council of Seller acting, in its sole and absolute discretion, on July 27, 2020 to call an election on the question of discontinuing use of the Property as a public park and (ii) the People of the City of Upland voting in the affirmative in a public election to take place on November 3, 2020, to allow the City Council to sell the Property according to the terms stated in the PSA.

2. PSA Modifications.

a. The definition of "Closing Date" in Section 1.1 of the PSA is hereby replaced with: "The Closing Date shall be the later of (i) Ninety (90) days after satisfaction of all closing conditions as set forth in Section 9 below, including the expiration of any applicable appeal period and statute of limitations periods with no appeal or lawsuit having been filed, or, if an appeal or lawsuit has been filed, sixty (60) days after such challenge is resolved to Buyer's satisfaction, or (ii) November 30, 2021."

b. The definition of "Purchase Price" in Section 1.1 of the PSA is hereby replaced with: "\$4,300,000, or if the Closing does not occur by the date that is six (6) months after the date of the New Appraisal, then the greater of \$4,300,000 or the fair market value shown on a further appraisal update obtained at Buyer's cost, it being the intent of the parties that the Purchase Price shall be no less than the fair market value of the Property determined based on OP zoning and an appraisal or appraisal update that is not more than six (6) months old as of the Closing."

c. Buyer shall reimburse Seller for the cost of the New Appraisal and all appraisals and/or appraisal updates, as applicable, within ten (10) days after written demand from Seller with evidence of the cost.

d. Section 8(b) of the PSA is hereby replaced with: “The parties recognize that by authority of the Seller Buyer currently maintains a license to use the subject property for parking purposes (the “License”). It is agreed by and between Buyer and Seller that the License shall terminate upon Closing. In the event a Closing hereunder does not take place before the expiration of the License, Seller shall have the option to extend the License for twelve (12) additional periods of one month each provided the consideration Buyer pays to Seller for the License shall increase by 3% on the anniversary of the Effective Date of the License.” It is agreed by and between Buyer and Seller that the consideration Buyer pays to Seller for the License as of the date of this Amendment is \$10,609 per month.

e. Section 9(c) is hereby deleted.

3. Buyer’s Payment. Buyer will pay Seller \$126,690 before August 27, 2020, which amount represents backpayment of consideration payments previously suspended by the PSA.

4. General Provisions.

a. Entire Agreement. This Amendment constitutes the entire agreement between the parties pertaining to the subject matter hereof, and supersedes all prior agreements and understandings of the parties with respect to the subject matter hereof. This Amendment may not be modified, amended, supplemented, or otherwise changed, except by a writing executed by both parties hereto.

b. Waiver. No failure or delay by any party in the exercise of any right hereunder shall constitute a waiver thereof, nor shall any single or partial exercise of any such right preclude other or further exercise thereof, or any other right.

c. Counterparts. This Amendment may be executed in two or more counterparts and by different parties hereto on separate counterparts, each of which when so executed and delivered shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.

d. Governing Law. This Amendment shall be deemed to be a contract made under the laws of the State of California and for all purposes shall be governed by and construed in accordance with the laws of the State of California.

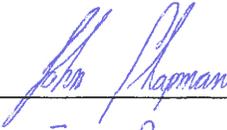
e. Attorneys’ Fees and Costs. If a dispute arises under or in connection with this Amendment (including, without limitation, the enforcement or interpretation of this Amendment), the prevailing party (as determined by the trier of fact) shall be entitled to recover its reasonable attorneys’ fees and costs from the other party.

IN WITNESS WHEREOF, Buyer and Seller have entered into this agreement as of the day and year first above written.

“SELLER”:
CITY OF UPLAND

“BUYER”:
SAN ANTONIO REGIONAL HOSPITAL

Debbie Stone
Mayor

By: 
Print: John Chapman
Title: President & CEO

ATTEST:

Keri Johnson
City Clerk

APPROVED AS TO FORM:

Steven L. Flower
Interim City Attorney

**AGREEMENT FOR PURCHASE AND
SALE AND JOINT ESCROW INSTRUCTIONS**

THIS AGREEMENT FOR PURCHASE AND SALE AND JOINT ESCROW INSTRUCTIONS is made and entered into as of the 26 day of March, 2018 (the "Contract Date"), by and between the CITY OF UPLAND, a California municipal corporation (hereinafter referred to as "Seller"), and SAN ANTONIO REGIONAL HOSPITAL, a California public benefit corporation, or its permitted assignee (hereinafter referred to as "Buyer").

WITNESSETH THAT:

WHEREAS, Buyer wishes to purchase, and Seller wishes to sell, the Property (as hereinafter defined), but only upon the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of \$75,000.00, the Earnest Money, the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, do hereby agree as follows:

Section 1. Definitions and Exhibits.

1.1 Definitions. For purposes of this Agreement, each of the following terms, when used herein with an initial capital letter, shall have the meaning ascribed to it as follows:

Agreement. This Agreement for Purchase and Sale.

Broker. None.

California Environmental Quality Act ("CEQA"). Section 21000 et seq. of the California Public Resources Code and the CEQA Guidelines, 14 California Code of Regulations Sections 15000 et seq.

Closing. The closing and consummation of the purchase and sale of the Property pursuant hereto.

Closing Date. Ninety (90) days after satisfaction of all closing conditions as set forth in Section 9 below, but no later than December 1, 2018, or such other date as agreed between the Seller and Buyer, provided all closing conditions have been met.

Closing Statement. As defined in Section 10.2.5.

Contract Date. The date upon which this Agreement shall be deemed effective, which shall be the date first above written.

Deed. The Grant Deed to be executed by Seller substantially in the form attached hereto as Exhibit B.

Earnest Money. \$75,000.00.



Easement. A public parking easement from Buyer to Seller in the form attached hereto as Exhibit "C".

Escrow Agent. Fidelity Title Insurance Company is acting as Escrow Agent pursuant to the terms and conditions of Section 3 hereof.

Foreseeable Project. Future development of the Property consistent with the OP Zoning designation. All future development of the Property shall be subject to the issuance of all governmental approvals and permits and compliance with CEQA.

Improvements. Any buildings, structures and improvements located upon the Land, including Seller's interest in all systems, facilities, fixtures, machinery, equipment and conduits on the Land, including to provide fire protection, security, heat, exhaust, ventilation, air conditioning, electrical power, light, plumbing, refrigeration, gas, sewer and water thereto (including all replacements or additions thereto between the date hereof and the Closing Date).

Inspection Date. All inspections and studies have been performed and completed prior to the Inspection Date which date shall be the 90th day following the Contract Date.

Inspection Period. Defined in Section 6.1 below.

Land. The land described on Exhibit "A" and by this reference made a part hereof and all privileges, rights, easements, hereditaments and appurtenances thereto belonging.

Lease. The cell site lease described in Section 2.

Permitted Title Exceptions. (i) The lien of unpaid taxes and assessments not yet due and payable; (ii) matters which would be disclosed by a current, accurate survey of the Property (provided, however, this shall not affect Buyer's rights pursuant to Section 5 of this Agreement); and (iii) those matters disclosed on the Preliminary Title Report or Survey to which Buyer does not object, or which objection(s) Buyer waives, pursuant to Section 5 of this Agreement.

Personal Property. None.

Property. All of Seller's right, title and interest in, to and under the following property: (i) the Land, as shown or described on Exhibit "A" attached hereto; (ii) the Improvements if any; (iii) the Lease; and (iv) all rights of way or use, trade names and marks, tenements, hereditaments, appurtenances and easements now or hereafter belonging or pertaining to any of the foregoing.

Purchase Price. \$4,200,000.

Survey. An ALTA/ACSM survey of the Land and Improvements revising the survey provided by Seller during the Inspection Period and obtained by Buyer at its cost and at its election.

Tenant. TMO CA/NV LLC, formerly known as Pacific Wireless, LLC.

Title Commitment. Commitment(s) issued by Title Insurer for an owner's policy of a title insurance (in the form most recently adopted by ALTA) in the amount of the Purchase Price, covering title to the Property, and showing Seller as owner of the Property.

Title Insurer. Fidelity National Title Insurance Company, Attention: Missy Barth, 555 S. Flower Street, Suite 4420, Los Angeles, California 90071, telephone (213) 700-2076.

Judicial Validation Action. An in rem suit filed and processing to finality pursuant to California Code of Civil Procedure Sections 860 et. seq. to establish the validity of the transfer of park property contemplated in this Agreement and, specifically, to validate the transfer of the Property without the necessity of conducting an election to approve the transaction.

Vendor or Vendors. None.

Zoning. Appropriate zoning designation for the Foreseeable Project.

1.2 Exhibits. Attached hereto and forming an integral part of this Agreement are the following exhibits, all of which are incorporated into this Agreement as fully as if the contents thereof were set out in full herein at each point of reference thereto:

Exhibit "A" - Description of Land

Exhibit "B" - Form of Grant Deed

Exhibit "C" - Form of Public Parking Easement

Exhibit "D" - Non-Foreign Certificate

Section 2. Purchase and Sale.

Subject to and in accordance with the terms and provisions of this Agreement, Seller agrees to sell and Buyer agrees to purchase the Property. In connection therewith, Seller represents that it has no actual knowledge of any unrecorded agreements affecting the Property that purport and bind successor owners of the Property, except for that certain Lease dated in July, 2003 between City, as landlord, and Pacific Bell Wireless, LLC, as tenant, as amended by an "Amendment to Lease - Amendment No. 1" dated December 22, 2008 and a Second Amendment to Lease dated in November, 2008 ("Lease"), which lease shall be subject to Buyer's prior review and approval during the Inspection Period.

Section 3. Earnest Money.

3.1 Opening of Escrow/Earnest Money. Within two (2) business days following the end of the Inspection Period, Buyer and Seller shall open escrow with the Escrow Agent and deliver a copy of this executed Agreement and the Lease to Escrow Agent ("Lease"), and Buyer shall then promptly deposit with Escrow Agent the Earnest Money which, together with any interest or other income earned thereon, shall be held, invested and disbursed pursuant to the respective terms and provisions hereof.

3.2 INTENTIONALLY OMITTED.



3.3 Disbursement. Whenever the Earnest Money is by the terms hereof to be disbursed by Escrow Agent, Seller and Buyer agree promptly to execute and deliver such notice or notices as shall be necessary or, in the opinion of Escrow Agent, appropriate to authorize Escrow Agent to make such disbursement; provided, however, that the terms of this Agreement will supersede and control.

Section 4. Purchase Price; Commitment to Park.

4.1 Purchase Price to Be Used by Seller for Park. The Purchase Price, as adjusted by the prorations provided in Section 4.2 hereof, and as reduced by the Earnest Money, shall be paid by Buyer to Seller at the Closing through escrow in United States dollars, by Federal Reserve System wire transfer or other immediately available funds. Such net Purchase Price funds shall be used by Seller solely for making public improvements to the City park adjacent to the Property.

4.2 Prorations. Buyer and Seller will prorate all income and expenses, if any, relating to the Property based upon Buyer's and Seller's respective periods of ownership for the calendar year in which the Closing occurs with Buyer treated as the owner of the Property on the Closing Date, including, without limitation:

4.2.1 Real Estate Taxes and Assessments. Assessments, if any, will be prorated between Buyer and Seller as of the Closing Date. Seller is exempt from property taxes; consequently, Seller shall not be obligated to pay any property taxes and the purchase price shall not be decreased by the amount of any property taxes.

(i) Delinquent Assessments. Seller shall pay to the applicable tax authorities at or prior to the Closing all assessments with respect to the Property which are delinquent as of the Closing.

(ii) Prepaid Assessments. If any assessments paid by Seller with respect to the Property at or prior to the Closing, determined on a cash (rather than accrual) basis, relate to any time including or after the Closing, Buyer shall pay to Seller at the Closing the amount of such other assessments paid prorated for the number of days, from, including and after the Closing; provided, any such assessments are disclosed by Seller to Buyer prior to the Inspection Date.

4.2.2 Rents. Rents and other charges, rights and obligations under the Lease shall be prorated as of the Closing Date.

4.2.3 Utilities. Prior to the Closing, Seller will notify each of the utility companies which provide services to the Property of the scheduled transfer of the Property on the Closing, and shall make appropriate arrangements with the utility companies to bill Seller for services provided before the Closing, and to Buyer for services provided from and after the Closing. If such arrangements cannot, or are not, made as of the Closing, then Buyer shall make the appropriate arrangements promptly after the Closing, and promptly after such arrangements are made, Buyer shall pay to Seller an amount equal to the cost of the services that were billed to Seller for the period from and after Closing, and Seller shall pay the same to the appropriate utility company.



4.2.4 Closing Costs. Buyer shall pay the cost of any endorsements to the title insurance policy, the cost for extended coverage, the cost of any lender's policy of title insurance, one-half (1/2) of all escrow or closing agent charges by the Escrow Agent, all costs associated with any encumbrance Buyer places on the Property at Closing, all costs of Buyer's due diligence, the costs of the Survey if any, and any other costs which are customarily paid by buyers in the county where the Property is located. Seller shall pay for state and county transfer taxes, all costs for recording the Deed, including, if applicable, the Affordable Housing Fees imposed by the laws of the State of California and collected by the County Recorder's Office, one-half (1/2) of all escrow or closing agent charges, and the cost of an owner's policy of title insurance for the Property in the form most recently adopted by ALTA in the amount of the Purchase Price (excluding any endorsements thereto or for extended coverage). Each party shall pay its own attorneys. The obligations of the parties to pay applicable escrow or closing charges shall survive the termination of this Agreement.

Section 5. Title. Buyer will have until 5:00 p.m. (Pacific time) on the date that is twenty (20) business days after Seller causes the Title Commitment together with copies of or hyperlinks for all recorded documents to be delivered to Buyer (which will occur within the first month of the Inspection Period), to examine title to the Property, determine whether Buyer will be able to obtain any endorsements it desires, and give written notice to Seller of any objections to the title which Buyer may have. If Buyer fails to give any notice to Seller by such date, Buyer shall be deemed to have approved the title exceptions or defects. If Buyer does give Seller timely notice of objection to any title exceptions or defects and such objection is not reasonably cured or satisfied or undertaken to be reasonably cured or satisfied by Seller within fifteen (15) business days of receiving Buyer's objection, then Buyer may elect, by written notice to Seller within five (5) business days after Seller so responds to such objections, either to (a) terminate this Agreement, in which case the Earnest Money shall be returned to Buyer by Escrow Agent, and the parties shall have no further rights or obligations hereunder, except for those which expressly survive any such termination, or (b) waive its objections hereunder and proceed with the transaction pursuant to the remaining terms and conditions of this Agreement. If Buyer fails to so give Seller notice of its election, it shall be deemed to have elected the option contained in subpart (a) above. If Seller does so reasonably cure or satisfy, or undertake to reasonably cure or satisfy, such objection to the satisfaction of Buyer, then this Agreement shall continue in full force and effect. Buyer shall have the right at any time to waive any objections that it may have made and, thereby, to preserve this Agreement in full force and effect. Seller shall convey fee simple title to the Property to Buyer by the Deed, which will contain the description of the Property in the form originally conveyed to Seller, subject to the Permitted Title Exceptions. BUYER HAS BEEN ADVISED THAT THE SELLER IS EXEMPT FROM THE MAP ACT. SELLER MUST CREATE A SEPARATE LEGAL LOT FOR THE PROPERTY SOLD HEREUNDER REQUIRING THE SELLER TO FILE A COMPLIANCE CERTIFICATE TO ACCOMPLISH THAT FACT.



Section 6. Buyer's Inspection.

6.1 Physical Inspection. From and after the Contract Date, Buyer shall be entitled to ninety (90) day inspection period ("Inspection Period"). During the Inspection Period, Buyer shall have the right to inspect and investigate all aspects of the Property, including obtaining an updated ALTA Survey (if desired) the review and approval of all existing reports or results of investigations performed by or at the direction of Seller and in the possession of the Seller; title and survey review and approval (and Buyer shall have the right to object to title issues raised by the Survey during the Inspection Period); all other matters deemed necessary in good faith by Buyer in satisfaction of its due diligence efforts. In the event that Buyer determines, in its sole discretion, that the Property is not suitable for Buyer's intended use thereof, then Buyer may terminate this Agreement by delivery of written notice thereof to Seller on or before the expiration of the Inspection Period. Thereupon the Deposit shall be returned to Buyer and the parties shall have no further rights or obligations hereunder.

Section 7. Representations and Warranties.

7.1 Representations. As of the Contract Date, Seller hereby represents and warrants to Buyer that the following statements are true:

7.1.1 No Litigation. Seller has no knowledge of receipt of written notice of any actual or pending litigation or proceeding, including any action in condemnation and/or eminent domain, by any organization, person, individual or governmental agency against Seller with respect to the Property or against the Property.

7.1.2 There are no service or other Vendor contracts to which Buyer will be made subject following the Close of Escrow.

7.1.3 Hazardous Materials.

(a) In accordance with its obligations under California Health & Safety Code Section 25359.7, Seller hereby gives notice that it has no knowledge of the release of any Hazardous Materials in, or under or about the Property.

(b) Seller is not in possession any material reports, studies or written analysis that relate to the physical condition of the Property, including the existence of Hazardous Materials, or the development potential of the Property.

(c) To Seller's knowledge, all operations or activities upon, or use or occupancy of the Property, or any portion thereof, by Seller, is and has been in all material respects in compliance with all Governmental Regulations governing or in any way relating to the generation, handling, manufacturing, treatment, storage, use, transportation, spillage, leakage, dumping, discharge or disposal (whether accidental or intentional) of Hazardous Materials, and Seller has not engaged in nor permitted any dumping, discharge, disposal, spillage or leakage (whether legal or illegal, accidental or intentional) of such Hazardous Materials, at, on, in or about the Property, or any portion thereof during the time in which Seller has owned the Property. Seller has received no notice of the existence of any proceeding or inquiry by any Authority with respect to the presence of Hazardous Materials on the Property or the migration thereof from or to other property and to Seller's knowledge, no such proceeding or inquiry is pending or threatened.



(d) As to any prior owner of the Property or any portion thereof, Seller has no knowledge as to the operations or activities upon, or use or occupancy of the Property, or any portion thereof, by any such prior owner of the Property, or any portion thereof, and Seller makes no affirmative representation in regard to the same as relating to the generation, handling, manufacturing, treatment, storage, use, transportation, spillage, leakage, dumping, discharge or disposal (whether accidental or intentional) of Hazardous Materials (whether legal or illegal, accidental or intentional) at, on, in or about the Property, or any portion thereof; provided Seller affirmatively represents having received no written notice of the existence of any proceeding or inquiry by any Authority with respect to the presence of Hazardous Materials on the Property or the migration thereof from or to other property as relates to any such prior owner.

(e) Neither Seller nor any of its affiliates, nor any of their respective partners, members, shareholders of other equity owners, and none of their respective employees, officers, directors, representatives, or agents is, nor will they become, a person or entity with whom the United States persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC"), Department of the Treasury or under any statute, executive order or other governmental action and Seller is not or will not engage in any dealings or transactions or be other associated with such persons or entities.

7.1.4 Non-Foreign Status. Seller is not a "foreign person" as that term is defined in the Internal Revenue Code of 1986, as amended and the Regulations promulgated pursuant thereto.

7.1.5 Authority of Signatories; No Breach of Other Agreements, etc. The execution, delivery of and performance under this Agreement subject to the Validation Action has been duly authorized by Seller. The consummation of the transaction herein contemplated and the compliance by Seller with the terms of this Agreement do not and will not conflict with or result in a breach of any of the terms or provisions of, or constitute a default under, any agreement, arrangements, understanding, accord, document or instrument by which Seller is bound.

7.1.6 Compliance with Existing Laws. Seller has no knowledge of any written notice to Seller from any governmental authority or otherwise alleging any uncured existing violation of any applicable building, zoning, subdivision, health, safety or other governmental laws, statutes, ordinances, rules, codes, regulations or orders or any restrictive covenants or deed restrictions of record affecting the Property.

7.1.7 Assessments/Condemnation/Zoning. Seller has no knowledge of any written notice to Seller of any existing, pending, contemplated or threatened (i) special tax assessments pending against the Property that are not of record or disclosed in the Title Commitment, (ii) condemnation actions affecting the Property, or (iii) change in the current zoning classification of the Land or Improvements except as may be contemplated by Buyer.

7.2 Reaffirmation. Subject to the provisions of Section 11.2, at Closing Seller shall be deemed to have reaffirmed that the representations and warranties of Seller in this Section 7.

Section 8. Operations Pending Closing.

(a) Seller, at its expense, shall use reasonable efforts to maintain the Property until the Closing or until the termination of this Agreement, whichever is earlier,



substantially in its present condition, damage by fire or other casualty and condemnation excepted. After the Inspection Date, Seller will not, without Buyer's consent not unreasonably withheld, enter into any (i) contract for service to the Property unless it does not purport to bind Buyer or the Property, or (ii) any new lease or commission agreement or any modification, amendment, restatement, termination, or renewal of any Lease. Seller shall promptly deliver a copy of any item in (i) or (ii) of the preceding sentence entered into by Seller prior to the Inspection Date.

(b) The parties recognize that by authority of the Seller Buyer currently maintains a right to lease the subject property for parking purposes. In consideration of that right the Buyer currently pays to Seller the sum of \$10,000 per month. It is agreed by and between Seller and Buyer that from and after the Contract Date that said \$10,000 monthly payment will be suspended pending a closing of the within transaction after which the obligation shall cease entirely and the lease terminated. In the event a Closing hereunder does not take place, the Buyer agrees to pay to Seller all suspended payments to the date of such cancellation and the lease shall be re-instated as currently existing.

Section 9. Conditions to Closing.

9.1 Buyer's Conditions Precedent. Buyer's obligation to proceed to Closing under this Agreement is subject to the following conditions precedent:

(a) Seller shall have performed and satisfied each and all of Seller's obligations under this Agreement.

(b) Each and all of Seller's representations and warranties set forth in this Agreement shall be true and correct at the Contract Date and at the Closing Date in all material respects.

(c) Completion of the Judicial Validation Action by the City of Upland as set forth in Section 3.2 above.

(d) Seller shall have complied with CEQA with respect to the zoning change from current zoning to the OP Zone, and shall have filed/recorded a Notice of Determination in connection therewith.

(e) Change of the zoning for the Property to OP.

(f) Escrow Holder's commitment (as a title company) to issue the Title Policy to Buyer subject only to the Permitted Exceptions.

(g) Seller shall have prepared, executed and delivered to Escrow Holder for recording at the Close a "Certificate of Compliance" (duly acknowledged and in recordable form) evidencing the exemption from the Map Act (conveyance by a public entity) and confirming that the Property is a legal parcel.

In the event any of the foregoing conditions are not satisfied prior to or at the Closing, Buyer may terminate this Agreement by written notice to Seller and thereafter shall have no obligation to proceed with the Closing, the Earnest Money shall be returned and paid to Buyer, and neither party shall have any further obligation hereunder except those which expressly survive



the termination of this Agreement. Notwithstanding the foregoing, nothing contained herein shall waive or diminish any right or remedy Buyer may have for Seller's default or breach of this Agreement.

Section 10. Closing.

10.1 Time and Place. Provided that all of the conditions set forth in this Agreement are theretofore fully satisfied or performed, the Closing shall be held through the Escrow Agent on the Closing Date or such other date that is mutually agreeable to Buyer and Seller in writing, unless the Closing Date is postponed pursuant to the express terms of this Agreement.

10.2 Seller Deliveries. Seller shall obtain and deliver to Buyer at the Closing the following documents (all of which shall be duly executed, and notarized as necessary):

10.2.1 The Deed, and a Certificate of Acceptance for the Easement.

10.2.2 A Non-Foreign Certificate, substantially in the form attached as Exhibit "D" hereto.

10.2.3 A Closing Statement in form and substance mutually satisfactory to Buyer and Seller (the "Closing Statement").

10.2.4 An affidavit of title or other affidavit customarily and reasonably required of sellers by the Title Insurer to remove the standard exceptions from an owner's title insurance policy which are capable of being removed by such an affidavit.

10.2.5 Such further instructions, documents and information, including, but not limited to a Form 1099-S, as Buyer or Title Insurer may reasonably request as necessary to consummate the purchase and sale contemplated by this Agreement.

10.2.6 The Service Contracts, if any.

10.2.7 Possession of the Property, subject to the Permitted Title Exceptions.

10.3 Buyer Deliveries. Buyer shall deliver to Seller at closing the following:

10.3.1 The Purchase Price in immediately available funds less the Earnest Money, subject to the prorations provided for in this Agreement.

10.3.2 Counterpart original of the Easement, duly executed by Buyer and acknowledged.

10.3.3 Counterpart original duly executed by Buyer of the Closing Statement.

10.3.4 Such other documents or instruments that are reasonably necessary to consummate the Closing.

Buyer and Seller stipulate and agree that the Certificate of Compliance is to be recorded immediately after the Grant Deed, and the Easement is to be recorded immediately after the Certificate of Compliance.



Section 11. Default and Remedies.

11.1 Default by Buyer. IN THE EVENT THE CLOSING AND THE CONSUMMATION OF THE TRANSACTION HEREIN CONTEMPLATED DOES NOT OCCUR AS HEREIN PROVIDED BY REASON OF ANY DEFAULT OF BUYER, BUYER AND SELLER AGREE THAT IT WOULD BE IMPRACTICAL AND EXTREMELY DIFFICULT TO ESTIMATE THE DAMAGES WHICH SELLER MAY SUFFER. THEREFORE BUYER AND SELLER DO HEREBY AGREE THAT A REASONABLE ESTIMATE OF THE DAMAGES THAT SELLER WOULD SUFFER IN THE EVENT THAT BUYER DEFAULTS AND FAILS TO COMPLETE THE PURCHASE OF THE PROPERTY IS AND SHALL BE, AS SELLER'S SOLE AND EXCLUSIVE REMEDY (WHETHER AT LAW OR IN EQUITY), AN AMOUNT EQUAL TO THE EARNEST MONEY AS REQUIRED OF BUYER BY THE TERMS HEREOF AS OF THE DATE OF OCCURRENCE OF SUCH DEFAULT. SAID AMOUNT SHALL BE THE FULL, AGREED AND LIQUIDATED DAMAGES FOR THE BREACH OF THIS AGREEMENT BY BUYER, ALL OTHER CLAIMS TO DAMAGES OR OTHER REMEDIES BEING HEREIN EXPRESSLY WAIVED BY SELLER. THE EARNEST MONEY SHALL CONSTITUTE LIQUIDATED DAMAGES TO SELLER PURSUANT TO CALIFORNIA CIVIL CODE SECTION 1677. UPON DEFAULT BY BUYER, THIS AGREEMENT SHALL BE TERMINATED AND NEITHER PARTY SHALL HAVE ANY FURTHER RIGHTS OR OBLIGATIONS HEREUNDER, EACH TO THE OTHER EXCEPT FOR THE RIGHT OF SELLER TO COLLECT SUCH LIQUIDATED DAMAGES FROM BUYER OR (IF APPLICABLE) ESCROW HOLDER, AND, IF LEGAL ACTION IS REQUIRED TO COLLECT SUCH LIQUIDATED DAMAGES, TO RECOVER ITS ATTORNEYS' FEES AND COSTS PURSUANT TO PARAGRAPH 17.10. NOTWITHSTANDING THE FOREGOING, AND NOTWITHSTANDING THE TERMINATION OF THE AGREEMENT, EACH PARTY WILL STILL BE ENTITLED TO ANY INDEMNIFICATION PROVIDED IN THIS AGREEMENT.

BUYER'S INITIALS 

SELLER'S INITIALS BRM

Buyer shall be entitled to at least ten (10) business days' written notice and opportunity to cure any alleged defaults under this Agreement.



11.2 Seller's Default. In the event of a default by Seller under the terms of this Agreement which is not cured by Seller as provided hereunder, (except as the result of Seller's negligence and/or willful misconduct in which case damages may be sought) Buyer's sole and exclusive remedies hereunder shall be to either terminate this Agreement whereupon Buyer will receive a refund of the Earnest Money from Escrow Agent, or to seek specific performance of Seller's obligations under this Agreement.

Section 12. Condemnation or Destruction.

12.1 Condemnation. If, prior to the Closing, all or any material part of the Property is subject to a bona fide threat of condemnation by a body having the power of eminent domain, or is taken by eminent domain or condemnation, or sale in lieu thereof, then Buyer, by written notice to Seller, to be received within thirty (30) calendar days of Buyer's receiving Seller's written notice of such threat, condemnation or taking, or by the Closing Date, whichever is earlier, may elect to terminate this Agreement.

12.2 Damage or Destruction. If, prior to the Closing, all or any material part (which is deemed to be a restoration cost of \$75,000.00 or more) of the Property is damaged or destroyed by any cause, Seller agrees to give Buyer written notice of such occurrence and the nature and extent of such damage and destruction, and Buyer, by written notice to Seller, to be received within thirty (30) calendar days of Buyer's receipt of Seller's written notice of such damage or destruction, or by the Closing Date, whichever is earlier, may elect to terminate this Agreement.

12.3 Termination. If this Agreement is terminated as a result of the provisions of either Section 12.1 or Section 12.2 hereof, Buyer shall be entitled to receive a refund of the Earnest Money from Escrow Agent, whereupon the parties shall have no further rights or obligations hereunder, except for those which expressly survive any such termination.

12.4 Awards and Proceeds. If Buyer does not elect to terminate this Agreement following any notice of a threat of taking or taking by condemnation or notice of damage or destruction to the Property, as provided above, this Agreement shall remain in full force and effect and the conveyance of the Property contemplated herein, less any interest taken by eminent domain or condemnation, or sale in lieu thereof, shall be effected with no further adjustments. At the Closing, Seller shall assign, transfer and set over to Buyer all of Seller's right, title and interest in and to any awards, payments or insurance proceeds (excluding any deductible which is the responsibility of Seller) available to Seller for the actual value of the property lost or destroyed that have been or may thereafter be made for any such taking, sale in lieu thereof or damage or destruction, to the extent such awards, payments or proceeds shall not have theretofore been used for restoration of the Property.

Section 13. Assignment by Buyer. Buyer may assign its rights under this Agreement to an affiliated entity upon five (5) days' prior written notice to Seller accompanied by a copy of an executed assignment and assumption agreement and reasonable evidence that the assignee is such an affiliate, but without Seller's prior written consent hereunder; provided, however, no such assignment shall relieve Buyer of its obligations hereunder.

Section 14. Buyer's Representation and Warranty. Buyer does hereby represent and warrant to Seller as of the Contract Date and the Closing that it is a validly formed public benefit corporation; that is in good standing in the state of its organization; that it is not subject to any



involuntary proceeding for the dissolution or liquidation thereof; that it has all requisite authorizations to enter into this Agreement; and that the parties executing this Agreement on behalf of Buyer are duly authorized to so do.

Section 15. Brokers and Brokers' Commissions. None.

Section 16. Notices. Wherever any notice or other communication is required or permitted hereunder, such notice or other communication shall be in writing and shall be delivered by a nationally-recognized overnight express delivery service, or certified mail, return receipt requested, postage prepaid, to the addresses set out below or at such other addresses as are specified by written notice delivered in accordance herewith:

SELLER: City of Upland
460 N. Euclid Avenue
Upland, California 91786
Attn: City Manager

BUYER: San Antonio Regional Hospital
999 San Bernardino Road
Upland, CA 91786
Attn: Harris F. Koenig, President and CEO

WITH A COPY TO: Ervin Cohen & Jessup LLP
9401 Wilshire Boulevard
Suite 900
Beverly Hills, CA 90212
Attn: Alan M. Bergman, Esq.

Such notices shall be deemed received (a) on the date of delivery, if delivered by hand or overnight express delivery service; (b) on the date indicated on the return receipt if mailed.

Section 17. Miscellaneous.

17.1 Governing Law; Headings; Rules of Construction. This Agreement shall be governed by and construed in accordance with the internal laws of the State of California, without reference to the conflicts of laws or choice of law provisions thereof. The titles of sections and subsections herein have been inserted as a matter of convenience of reference only and shall not control or affect the meaning or construction of any of the terms or provisions herein. All references herein to the singular shall include the plural, and vice versa. The parties agree that this Agreement is the result of negotiation by the parties, each of whom was represented by counsel, and thus, this Agreement shall not be construed against the maker thereof.



17.2 No Waiver. Neither the failure of either party to exercise any power given such party hereunder or to insist upon strict compliance by the other party with its obligations hereunder, nor any custom or practice of the parties at variance with the terms hereof shall constitute a waiver of either party's right to demand exact compliance with the terms hereof.

17.3 Entire Agreement. Except for the terms and conditions set forth in the Lease Agreement, this Agreement contains the entire agreement of the parties hereto with respect to the Property and any other prior understandings or agreements are merged herein and no representations, inducements, promises or agreements, oral or otherwise, between the parties not embodied herein or incorporated herein by reference shall be of any force or effect.

17.4 Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, executors, administrators, legal representatives, successors and assigns.

17.5 Amendments. No amendment to this Agreement shall be binding on any of the parties hereto unless such amendment is in writing and is executed by the party against whom enforcement of such amendment is sought.

17.6 Date For Performance. If the time period by which any right, option or election provided under this Agreement must be exercised, or by which any act required hereunder must be performed, or by which the Closing must be held, expires on a Saturday, Sunday or legal or bank holiday, then such time period shall be automatically extended through the close of business on the next regularly scheduled business day.

17.7 Counterparts. This Agreement may be executed in any number of counterparts (including via facsimile or telecopier transmission, either of which will be deemed an original signature or signatures), each of which shall be deemed to be an original, but all of which, when taken together, shall constitute but one and the same instrument.

17.8 Time of the Essence. Time shall be of the essence of this Agreement and each and every term and condition hereof.

17.9 Severability. This Agreement is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws, ordinances, rules and regulations. If any term or provision of this Agreement or the application thereof to any person or circumstance shall for any reason and to any extent be held to be invalid or unenforceable, then such term or provision shall be ignored, and to the maximum extent possible, this Agreement shall continue in full force and effect, but without giving effect to such term or provision.

17.10 Attorneys' Fees. In the event that either party shall bring an action or legal proceeding for an alleged breach of any provision of this Agreement or any representation, warranty, covenant or agreement herein set forth, or to enforce, protect, determine or establish any term, covenant or provision of this Agreement or the rights hereunder of either party, the prevailing party shall be entitled to recover from the non-prevailing party, as a part of such action or proceedings, or in a separate action brought for that purpose, reasonable attorneys' fees and costs, expert witness fees and court costs as may be fixed by the court or jury.



17.11 Like-Kind Exchange. Each of the parties hereto agrees to cooperate with the other in effecting an I.R.C. § 1031 exchange, including Buyer's free assignment and transfer of this Agreement for such exchange purposes, and also executing and delivering any and all documents required by the exchange trustee or intermediary; provided, however, that the cooperating party shall have no obligation to execute any document, enter any transaction or arrangement or take or omit any other action, if such party determines in its sole discretion that the same would result in any liability, cost, expense, increased risk, delay or other detriment to the cooperating party.

17.12 City Manager Authority. The City Manager of Seller shall have the authority to give all consents and approvals on behalf of Seller hereunder provided they are in writing, and to enter into non-substantial amendments of this Agreement provided they are in writing.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed by its duly authorized signatory, effective as of the day and year first above written.

"SELLER":

CITY OF UPLAND,
a California municipal corporation

By: Bill R. Manis
Print Name: Bill R. Manis
Title: City manager

"BUYER":

SAN ANTONIO REGIONAL HOSPITAL
a California public benefit corporation

By: Harris F. Koenig
Harris F. Koenig
President and CEO

EXHIBIT "A"

DESCRIPTION OF LAND

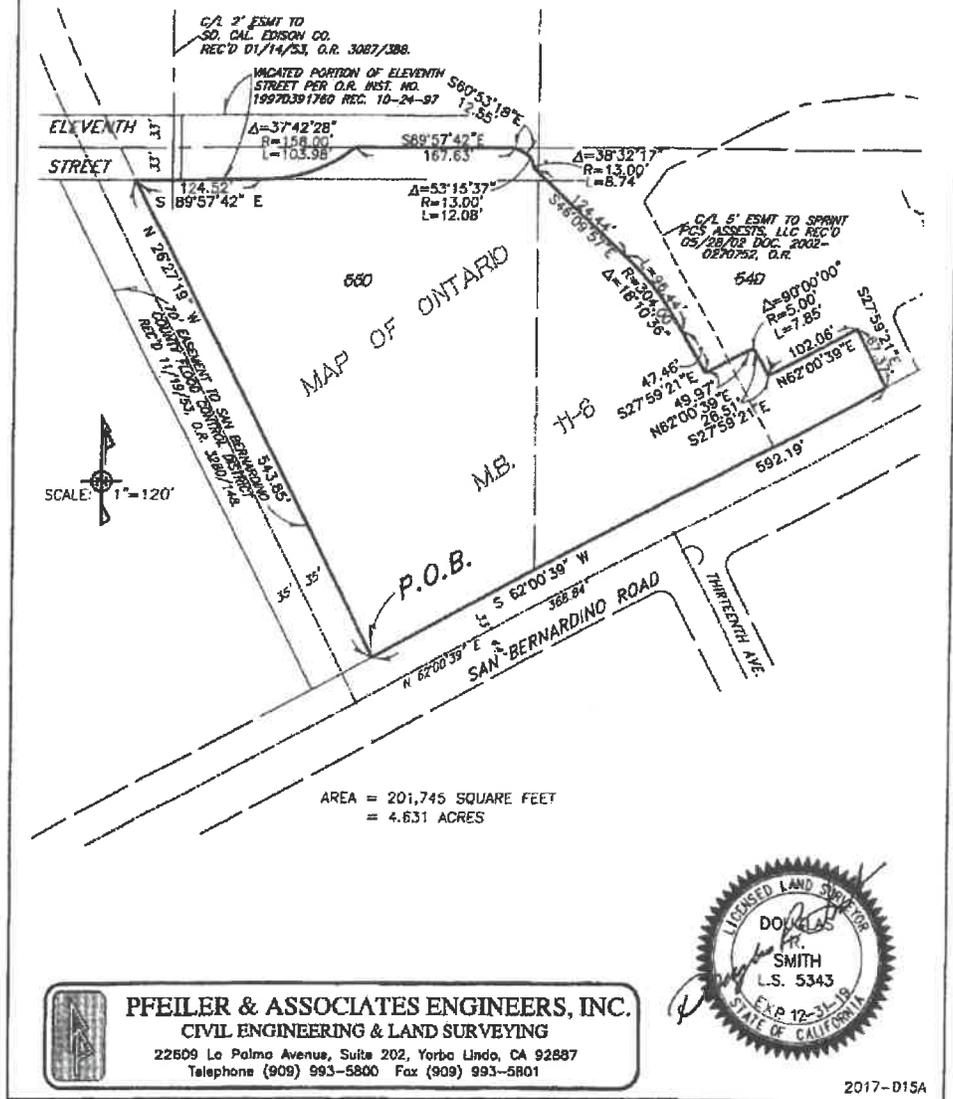
THOSE PORTIONS OF LOTS 549 AND 550 LYING NORTH OF THE NORTHWEST LINE OF SAN BERNARDINO ROAD, IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP OF ONTARIO PER PLAT RECORDED IN BOOK 11 PAGE 6, OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTHWEST LINE OF SAN BERNARDINO ROAD (77 FEET WIDE) AND THE EASTERLY LINE OF THAT CERTAIN 70 FOOT EASEMENT OF THE SAN BERNARDINO COUNTY FLOOD CONTROL DISTRICT PER BOOK 3280 PAGE 148 O.R., RECORDED NOVEMBER 19, 1953, RECORDS OF SAID COUNTY; THENCE NORTHERLY ALONG THE EASTERLY LINE OF SAID EASEMENT, NORTH 26°27'19" WEST, 543.85 FEET TO THE SOUTH LINE OF ELEVENTH STREET (66 FEET WIDE) AS SHOWN ON THE SAID MAP OF ONTARIO; THENCE EASTERLY ALONG THE SOUTHERLY LINE OF SAID ELEVENTH STREET AND ITS EASTERLY PROLONGATION, SOUTH 89°57'42" EAST, 124.52 FEET TO THE BEGINNING OF A CURVE CONCAVE NORTHWESTERLY HAVING A RADIUS OF 158.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 37°42'28" AN ARC LENGTH OF 103.98 FEET TO THE EASTERLY PROLONGATION OF THE CENTERLINE OF ELEVENTH STREET; THENCE ALONG SAID CENTERLINE SOUTH 89°57'42" EAST, 167.63 FEET; THENCE LEAVING SAID CENTERLINE, SOUTH 60°53'18" EAST, 12.55 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 13.00 FEET; THENCE THROUGH A CENTRAL ANGLE OF 53°15'37" AN ARC LENGTH OF 12.08 FEET TO A POINT OF REVERSE CURVATURE WITH A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 13.00 FEET; THENCE THROUGH A CENTRAL ANGLE OF 38°32'17" AN ARC LENGTH OF 8.74 FEET; THENCE SOUTH 46°09'57" EAST, 124.44 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 304.00 FEET; THENCE THROUGH A CENTRAL ANGLE OF 18°10'36" AN ARC LENGTH OF 96.44 FEET; THENCE SOUTH 27°59'21" EAST, 47.46 FEET; THENCE NORTH 62°00'39" EAST, 49.97 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHERLY HAVING A RADIUS OF 5.00 FEET; THENCE EASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00" AN ARC LENGTH OF 7.85 FEET; THENCE SOUTH 27°59'21" EAST, 26.51 FEET; THENCE NORTH 62°00'39" EAST, 102.06 FEET; THENCE SOUTH 27°59'21" EAST, 67.37 FEET TO A POINT ON THE NORTH LINE OF SAN BERNARDINO ROAD (77 FEET WIDE); THENCE ALONG SAID STREET SOUTH 62°00'39" WEST, 592.19 FEET TO THE POINT OF BEGINNING.

DESCRIBED AREA = 201,745 SQUARE FEET = 4.631 ACRES.



SKETCH TO ACCOMPANY LEGAL DESCRIPTION EXHIBIT "A"



14286.39:8163042.3

16

14286.39:8163042.3

16

EXHIBIT "B"

FORM OF GRANT DEED

RECORDING REQUESTED BY:

ERVIN COHEN & JESSUP LLP

AND WHEN RECORDED MAIL THIS DEED
AND TAX STATEMENTS TO:

San Antonio Regional Hospital
999 San Bernardino Road
Upland, CA 91786
Attn: Harris F. Koenig

SPACE ABOVE THIS LINE FOR RECORDER'S USE

GRANT DEED



APN: Portion of _____

The undersigned Grantor declares under penalty of perjury that the following is true and correct:

DOCUMENTARY TRANSFER TAX IS \$ _____

unincorporated area City of Upland

GRANTOR: CITY OF UPLAND

hereby grants to

GRANTEE:

SAN ANTONIO REGIONAL HOSPITAL, a California public benefit corporation, the following real property in the City of Upland, County of San Bernardino, State of California:

SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE, subject to all matters of record and all matters which would be revealed by an ALTA/ACSM survey, and all matters visible upon inspection.

Executed as of the ____ day of _____ 20____.

MAIL TAX STATEMENTS AS DIRECTED ABOVE



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

State of California)
County of _____)

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

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

WITNESS my hand and official seal. ✓

Signature

EXHIBIT "C"

**FORM OF PUBLIC PARKING EASEMENT
TO BE GRANTED BY BUYER TO SELLER
AT CLOSING**

(Attached)



PARKING EASEMENT AGREEMENT

This **PARKING EASEMENT AGREEMENT** (“Agreement”) is made this ____ day of _____, 2018, between **SAN ANTONIO REGIONAL HOSPITAL**, a California public benefit corporation, (“**SARH**”) and the **CITY OF UPLAND**, a California municipal corporation (the “**City**”). SARH and the City are collectively referred to as “Parties” or individually as a “Party”.

RECITALS

A. SARH and the City have entered into an Agreement for Purchase and Sale and Joint Escrow Instructions dated _____, 2017 whereby SARH is purchasing from the City all of its right, title and interest in an approximate 5.5 acre parcel as more specifically described and set forth therein and shown on Exhibit A attached hereto and made a part hereof (the “**Property**”).

B. As a condition of the foregoing sale, SARH is required to grant to the City in the form of a Public Parking Permanent Easement, the right of public parking for automobiles upon the Property in accordance with the terms and conditions herein set forth.

NOW, THEREFORE, in consideration of the mutual covenants of the parties hereto and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

1. **Grant of Easement.** Subject to the terms set forth in this Agreement, SARH agrees to design and construct within its plans for the development of the Property, at its cost and expense, not less than as currently provided, on a non-exclusive basis, parking spaces for public use upon the Property (the “**Public Spaces**”). The Public Spaces are hereby dedicated as an Easement for public use.

2. **Construction of Additional Spaces.** As part of its overall planned development for the Property, SARH shall design the Public Spaces, submit all necessary construction permit applications, construction bids and proceed to construct the Public Spaces at its sole cost and expense.

3. **Use of Property Prior to, During and Upon Completion of Project Construction.** Upon the acquisition of the Property by SARH and until new buildings or development is constructed on the Property by SARH, parking on the Property shall be provided in a surface parking lot on the Property for SARH use and shall remain available to the public for daily park use at no charge.



Upon completion of new buildings or the development on the Property for SARH's use, there shall be the same or greater number of Public Spaces made available to the public in a surface parking lot for daily park use at no charge.

If the construction of new buildings or development will temporarily disrupt the public parking SARH shall use reasonable efforts to diligently prosecute the new development to completion, subject to force majeure delays, to minimize the disruption.

If a multistory parking structure is part of any new development on the Property for SARH's use and the surface parking lot is removed, the Public Spaces made available to the public for daily park use, to the extent within the parking structure, shall be located on the first/ground floor.

If, at any time during the term of this Agreement, there is a conflict between SARH and the City in meeting the parking requirements for their respective uses, it is understood by the Parties that SARH shall retain the primary right to parking on the Property and its needs and requirements shall take priority over those of the City. However, in no event shall the parking available to the City for daily park use be less than 100 spaces. If such conflict shall arise SARH may, upon written notice to the City, initiate negotiation of a joint use agreement with the City to resolve this conflict in order to satisfy SARH's parking requirements. Should SARH and the City fail to resolve this conflict within 30 days of SARH's written notice, all claims and disputes arising under or relating to this Agreement shall be settled by binding arbitration in the State of California.

It is further understood and agreed that at all times during the existence of the within easement that SARH, at its sole cost and expense, shall maintain and keep in good order and repair all surface parking areas and, if applicable, the parking structure.

4. **Term.** The Easement shall remain on the Property in perpetuity provided the City's adjacent property remains as a public park. In the event of the cessation of such use or the sale of the City's adjacent park property for other than public park use, this Easement will terminate forthwith.

5. **Insurance.** Prior to the use by the public of the within easement the City shall obtain and maintain thereafter a policy of general liability insurance in an amount of no less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate, with such policy of insurance naming SARH, its affiliates, successors and assigns as an additional insured.

6. **Indemnity Obligation.** Each Party shall indemnify (the "Indemnifying Party"), defend and hold harmless every other Party (the "Indemnified Parties") for, from and against any and all losses, costs and expenses (including reasonable attorneys' fees and costs) to the extent caused during the term of this Agreement, by the acts, errors or omissions of the Indemnifying Party or its partners, members, shareholders, managers, officers, directors, agents, employees, contractors, sub-contractors, representatives, or delegates as the same are due to the exercise of the Indemnifying Party's rights or failure to fulfill its obligations under this Agreement, except to the extent of any such loss, cost or expense caused by one of the Indemnified Party's own negligence



or misconduct. The indemnity obligations set forth in this Section 6 shall survive a termination of this Agreement.

7. **Attorneys' Fees.** If any of the Parties hereto shall initiate suit against any other Party as a result of any alleged breach or failure of the other to fulfill or perform any covenants or obligations to be performed by it under this Agreement, or for declaratory relief seeking any determination of such Parties' rights or obligations hereunder, then in such event, the prevailing Party in such action shall, in addition to any other relief granted or awarded by the Court, be entitled to judgment for reasonable attorneys' fees incurred by reason of such action and all costs of suit and (those incurred in preparation thereof, at both trial and appellate levels).

8. **Entire Agreement.** This Agreement, together with all Exhibits attached hereto, contains the entire agreement and understanding of SARH and the City and supersedes all prior agreements and understandings, as to the subject matter hereof. This Agreement shall not be modified, superseded or revoked, except by an agreement in writing duly executed and delivered by the Parties hereto (or their successors, as appropriate).

9. **Benefits and Burdens Running With the Land.** This Agreement shall run with and bind the title of the Property hereto and shall be binding upon and inure to the benefit of the successors and assigns of SARH as the owner of the Property from time to time. This Agreement shall be recorded in the official records of the Recorder for the County of San Bernardino, and all provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land pursuant to applicable law.

10. **No Waiver.** The waiver by one Party of the performance or observance of any covenant or condition to be performed or observed by the other hereunder shall not invalidate this Agreement, nor constitute a waiver by such Party of any other covenant or condition to be performed or observed by another hereunder.

11. **Cooperation.** SARH and the City shall in good faith cooperate with each other in connection with their respective rights and obligations under this Agreement, including, but not limited to, performing any acts and executing any further documents and taking such further actions that may be reasonably necessary to effectuate the purposes of or rights conferred under this Agreement.

12. **Construction.** This Agreement shall be construed in accordance with the laws of the State of California

13. **Notices.** All notices and requests under this Agreement shall be in writing and shall be sent by personal delivery or facsimile (with hard copy to follow the next business day by overnight mail), by certified or registered mail, postage prepaid, return receipt requested, nationally recognized overnight mail carrier (e.g. FedEx, Airborne) or delivered in person to the following street addresses:



SARH: c/o Harris F. Koenig
President and CEO
San Antonio Regional Hospital
999 San Bernardino Road
Upland, CA 91786

With a copy to: Alan M. Bergman, Esq.
Ervin Cohen & Jessup LLP
9401 Wilshire Blvd., 9th Floor
Beverly Hills, California 90212
Facsimile: (310) 877-6844

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

With a copy to: James L. Markman, Esq.
Richards Watson & Gershon
355 South Grand Avenue, 40th Floor
Los Angeles, CA 90071
Facsimile: (213) 626-0078

All notices shall be effective upon the earlier of personal delivery or receipt of facsimile confirmation statement, if sent by facsimile (provided the hard copy notice is provided by an alternative method of delivery as required above), or receipt of confirmation of delivery or rejection, if delivered by a nationally recognized overnight mail carrier or seventy-two (72) hours after deposit in the United States mail. Either party may change its address or designate a new street address for notices under this Agreement by notice complying with the terms of this Section.

14. **Counterpart Execution.** This Agreement may be executed and acknowledged in counterpart originals and all such counterparts shall constitute one (1) agreement. Signature pages may be detached from the counterpart originals and attached to a single copy of this Agreement to physically form one (1) document.

15. **Severability.** If any provision of this Agreement or the application of this Agreement to any party to this Agreement or any other person is held to be invalid, void, or illegal, the remaining provisions shall nonetheless remain in full force and effect and shall not be affected by such invalidity or illegality.



IN WITNESS WHEREOF, SARH and the City have executed this Agreement as of the date first set forth above.

DATED: _____

San Antonio Regional Hospital

Harris F. Koenig, President and CEO

DATED: _____

City of Upland

By: _____
City Manager

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

State of California)
County of Los Angeles)

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

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

WITNESS my hand and official seal.

Signature _____



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

State of California)
County of Los Angeles)

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

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

WITNESS my hand and official seal.

Signature _____



EXHIBIT A
DESCRIPTION OF THE PROPERTY

[TO BE ATTACHED]



EXHIBIT A
DESCRIPTION OF THE PROPERTY

[TO BE ATTACHED]



**ADDENDUM NO. 1
REIMBURSEMENT AGREEMENT
BETWEEN
THE CITY OF UPLAND
AND
SAN ANTONIO REGIONAL HOSPITAL**

This Addendum No. 1 to Reimbursement Agreement (“Addendum”) is dated as of July 27, 2020 and amends that certain Reimbursement Agreement dated June 22, 2020 (“Reimbursement Agreement”), by and between the City of Upland, a California municipal corporation (“City”) San Antonio Regional Hospital, a California public benefit corporation (“Hospital”). Terms defined in the Reimbursement Agreement shall have the same meaning in this Addendum.

RECITALS

- A. City and Hospital are parties to the Reimbursement Agreement by which Hospital has agreed to reimburse City for all costs and expenses actually incurred by the City in the calling or conducting of the Election.
- B. On June 22, 2020, the City Council adopted Resolution No. 6551 declaring that the public interest or convenience requires the discontinuance of the use of the Property as a public park, declaring the City Council’s intent to call a special election to submit the question of discontinuance to the City’s electors, and setting a public hearing for July 27, 2020 to consider any protests from the public.
- C. City and Hospital mutually desire to amend the Reimbursement Agreement by adding thereto the terms and conditions stated below.

ADDENDUM

NOW, THEREFORE, in consideration of performance by the parties of the promises, covenants, and conditions herein contained, the parties agree as follows:

- 1. Recitals. The parties agree that the preceding recitals are true and correct.
- 2. Additional Terms and Conditions. Except for the addition of the new terms and conditions set forth in the following Section 3 of this Addendum, all terms and conditions of the Reimbursement Agreement shall remain unchanged and in full effect.
- 3. Reimbursement for Purchase Agreement and Judicial Validation Action Costs. If the Upland City Council, in its sole and absolute discretion, calls the Election, Hospital further agrees to reimburse City in full for all of City’s costs, fees and expenses incurred in connection with the Purchase Agreement and Judicial Validation Action up to an amount not to exceed \$130,000; which shall include

but not necessarily be limited to City staff costs, City's attorneys' fees, fees and costs for any consultants retained by the City in connection with the Purchase Agreement, Judicial Validation Action, or both and any fees and costs incurred by such consultants in connection with the Purchase Agreement, Judicial Validation Action, or both. Hospital acknowledges and agrees that Hospital's duty to reimburse City is not contingent upon any particular outcome in the Validation Action, the voters' approval in the Election of the proposed discontinuance of the use of the Property or any statements during the Election of any individual in support or opposition to the proposed transfer of the Property.

- A. Payment and Accounting. Hospital shall reimburse City within 30 days of receiving an accounting from the City of City's actual costs, fees and expenses incurred in connection with the Purchase Agreement and Validation Action as of the date of the accounting. Hospital acknowledges that City's first accounting may include all such costs, fees, and expenses incurred to date. City shall provide subsequent accounts on a monthly basis. In the event Hospital fails to reimburse any amount within the required 30 days, City may in its sole discretion deduct such amounts from the deposit Hospital as required to maintain under Section 3 of the Reimbursement Agreement. Any such deduction shall not relieve or diminish Hospital's minimum deposit obligation.
 - B. Control of Validation Action. City reserves all authority and discretion to establish the objectives of and control the direction of City's participation the Validation Action, and Hospital acknowledges and agrees that all decisions regarding the City's participation in the Validation Action shall remain solely within the discretion of the Upland City Council, and that nothing in the Reimbursement Agreement, this Addendum, or the Purchase Agreement shall be construed as requiring the City to take any particular action or position in the Validation Action. Hospital further acknowledges and agrees City shall have sole discretion to select which of its employees, attorneys, and consultants are assigned to work on the Validation Action, to determine what work is necessary for the Validation Action; to direct the work and evaluate the performance of attorneys, employees, and consultants assigned to work on the Validation Action, to terminate or replace at any time any such person, and to determine the amount of compensation paid to attorneys, employees, or consultants assigned to work on the Validation Action. City, not Hospital, shall pay attorneys, employees, and consultants assigned to work on the Validation Action from a City account."
4. Corporate Authority. Each person executing this Addendum on behalf of Hospital warrants that he or she is duly authorized to execute this Addendum on behalf of Hospital and that by his or her execution, Hospital is formally bound to the provisions of this Addendum.

IN WITNESS WHEREOF, the Parties hereto, through their respective authorized representatives have executed this Addendum as of the date above.

CITY OF UPLAND

SAN ANTONIO REGIONAL HOSPITAL

By: 
Debbie Stone
Mayor

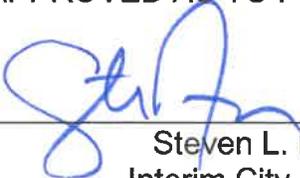
By: 
Name John Chapman
Title President & CEO

ATTEST:

By: _____
Name _____
Title _____


Keri Johnson
City Clerk

APPROVED AS TO FORM:


Steven L. Flower
Interim City Attorney

**REIMBURSEMENT AGREEMENT
BETWEEN
THE CITY OF UPLAND
AND
SAN ANTONIO REGIONAL HOSPITAL**

This Reimbursement Agreement (“Reimbursement Agreement”) is made as of June 22, 2020, by and between the City of Upland, a California municipal corporation (“City”) San Antonio Regional Hospital, a California public benefit corporation (“Hospital”).

RECITALS

- A. City and Hospital are parties to that certain Agreement for Purchase and Sale and Joint Escrow Instructions dated March 26, 2018 (“Purchase Agreement”), by which City agreed to sell and Hospital agreed to buy certain real property described and defined as the “Property” in the Purchase Agreement. Terms defined in the Purchase Agreement shall have the same meaning in this Reimbursement Agreement.
- B. Among the conditions precedent to Hospital’s obligation to proceed to Closing, was the completion of a Judicial Validation Action to establish the validity of the transfer of park property contemplated in the Purchase Agreement, and to validate the transfer of the Property without the necessity of conducting an election to approve the transaction. City filed the Judicial Validation Action in the Superior Court of the State of California for the County of San Bernardino. On May 29, 2019, a judgement was entered in that case dismissing City’s complaint.
- C. On June 16, 2020, Hospital submitted a request for the City Council to call a special election pursuant to Government Code §§ 3844–38462 (the “Election”) to submit to the City electors the question of discontinuing use of the Property so it may be sold to Hospital pursuant to the Purchase Agreement.
- D. The parties agree and acknowledge that calling the Election, and any potential legal challenge to or related to the Election, would cause the City to incur costs not contemplated by the Purchase Agreement.
- E. Hospital agrees it will reimburse the City in full for all costs and expenses actually incurred by the City in the calling or conducting of the Election
- F. City and Hospital desire to enter into this Reimbursement Agreement so that the City will not incur any costs or expenses as a result of the Election.

AGREEMENT

NOW, THEREFORE, in consideration of performance by the parties of the promises, covenants, and conditions herein contained, the parties agree as follows:

1. Recitals. The parties agree that the preceding recitals are true and correct.

2. Reservation of Authority. City reserves all legislative and governmental authority, and Hospital acknowledges and agrees that the decision whether to call the Election or change the Zoning of the Property shall remain solely within the discretion of the Upland City Council, and that nothing in this Reimbursement Agreement or the Purchase Agreement shall be construed as requiring the City to call the Election or to take any other action to approve the Zone Change. Hospital further acknowledges and agrees City shall have sole discretion to select which of its employees and contractors are assigned to work on the Election, to determine what work is necessary for the Election; to direct the work and evaluate the performance of the employees and contractors assigned to work on the Election, to terminate or replace at any time any such person, and to determine the amount of compensation paid to employees or contractors assigned to work on the Election. City, not Hospital, shall pay employees and contractors assigned to work on the Election from a City account.

3. Reimbursement of Election Costs. Hospital agrees to reimburse City in full for all costs, fees and expenses incurred in connection with calling the Election; including but not necessarily limited to City staff costs, City's costs for attorneys' fees to review, evaluate, process, and perform research in connection with the Election and preparation or review of this Reimbursement Agreement, fees and costs for any consultants retained by the City in connection with the Election, and any fees and costs incurred by such consultants in connection with the Election. Hospital acknowledges and agrees that Hospital's duty to reimburse City is not contingent upon voters' approval in the Election of the proposed discontinuance of the use of the Property or the statements during the Election of any individual in support or opposition to the proposed transfer of the Property.
 - A. Deposit. Upon execution of this Agreement, Hospital shall deposit with City the sum of \$100,000 ("Initial Deposit"), which deposit represents City's preliminary estimate of Hospital's ultimate obligation hereunder. The Initial Deposit may be commingled with other funds of the City for the purposes of investment and safekeeping, but the City shall at all times maintain records as to the expenditure of the deposit. City shall deduct from such deposit, until the deposit is exhausted, all reimbursable costs.

 - B. Monthly Accounting. City shall monthly send to Hospital an accounting of amounts used over the preceding month. Hospital shall replenish the Initial Deposit when a minimum balance of \$50,000 is reached. In the event City subsequently determines that the Initial Deposit is insufficient to cover anticipated billings for any reimbursable costs, Hospital shall provide an additional deposit in the amount specified by the City ("Supplemental Deposit") within ten (10) days of receipt of City's written request. Any request for a Supplemental Deposit shall include a description of the work completed to date and the anticipated work remaining to be performed. Hospital agrees that the City's work on the Election shall be immediately suspended if at any time Hospital fails to make a Supplemental Deposit as directed by the City Manager.

- C. Deposit Refund. City shall refund to Hospital any amount of Hospital's deposits that remain unexpended after the date for any legal challenge to the Election or the results thereof has passed.
4. Notice. All notices permitted or required under this Reimbursement Agreement shall be deemed made when personally delivered or when mailed 48 hours after deposit in the United States Mail, first class postage prepaid and addressed to the party at the following addresses:

City: City of Upland
4460 N. Euclid Avenue
Upland, California 91786
Attention: City Manager

Hospital: San Antonio Regional Hospital
999 San Bernardino Road
Upland California 91786
Attention: Chief Executive Officer

Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

5. Indemnification, Hold Harmless, and Duty to Defend. In the event of any legal action challenging the validity, applicability, or interpretation of any provision of this Reimbursement Agreement, the Election, the results of the Election, or any action or alleged action of Indemnitees related to the Election, Hospital must indemnify, defend and hold harmless the Indemnitees, and each of them to the maximum extent permitted by law, with respect to all liability, costs, and expenses incurred by, and/or awarded against, City or any of the Indemnitees in relation to such action. If the Upland City Council, in its sole and absolute discretion, calls the Election, Hospital further agrees to indemnify Indemnitees with respect to any award of attorneys' fees in the Judicial Validation Action in an amount not to exceed \$125,000. City shall have the right to select counsel of its choice as to all claims and actions covered by this Section 5. The parties hereby agree to cooperate in defending any such action. In the event of any litigation challenging the effectiveness of this Reimbursement Agreement, or any portion hereof, this Reimbursement Agreement shall remain in full force and effect while such litigation, including any appellate review, is pending, unless otherwise ordered by a court of competent jurisdiction. This Section 5 shall survive the expiration or earlier termination of this Agreement.
6. Entire Agreement. This Reimbursement Agreement contains the entire agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings, or agreements, and may only be modified by a writing signed by both parties.

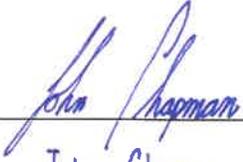
7. Severability. The invalidity in whole or in part of any provisions of this Reimbursement Agreement shall not void or affect the validity of the other provisions of this Agreement.
8. Venue; Interpretation; Governing Law. The venue for any litigation shall be San Bernardino County. In the event of any asserted ambiguity in, or dispute regarding the interpretation of any matter herein, the interpretation of this Reimbursement Agreement shall not be resolved by any rules of interpretation providing for interpretation against the party who causes the uncertainty to exist or against the drafting party. This Reimbursement Agreement shall be governed by and interpreted under the laws of the State of California.
9. No Third Party Rights. No third party shall be deemed to have any rights hereunder against either party as a result of this Reimbursement Agreement .
10. Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel, or otherwise.
11. Headings. Headings used in this Reimbursement Agreement are for reference purposes only and shall not be deemed a part of this Agreement.
12. Prohibited Interests; Conflict of Interest. Hospital warrants and maintains that it has no knowledge that any officer or employee of City involved in making this Reimbursement Agreement or calling the Election has or any interest, whether contractual, noncontractual, financial, proprietary, or otherwise, in the business of Hospital, and that if any such interest comes to the knowledge of Hospital at any time during the term of this Reimbursement Agreement, Hospital shall immediately make a complete, written disclosure of such interest to City, even if such interest would not be deemed a prohibited "conflict of interest" under applicable laws.
13. Attorneys' Fees. If either party commences any legal, administrative, or other action against the other party arising out of or in connection with this Reimbursement Agreement, the prevailing party in such action shall be entitled to have and recover from the losing party all of its attorneys' fees and other costs incurred in connection therewith.
14. Corporate Authority. Each person executing this Reimbursement Agreement on behalf of Hospital warrants that he or she is duly authorized to execute this Reimbursement Agreement on behalf of Hospital and that by his or her execution, Hospital is formally bound to the provisions of this Reimbursement Agreement.

IN WITNESS WHEREOF, the Parties hereto, through their respective authorized representatives have executed this Agreement as of the Effective Date.

CITY OF UPLAND

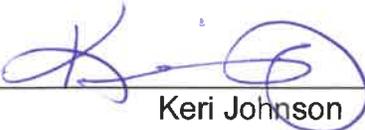
SAN ANTONIO REGIONAL HOSPITAL

By: 
Debbie Stone
Mayor

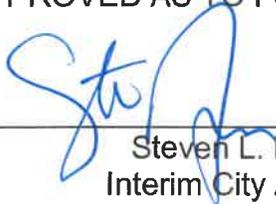
By: 
Name John Chapman
Title President & CEO

ATTEST:

By: _____
Name _____
Title _____


Keri Johnson
City Clerk

APPROVED AS TO FORM:


Steven L. Flower
Interim City Attorney



STAFF REPORT

ITEM NO. 14.A.

DATE: September 14, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: STEPHEN PARKER, ASSISTANT CITY MANAGER
KERI JOHNSON, CITY CLERK
SUBJECT: CONSIDER THE APPOINTMENT OF SOMEONE TO FILL THE CITY
TREASURER VACANCY CREATED BY THE RESIGNATION OF
LARRY KINLEY

RECOMMENDED ACTION

It is recommended that the City Council consider the appointment of someone to fill the vacancy left by the resignation of the City Treasurer until it is filled by the voters at the General Municipal Election on November 3, 2020.

GOAL STATEMENT

The proposed action supports the City's goal for transparency in matters of City governance and compliance with all state regulations pertaining to municipal elections.

BACKGROUND

On August 10, 2020, the elected City Treasurer, Larry Kinley, submitted a letter of resignation to the City Council, effective immediately. The office will be filled at the next general municipal election on November 3, 2020, but will remain vacant in the meantime unless the City Council appoints someone to serve the remainder of the current unexpired term.

ISSUES/ANALYSIS

California Government Code § 36512 (b) specifies: "If a vacancy occurs in an elective office provided for in this chapter, the council shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy."

Calling a special election is not an option in this instance due to the proximity of the next regular election for the office, but the City Council may still appoint someone to hold the office of City Treasurer. The appointee would serve as Treasurer until the person elected at the November 3, 2020 election assumes office.

If the Council fills the vacancy by appointment, it should do so by October 9, 2020, which is 60 days from the commencement of the vacancy. If the City Council chooses to appoint someone, there is no legal requirement for the Council to advertise for candidates for the position. Therefore the Council could, for example, appoint someone at the September 14, 2020 meeting, in which case the appointment would be subject to the appointee's acceptance of the position.

Alternatively, the City Council may advertise for candidates and conduct any interviews of potential appointees in open session. This option is not recommended due to the timeline required to accept applications and go through the interview and appointment process. Under this option, staff anticipates an appointment could not be made until October 12, 2020, at the earliest, which is past the 60 day deadline of October 9, 2020.

Alternatively, if no appointment is made by October 9, 2020, the position will remain unfilled until a successor for the next term of the Treasurer is selected by the voters at the November 3, 2020 election.

FISCAL IMPACTS

There would be no fiscal impact to either appointing someone without a formal process or leaving the office vacant. Advertising for candidates in the newspaper would cost approximately \$500 to \$1,000.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

No Attachments Available



STAFF REPORT

ITEM NO. 14.B.

DATE: September 14, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: ROBERT D. DALQUEST, DEVELOPMENT SERVICES DIRECTOR
MIKE POLAND, CONTRACT PLANNING MANAGER
SUBJECT: CONSIDERATION OF A PARK DEVELOPMENT IMPACT FEE CREDIT AGREEMENT WITH ADC SAGE TH, LLC. FOR THE DESIGN AND CONSTRUCTION OF A PUBLIC PARK FOR THE SAGE PARK PROJECT LOCATED ON THE EAST SIDE OF BODENHAMMER STREET, SOUTH OF 9TH STREET

RECOMMENDED ACTION

It is recommended that the City Council adopt a Resolution to approving a park development impact fee credit agreement with ADC Sage TH, LLC.; and approving the cost estimate of \$381,645.69 and specifications for the Sage Park Project by ADC Sage TH, LLC; 2) approve the Sage Park Project Development Impact Fee Credit Agreement with ADC Sage TH, LLC, for the Sage Park Site and authorize the City Manager to execute the agreement; and, 3) require payment of \$95,818.31 pursuant to the Park Development Impact Fee Credit Agreement from ADC Sage TH, LLC, to be deposited in the City's Park Development Impact Fee Fund.

GOAL STATEMENT

The Sage Park development project was approved by the Planning Commission in February 2018, and found to be consistent with the City's General Plan. The project provides park and recreation facilities and is consistent with the City's goal to enhance livability in Upland's neighborhoods by expanding park and recreational facilities throughout the City.

BACKGROUND

Government Code Section 66477, known as "The Quimby Act", is contained within the State Subdivision Map Act (the "Act"), and authorizes the legislative body of a city to require the dedication of land or impose fees for park or recreational purposes as a condition to the approval of a tentative tract map or tentative parcel map to subdivide property, if specified

requirements are met. One of these requirements is that the dedicated land or fees, or combination thereof, is used only for the purpose of developing or rehabilitating a neighborhood or community park or recreational facility that serves the subdivision for which the land was dedicated or fees were paid. The Act provides that the dedication of land, or the payment of fees, or both, shall not exceed the proportionate amount necessary to provide 3 acres of park area per 1,000 persons residing within a subdivision subject to the act.

On October 9, 2006, the City Council adopted Ordinance No. 1811 which establishes requirements for the dedication of park land or payment of fees in lieu thereof, as provided for in Government Code Section 66477 (The Quimby Act). Pursuant to the Quimby Act, the City currently has a parkland dedication requirement as a condition of approval of tentative subdivision maps. The requirement is codified in the Upland Municipal Code in Chapter 3.44.020 (Park Acquisition and Development Impact Fee). Chapter 3.44.020 is as follows:

3.44.020 Park acquisition and development impact fee.

A. Purpose. In order to implement the goals and objectives of the recreation element of the open space/conservation element of the city's general plan and to mitigate additional burdens on existing park facilities created by new residential developments, additional park acreage should be developed. The city council has determined that a development impact fee is needed in order to finance these public improvements and to pay for the development's fair share of the construction costs of these improvements. In establishing the fee described in subsequent sections, the city council has found the fee to be consistent with its general plan.

B. Park Acquisition and Development Impact Fee. A park acquisition and development fee is established on issuance of all building permits for development within the boundaries of the city to pay for acquiring of and improvement to land designated for park use. The city council shall, by resolution, set forth the specific amount of the fee, describe the benefit and impact area on which the fee is imposed, list the specific public improvements to be financed, describe the estimated cost of these facilities, describe the reasonable relationship between this fee and the various types of new developments and set forth the time of payment. On an annual basis, the city council shall review this fee every five years to determine whether the fee amounts are reasonably related to the impacts of developments and whether the described public facilities are still needed.

C. Pursuant to Section 66477 of the California Government Code (hereinafter, the Quimby Act), the subdivider shall be required to dedicate land, pay fees in lieu thereof, or pay and dedicate a combination of both, for park and/or recreational purposes, including open space purposes. The standards for land dedication or in lieu fees are established in city council Ordinance No. 1811. (Ord. 1811 § 1, 2006: Ord. 1810 § 11, 2006; prior code § 7811.0)

In summary, pursuant to Section 66477 of the California Government Code (the Quimby Act), ADC Sage TH, LLC is required to dedicate land, pay fees in lieu thereof (park land development impact fee), or pay and dedicate a combination of both, for park and/or recreational purposes, including open space purposes.

On February 28, 2018, the Upland Planning Commission approved a development project submitted by ADC Sage TH, LLC. The project included Tentative Tract Map No. 20023, Conditional Use Permit (CUP 17-07), Site Plan Review (SP-16-16), Design Review (DR-16-16), and Environmental Review (EAR-0050) to allow the development of fifty-two (52) residential for-sale townhome units on a vacant 4.6 gross acre site. The Project Site is located at the southeast corner of 9th Street and Bodenhamer Street. (See Attachment 2). The gated development consists of twelve (12) buildings which contain between two to six attached townhomes with some organized around courtyard features. The 2-story units will range in height up to a maximum height of 29 feet.

The approval of the development plan also allowed ADC Sage TH, LLC, to utilize the northerly portion of the Bodenhamer Street right-of-way to access the project from 9th Street. In addition, ADC Sage TH, LLC, also requested to utilize as part of their development plan the southerly portion of the Bodenhamer Street right of way. This request required the Public Works Department to authorize the use of the southerly portion of the Bodenhamer Street right of way. The request was approved by the Public Works Department with the requirement that the ADC Sage TH, LLC enter into an encroachment license agreement with the City for the use of this area, which will be developed as part of the project.

With the conditional approval, the applicant designed the site plan and park plan to incorporate the southern excess Bodenhamer Street right of way into the project. The result was the creation of a new public park and additional guest parking within the excess right-of-way (See Attachment 3, Exhibit B). The new public park space is in addition to any required on-site common open space required for the project. It will be built and improved by ADC Sage TH, LLC, and maintained in perpetuity by the Homeowners Association.

Because the Bodenhamer Street right-of-way has been incorporated into the development design, the project provides an additional 13,800 square feet of public open space provided within the excess Bodenhamer Street right-of-way, with amenities that include a tot lot, picnic areas with barbeques, shade structures, and pedestrian pathways. The open space area within the Bodenhamer right-of-way is proposed to be open to the public and to condominium residents; and will be maintained by the Homeowners Association.

ISSUES/ANALYSIS

In accordance with Section 3.44.020 of the Upland Municipal Code (Park acquisition and development impact fee), the park land impact fee is due prior to the issuance of building permits for the approved development. The amount of the required park development impact fee for multi-family residential units is based on the number of units x \$9,182.00 per unit (Quimby fee). Therefore, for this project, the formula, as provided in the Upland Municipal Code is:

$$52 \text{ units} \times \$9,182.00/\text{unit} = \$477,464.00$$

Thus, the total Quimby fee the subdivider would be required to pay to the City is \$477,464.00. However, per Upland Municipal Code Section 3.44.020, the Council may grant the subdivider credit for providing substantial recreation areas within the proposed subdivision that are privately owned and maintained by the future residents of the subdivision and also available to the surrounding general public. The Council's determination shall be based on the recommendations of staff who shall consider the formula for determining the allowed Quimby credit, as well as the criteria for requiring dedication and/or fees.

The ADC Sage TH, LLC has submitted an exhibit providing their line by line estimated cost breakdown to develop the park (See Attachment 3, Exhibit D), including installing furnishings such as park benches, picnic tables, recycling and waste receptacles, fountains, and other key elements that visitors will enjoy. The total estimate to complete development of the park and its related improvements and furnishings is \$381,645.69. This amount does not include \$76,329.14 or 20% for contingency that ADC Sage TH, LLC, had originally requested be added to the construction cost for the park. The Development Services Department is against providing credit for the contingency costs. Contingencies are downside risk estimates that make allowance for the unknown risks associated with a project. Typically, contingencies refer to costs, and are amounts that are held in reserve to deal with unforeseen circumstances and not included in the actual costs for improvements.

The Park Development Impact Fee Credit Agreement is attached and contains the following Exhibits:

- Exhibit A: Legal Description
- Exhibit B: Park Improvement Plan
- Exhibit C: Park Development Task Allocation
- Exhibit D: Park Budget
- Exhibit E: Hazardous Substances
- Exhibit F: Environmental Laws

FISCAL IMPACTS

In that the actual park construction cost is lower than the Park Development Impact Fee (\$381,645.69 versus \$477,464.00) the difference, which is \$95,818.31, will be paid by the Developer to the City as part of their required parkland development impact fee.

Development of the Sage Park Project by ADC Sage TH, LLC, will not create any ongoing cost for park maintenance and utilities based on the fact that the development project's conditions of approval require that the CC&Rs provide provisions for the perpetual maintenance of the park by the Property Owners' Association (POA). POA's maintenance responsibility shall commence at the completion of the Park.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Attachment 1 - Resolution approving Park Development Impact Fee Credit Agreement for Upland 3 Acres, LP

Attachment 2 - Aerial and Site Plan

Attachment 3 - Park Development Impact Fee Credit Agreement with Exhibits:

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UPLAND APPROVING A PARK DEVELOPMENT IMPACT FEE CREDIT AGREEMENT WITH ADC SAGE TH, LLC FOR THE SAGE PARK PROJECT

Intent of the Parties and Findings

(i) ADC Sage TH, LLC, has filed a request for park development impact fee credit for the Sage Park Project; and.

(ii) The Sage Park Project. Is a 13,800 square foot park located within the approved development project plan for 52 residential townhomes. The park will be built by ADC Sage TH, LLC (Developer) as turnkey park in conjunction with the development of residential townhomes in the subdivision in return for Park Impact Fee (PIF) credits; and

(iii) On February 28, 2018, the Planning Commission approved a Conditional Use Permit (CUP 17-07), Site Plan (SP-16-16), Design Review (DR-16-16), Tentative Tract Map 20023 (TT-16-04), and Environmental Review (EAR-0050), to allow development of 52 residential townhomes at 9th Street and Bodenhamer Street (APN# 1046-501-01, 02, 03, & 04, and 1046-511-06, 07, 09, 10, & 11); and

(iv) Park Impact Fee Credits in the amount of \$381,645.69 will be provided for the Developer's construction of a 13,800 square foot park; and

(v) ADC Sage TH, LLC will be required to pay a Park Development Impact Fee in the amount of \$95,818.31.

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

Section 1. The Park Improvements Budget specifications for the Sage Park are hereby approved.

Section 2. The Park Development Impact Fee Credit and Reimbursement Agreement for Sage Park with ADC Sage TH, LLC is hereby approved.

Section 3. The City Manager or the City Manager's designee is authorized to:

- A. Execute the Park Development Impact Fee Credit Agreement.
- B. Accept the payment of \$95,818.31 in Park Development Impact Fees from ADC Sage TH, LLC.

Section 4. 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,

Resolution No.

Page 2

unconstitutional or otherwise void, that determination shall not affect the validity of the remaining sections, divisions, sentences, clauses, phrases of this resolution.

Section 5. 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 14th day of September, 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 this 14th day of September, 2020, by the following vote:

AYES:

NOES:

ABSENT:

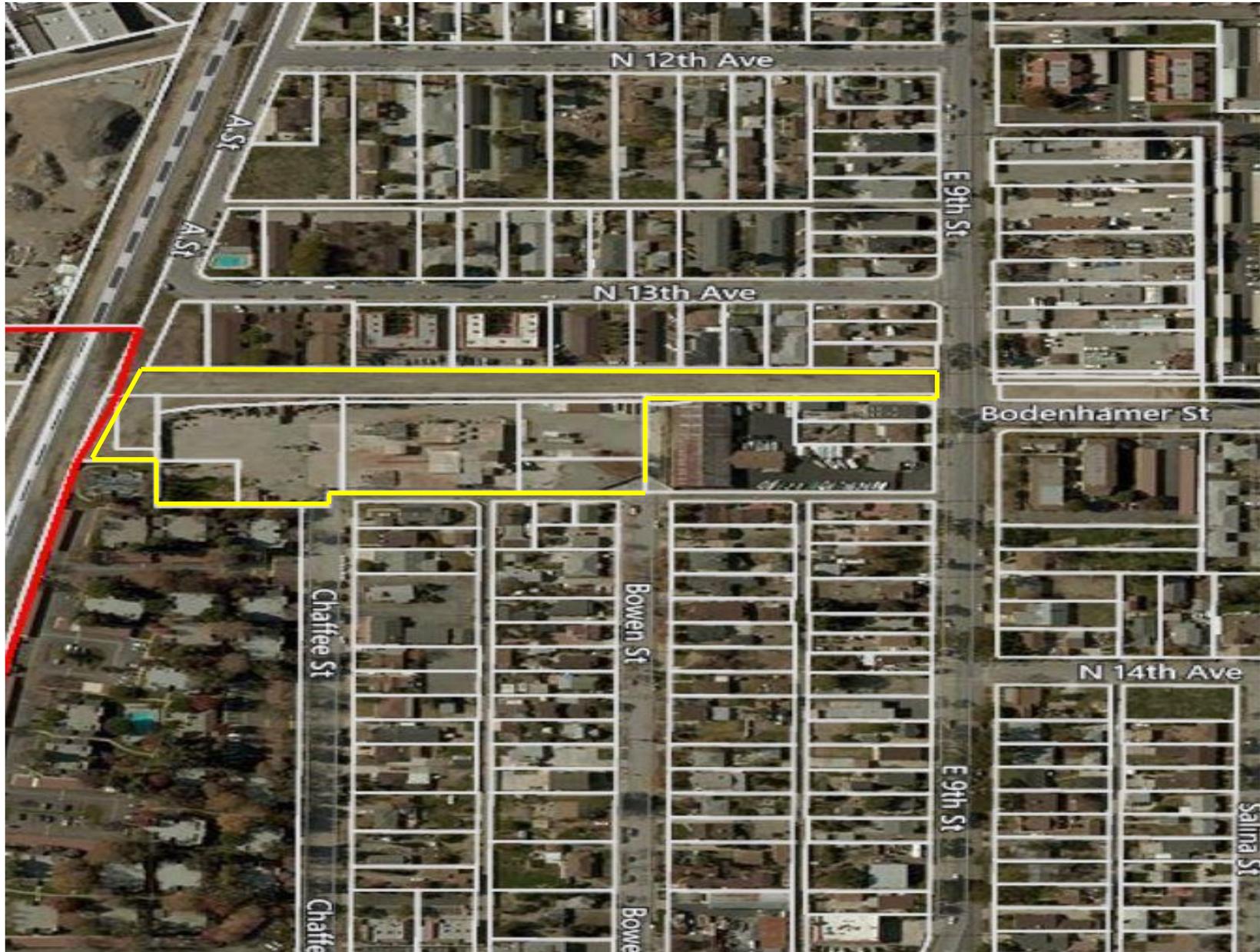
ABSTAINED:

ATTEST:

Keri Johnson, City Clerk

Attachment B

Location Aerial and Approved Site Plan





PARK DEVELOPMENT IMPACT FEE CREDIT AGREEMENT

**RELATING TO DESIGN AND CONSTRUCTION
OF PARK IMPROVEMENTS
FOR
SAGE PARK**

This Park Development Impact Fee Credit Agreement ("Agreement") is entered into on _____, 2020 by and between the CITY OF UPLAND, a general law city and municipal corporation ("City") and ADC SAGE TH, LLC, a Delaware Limited Liability Company ("Developer"), who are collectively referred to as "Parties" and individually as "Party."

BACKGROUND

- A. Developer owns the real property described in Exhibit A ("Property"), which is the site of a development project known as Sage at Ninth Street. City has completed environmental review and issued entitlements to allow for development of this project.
- B. The portion of the property described in Exhibit B ("Park Site"), is subject to an irrevocable offer of dedication for an Exclusive Recreation Easement to City at the time the final subdivision map for the project is recorded to meet the parkland dedication obligation under Upland Municipal Code, Title 3, Chapter 3.44.020 and the dedication is to be accepted by City after completion of the park improvements under this Agreement. The Park Site (approx. 13,800 square feet) is to be known as "Sage Park" (the "Park") for use as a neighborhood park to serve the surrounding residents and occupants of the development project.
- C. Prior to issuance of building permits to develop the Property, the Developer is required to pay Park Development Impact Fees ("Park Impact Fees" or "PIF") in accordance with the Upland Municipal Code, Title 3, Chapter 3.44.020 (the "Fee Ordinance"). The purpose of imposing the Park Impact Fee is to provide funds necessary to design, construct, and install park facilities to meet the needs of, and address the impacts caused by, the residents and employees within the development project.
- D. The Fee Ordinance authorizes credits (and reimbursements if applicable) against the Park Impact Fees owed by a developer who undertakes the design and construction of park facilities that otherwise would be built by the City with the Park Impact Fee revenues.
- E. Developer desires to advance the timing for development of the Park by designing and constructing the park improvements in accordance with the approved Master

Plan for this Park (the "Project"). The required park improvements are specified in Exhibit "B" (the "Project Improvements"). The Project Improvements specified in Exhibit "B" do not include any off-site or on-site utility and street improvements that Developer is required to install as conditions of the tentative subdivisions map(s) for the development project pursuant to the provisions of the City's Subdivision Ordinance (Upland Municipal Code, Title 16).

- F. Development of the Park Site will require various design and other services, which will be performed by the Developer as shown on the "Park Development Task Allocation" set forth in Exhibit "C". The Project will be constructed pursuant to plans and specifications approved by the City. The actual costs of construction of the Park will be based on the result of a bidding process approved by City. However, the total cost of the Project subject to Park Impact Fee credits shall not exceed the budget amount specified in Exhibit "D" ("Park Development Budget") without the City's prior approval.
- G. Subject to the credits against the Park Impact Fees as provided in this Agreement, Developer is willing to perform the design and other services assigned to Developer in Exhibit "C", and construct the Project (collectively "Project Costs"). The "Project Costs" shall mean and include costs based on all City approved budget amount specified in Exhibit "D".
- H. City is willing to provide credits against the Park Impact Fee for the City approved budget amount specified in Exhibit "D", in accordance with the Fee Ordinance and subject to the terms and conditions of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and obligations contained herein, City and Developer hereby agree as follows:

ARTICLE I DESIGN AND CONSTRUCTION OF PARK IMPROVEMENTS

1.0 Background Incorporated. The foregoing information contained in the Background is true and correct, and is part of this Agreement.

1.1 Design and Construction. Developer will design and construct the Project Improvements at the Park Site in accordance with the terms of this Agreement and convey the completed Park, along with all interests in real property necessary for the operation, maintenance, repair, and ownership thereof, to the City. The interest in real property to be conveyed shall be a fee interest in the land, unless special circumstances allow for City's acceptance of an Exclusive Recreational Easement, title to the Project Improvements, and title to any and all access

easements necessary for the operation, maintenance, and repair of the Park. Developer shall complete the construction of the Project Improvements at the Park Site no later than January 31, 2021; or provide a letter of credit or performance bond as contemplated in Article III of this Agreement ("Completion Date").

1.2 Project Design and Final Budget. The design-related services that may be performed either by Developer or City as specified in Exhibit "C" include preparation of a Master Plan for the Park, design development, and construction bid document preparation, as well as environmental review, if additional studies are required before the Project can be constructed. The Developer's selection of a landscape architect(s) to perform design services that are assigned to Developer in Exhibit "C", shall be subject to approval by a City Arborist in the City's Public Works Department.

1.2.1 Project Plans. Developer has arranged for the preparation of the design plans and technical specifications (the "Project Plans" or "Plans") for construction of the Project. At a minimum, Developer shall submit the Project Plans to the Planning Division and Public Works Department at the 35, 75, and 100-percent design phases of completion. The Project Plans shall include all of the Project Improvements as listed in Exhibit "B". Developer covenants that the Project Plans have been designed and prepared in compliance with the City's Standard Specifications. The City agrees to use its best efforts and due diligence to review, provide comments regarding any necessary corrections, and approve the Project Plans in a prompt and timely manner. The City's staff approval shall not be unreasonably withheld or conditioned.

Developer must obtain written approval of the Project Plans by all appropriate public entities or utility companies which will own, operate and/or maintain any portion of the utility improvements that are to be installed as part of construction of the Project. Developer covenants that the Project Plans will be designed and prepared in accordance with the applicable utility company requirements.

Developer shall cause all contracts relating to preparation of the Project Plans to require the design and engineering consultants to fully and without limitation indemnify, defend and hold harmless City and its elective and appointive boards, commissions, officers, employees and agents, from and against any and all Claims (as defined in Section 2.6) arising by reason of any death, bodily injury, personal injury, property damage or violation of any law or regulation to the extent arising from any actions or omissions of such professional in connection with the design of the Park by said consultant, or any other person or entity employed by or acting as the authorized agent for said consultant. The aforesaid indemnity and hold harmless agreement shall not be limited or waived in any way based upon the fact that City

has prepared, supplied, or approved the Project Plans, or has inspected or failed to inspect construction of the Park.

1.2.2 Environmental Review. If the Project was not subject to prior environmental review as part of the development project, if additional studies are required to comply with adopted mitigation measures, or if there is new information regarding the scope of the Project or the Park Site conditions triggering the need for additional environmental review; in that event a consultant retained by City and/or City staff shall prepare the environmental documentation required for development of the Park Site to comply with CEQA. If authorized by City, the Developer may arrange for preparation of such environmental documentation, which shall be subject to review and approval by the City in its sole discretion. The Developer's selection of a consultant(s) for this purpose shall be subject to approval by the Planning Division and Public Works Department and limited to the consultants listed in the City's Environmental Services Department's prequalified list if the applicable discipline is included on that list. The Completion Date set forth in this Agreement is based on the assumption that no further environmental documentation will be needed before construction of the Project can commence. If additional environmental documentation is determined by the City to be needed, then the Completion Date shall be extended to account for the time required to complete the necessary environmental documentation and associated approvals.

1.2.3 Planning Division and Public Works Department Approval. Planning Division and Public Works Department approval shall be evidenced by the signature of the Landscape Architect on the subject document. The Planning Division and Public Works Department may withhold approval of any document until Developer has obtained any and all required approvals from other City departments or other public entities or utilities. The review of various documents by the Planning Division and Public Works Department and/or other City departments also may include issuing public noticing and seeking public review and comments on the proposed Master Plan and the final Project Plans as deemed necessary or appropriate by City.

1.2.4 Final Budget. City and Developer have agreed to the Park Development Budget set forth in Exhibit "D" (collectively the "Final Budget").

If the scope of the Project Improvements are to be modified based on mutual agreement of the Parties, a revised Exhibit "B" shall be attached to this Agreement. If City agrees to fund a portion of the Project Costs after execution of this Agreement, that obligation and the timing for payment shall be set forth in amendment to this Agreement executed by both Parties before the construction contract is awarded, or thereafter if the Project Costs increase due to change orders per Section 1.7.

1.3 Construction. Developer covenants that the Project will be constructed in compliance with the approved Project Plans, and any modifications thereto required by City in accordance with this Agreement, and applicable technical specifications in the City Public Works Construction Standard Specifications and Improvement Standards in effect when the City approves this Agreement, subject to change orders issued in accordance with the provisions of Section 1.7 below. Prior to commencement of grading or any related construction work, Developer will pay the applicable fees and obtain all permits and approvals required for such work from the City and from all applicable federal, state or local agencies.

1.3.1 Representatives. Developer shall provide a site construction superintendent ("Site Superintendent") and the City shall provide a project manager ("Project Manager") who will serve as their respective points of contact with respect to construction of the Project. The designated Site Superintendent and Project Manager are identified on Exhibit F, and the designations may be changed by written notice from either Party.

The Site Superintendent will be on-site as necessary and will generally be available by telephone or otherwise at all reasonable times. The Site Superintendent shall have complete authority over Developer's construction contractors and subcontractors, with authority to order stoppage of work and minor changes to the work in order to comply with the Project Plans.

The Project Manager shall have complete authority over the City's construction inspectors, with authority to determine whether the work complies with the Project Plans. The Project Manager shall also have authority to order minor design changes to meet unanticipated field conditions, provided that the same are consistent with the Project Plans, and subject to the provisions of Section 1.3.3 below.

1.3.2 Commencement and Completion of Project. Developer shall require its contractor to commence construction of the Project no later than three (3) months after contract award, unless an extension is approved by the Planning Division and Public Works Department, and thereafter shall insure that the contractor diligently works to complete the Project construction in a timely and efficient manner on or before the Completion Date. If the Developer's contractor fails to commence work and/or complete the Project as required herein, and fails to remedy such delay within thirty (30) days after a written notice thereof from City to Developer (subject to the provisions of Section 5.3), City in its discretion may: (i) direct Developer to take action necessary to accelerate the Project to remedy the delay, and the Developer's acceleration costs, if any, shall not be subject to reimbursement or credit hereunder; or (ii) direct Developer to stop working on the Project so that the City may seek other means to complete construction of the Project. If City directs the work to be stopped, any costs incurred by Developer, its contractors or

subcontractors after receiving such direction from City shall not be eligible for reimbursement or credit for the construction costs incurred unless the City can complete the work within the remaining amount of the Final Budget with the contractor's or Developer's performance bond proceeds (per Section 3.7 below), and/or the cash deposit or letter of credit funds (per Section 3.5 below). If Developer is directed to stop working on the Project, Developer shall take any and all actions necessary to convey to and vest in City full, complete, and clear title in the Project Improvements, and all of the underlying real property interests (easement and/or fee), including those necessary for maintenance and access.

1.3.3 Inspection. Developer covenants that City, and any other public entities or public utilities to whom any portion of the Project Improvements will be conveyed, will be permitted to inspect the Project during construction and shall have access to the Park Site for this purpose at all times. City agrees to make City inspectors available for inspection of the Project work during construction within forty-eight (48) hours after receipt of the request from Developer or its contractor (Saturdays, Sundays and Holidays excepted). Should a City inspector find any nonconformance or noncompliance with the Project Plans or the bid document, the Project Manager shall notify the Site Superintendent of such nonconformance or noncompliance. Thereafter, the Project Manager and the Site Superintendent, in consultation with the City building inspector, shall jointly determine the corrective action required. If the Project Manager and the Site Superintendent are unable to agree upon the corrective action, the Project Manager shall have authority to make such determination, with Developer having a right of appeal to the Director of the Parks and Recreation Department or to City Manager who may delegate his or her authority over such matter.

1.3.4 Prevailing Wages. Developer shall require all of its contractors and subcontractors to pay their construction workers not less than the general prevailing rate of wages for such workers' craft or trade, as determined by the Director of the Department of Industrial Relations at the time that Developer issues the solicitation for bids for the Project (pursuant to Labor Code Section 1773). The costs used in the Final Budget factor will include the cost of Prevailing Wages.

1.4 Performance and Payment Bonds. Developer is required to obtain performance and payment bonds from its prime contractor in the full amount of construction contract and name City as an additional obligee. The payment bond may be released upon expiration of the stop payment notice claim period after recording of the Notice of Completion. On Final Completion (defined in Section 2.1), the amount of the performance bond may be reduced to reflect the value of the maintenance work to be performed by Developer during the one (1)-year warranty period.

1.5 Insurance. Prior to the commencement of construction of the Project, Developer shall furnish to City a certificate(s) of insurance as set forth below for the

Project construction period until Final Completion, as well as through the end of the warranty maintenance period, with an insurance carrier acceptable to City. The Commercial General Liability and Automobile policy certificates shall include an endorsement naming the City as an additional insured and preclude the cancellation or reduction in coverage before City receives at least 10 days prior notice. The policy holder may be the Developer and/or its construction contractor for the construction period and Developer and/or its landscape maintenance contractor for the warranty maintenance period. The minimum insurance coverage shall be as follows: (i) Commercial General Liability insurance in the amount of not less than a one million dollars per occurrence, (ii) Automobile Liability insurance in the amount of not less than a one million dollars for owned and non-owned vehicles, and (iii) workers compensation insurance with a waiver of subrogation. If Developer fails to maintain, or require its contractor to maintain, such insurance coverages, City may take out insurance and recover the amount of the premiums from Developer or retain such amount from credits due Developer under this Agreement. Failure of City to obtain such insurance shall in no way relieve Developer from any of its responsibilities under this Agreement.

1.6 Contracts and Change Orders. Developer shall be responsible for entering into all contracts and issuing any change orders required for the construction of the Project.

1.7 Construction Submittals. Developer shall provide the Project Manager, and any construction inspector upon demand, copies of material testing reports, requests for substitution of materials or equipment, soil and Hazardous Substances (defined in Exhibit "E") testing and monitoring reports, material testing reports, and all change order requests and all other required contractor submittals within (10) days from the date of Developer's receipt of such documents.

ARTICLE II PARK ACCEPTANCE, CONVEYANCE AND MAINTENANCE

2.0 Completion. When construction of the Project is substantially complete, Developer shall provide written notice to the City requesting final inspection. The notice shall not be issued until the turf has been established, which is generally 30 days for sod and 90 days for hydroseeding. Within ten (10) business days following the date of receipt of Developer's written notice, the City shall conduct a final inspection of the construction of the Project ("Final Inspection"). At the Final Inspection, Developer, or its contractor, shall demonstrate and instruct City personnel in the operation, adjustment, and maintenance of all equipment or systems included in the Project.

2.1 Final Inspection. If during the Final Inspection City determines that the Project has not been fully completed in accordance with the Project Plans, City

shall prepare a punch list of all items to be completed and send the list to Developer within ten (10) business days following the date of the Final Inspection. Developer shall arrange for the completion and repair of the punch list items to occur in a prompt and diligent manner. Upon completion of the punch list work, Developer shall send City a request for another Final Inspection and within ten (10) business days following the date of receipt of Developer's written notice, City shall conduct another Final Inspection. If City determines that the punch list work is complete, City shall promptly deliver a certificate of "Final Completion" to Developer and record a Notice of Completion. If the City determines that the punch list work is not complete, then City and Developer shall repeat the Final Inspection/punch list procedures specified in this Section 2.1 until the successful completion of the punch list work.

2.2 As-Built Drawings. Within ten (10) business days after the Final Completion is issued, Developer shall provide City with a Mylar copy of "as-built" record drawings for the Project with certification by a licensed landscape architect or civil engineer in the State of California as to accuracy and completeness. Developer's submission of complete, updated as-builts shall be a prerequisite to Final Acceptance.

2.3 Release of Liens. Prior to issuance of the Final Acceptance certificate, Developer shall provide, in form satisfactory to the City, evidence that all of the costs of the Project have been fully paid. Upon request of the City, Developer shall make a good faith effort to obtain lien releases under California Civil Code Section 8138 to assure that payment of any outstanding claims of the Developer's contractors, subcontractors, and suppliers have been paid.

2.4 Final Acceptance. The "Final Acceptance" of the Park Improvements shall occur after a successful Final Inspection, issuance of the Final Completion certificate, submittal of all certified payroll records, the period to file a stop payment notice has expired, and the as-built drawings have been submitted. City's acceptance of the Park Site dedication and the Project Improvements shall not be unreasonably withheld, delayed, or conditioned. After City issues notice to the Developer of Final Acceptance, the Park Site as improved shall be transferred as the property of City by Developer in accordance with the Property's approved subdivision map or other entitlement conditions, by either recording of a certificate of acceptance of the Irrevocable Offer of Dedication set forth on the final subdivision or parcel map, or execution of a grant deed (or easement if applicable). Developer shall promptly take any and all actions necessary to prepare legal descriptions, obtain title reports, and convey and vest full, complete, and clear title in the Park Site (subject to utility easements) to City in accordance with the Property's approved subdivision map or other entitlement conditions, including those interests necessary for maintenance and access. The date on the certificate of acceptance or date of the grant deed (or easement if applicable) shall be the date that title to the Park Site and the Park Improvements has been transferred from Developer to City.

2.5 Park Maintenance. Developer shall maintain the Park, including all of the Project Improvements, landscape maintenance, and trash pickup, at Developer's expense during the one (1)-year warranty period specified in Section 2.7, and City agrees that this Agreement will serve as a right of entry license for Developer, or its agents, to enter the Park for maintenance and warranty work. Thereafter, under a separate maintenance agreement, the Sage at Ninth Street Homeowners Association will be responsible for maintenance of the Park. For purposes of this Section 2.5, "park maintenance" does not include capital repairs or restoration necessitated by vandalism or acts of God. Maintenance by the Developer shall meet the Public Works Department Specifications.

2.6 Indemnification. Developer shall indemnify, defend and hold harmless City and its officers, employees and agents from and against any and all liabilities, penalties, losses, damages, costs, expenses (including reasonable attorneys' fees, whether for outside counsel or the City Attorney), causes of action, claims, or judgments (collectively, "Claims") arising by reason of any death, bodily injury, personal injury, property damage or violation of any law or regulation arising from any actions or omissions in connection with the design, construction, operation, repair and/or maintenance of any portion of the Park by Developer and/or its officers, employees, agents, contractors, subcontractors, or any other person or entity employed or hired by Developer; but excluding Claims alleging sole active negligence or willful misconduct of City and its officers, employees and agents.

Nothing in this Agreement shall be construed as a waiver by City of any immunity or defense it may have relating to any such Claim, including, without limitation, immunity or defenses relating to design review and construction inspection. With respect to the acts or omissions of the Developer's agents, Developer's indemnity obligation shall be limited to the acts or omissions of Developer's authorized agents acting within the course and scope of such agency.

2.6.1. Indemnification Regarding Hazardous Substances.

Developer further agrees and covenants to, and shall fully indemnify, defend and hold harmless, City and its officers, employees and agents from and against any and all Claims arising by reason of any death, bodily injury, personal injury, property damage or damage to the environment to the extent arising from any use, storage, treatment, transportation, release or disposal, on, about or around the portion of the Developer Property on which the Park Site, or the easements which are required to be or which are transferred to City are located, of any Hazardous Substances as defined in Exhibit G occurring prior to the date the Park Site and the associated real property interests are accepted by City. The foregoing indemnification obligation shall not apply to the incorporation of building materials as part of the Project Improvements, provided such incorporation is performed in accordance with applicable laws and is not in violation of Environmental Laws (defined in Exhibit "F") in effect at the time of construction.

2.6.2. Duration of Indemnification Obligations. Except for the indemnification for Hazardous Substances as set forth above, the indemnification obligations in this Section 2.6 shall terminate two years after the expiration of the warranty period defined in Section 2.7.

2.6.3. Additional Provisions Regarding Indemnification Obligations. City does not, and shall not be deemed to, waive any rights against Developer which it may have by reason of the aforesaid indemnity and hold harmless agreements because of any insurance coverage provided pursuant to Section 1.5. The scope of the aforesaid indemnity and hold harmless agreements is to be construed broadly and liberally to provide the maximum coverage for City in accordance with their terms, but only to the extent allowed pursuant to Civil Code section 2782. No specific term or word contained in this section shall be construed as a limitation on the scope of the indemnification and defense rights and obligations of the Parties unless specifically so provided.

Except as may otherwise be specifically and expressly provided in this Section 2.6 relating to Claims based upon allegations of the sole active negligence or willful misconduct on the part of City, the aforesaid indemnity and hold harmless agreements shall not be limited or waived in any way based upon the fact that City has prepared, supplied, or approved the Project Plans, or has inspected or failed to inspect construction of the Project Improvements. Developer shall include or cause to be included the following language in all contracts or agreements issued by Developer relating to the design, construction, operation, repair, and maintenance of the Project, provided however, such indemnity may be limited if required by the provisions of Civil Code section 2782 as follows: "Contractor agrees and covenants to, and shall, fully indemnify, defend, and hold harmless the City of Upland and its officers, employees and agents from and against any and all liabilities, penalties, losses, damages, costs, expenses (including reasonable attorneys' fees, whether for outside counsel or the City Attorney), causes of action, claims or judgments arising by reason of any death, bodily injury, personal injury, property damage or violation of any law or regulation to the extent arising from any actions or omissions in connection with the design, construction, operation, repair and/or maintenance of any portion of the Park by Contractor and/or its officers, employees, agents, contractors, subcontractors, or any other person or entity employed or hired by Contractor."

2.6.4 Waiver by Developer. In addition to Developer's obligations to indemnify, hold harmless, and defend City as set forth above, Developer, and on behalf of its assigns, transferees, and successors, hereby waives and releases any and all claims of whatever sort or nature that may arise against City or its officers, employees and agents in connection with Developer's design, construction, operation, repair and/or maintenance of the Park. This waiver and

release shall include any and all claims arising under Section 1542 of the California Civil Code, which provides that:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

Thus, notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and complete release, the Parties expressly acknowledge that this Agreement is intended to release and extinguish, without limitation, all Claims as described in this Section 2.6 which the Parties do not know or suspect to exist. The provisions of this Section 2.6.4 shall survive expiration of this Agreement.

2.7 Warranty. Developer hereby warrants that the Project Improvements will be free from any defects in materials and workmanship for a period of one (1) year following the date of Final Acceptance. Notwithstanding the foregoing, Developer's warranty excludes damages or defects caused by: (i) ordinary wear and tear of the Project Improvements under normal usage, (ii) abuse or neglect by other persons, (iii) vandalism and acts of God, and (iv) City employees and agents. Nothing herein shall be construed to limit any other warranties City may have from the manufacturer of any materials used in the Project Improvements, but the warranty contained in this Section 2.7 shall be the exclusive warranty of Developer, and all other express or implied warranties are expressly disclaimed.

Should any failure of any of the Project Improvements, or any portion thereof, occur within the one (1)-year warranty period, Developer shall promptly cause the needed repairs to be made without any expense or cost to City. Warranty work is distinguished from the twelve months of landscape maintenance that Developer will be performing during the maintenance period per Section 2.5. City is hereby authorized to make repairs if Developer fails to make, or undertake with due diligence, the necessary repairs after it is given written notice of such failure; provided that City shall provide Developer with an opportunity to meet and confer regarding such warranty work and Developer shall be given a reasonable opportunity to perform such warranty work within a time frame and on conditions which are reasonable under the circumstances, prior to City making any temporary or permanent repairs or replacements during the warranty period. In case of an emergency when delay in undertaking the repairs could cause a safety hazard to the public, City may make the necessary repairs without prior notice to Developer at Developer's cost.

In all cases where City has had to take action to undertake the repairs, Developer shall reimburse City for its actual and reasonable costs and expenses,

including direct and indirect costs, within thirty (30) days from the date of the invoice which includes all supporting documentation. If Developer fails to make payment, City, at its election, may deduct the outstanding amount owed by reducing the amount of credits pursuant to Section 3.4.

ARTICLE III PARK IMPACT FEE CREDITS

3.0 City's Costs. In addition to Developer's costs to plan, design and construct the Park Improvements as set forth in this Agreement, Developer shall also fund City staff Project costs to review and approve conceptual plans, the Master Plan, Project Plans, bid documents, contract award, and inspect the work.

Within thirty (30) days following the delivery to Developer of a fully executed original of this Agreement, Developer shall pay City as a deposit the amount of City's estimated staff Project costs.

The Parties acknowledge and agree that the amount of the City staff Project costs is only a good faith estimate and that City does not guarantee that this amount will be sufficient to cover City's staff costs to perform the tasks set forth in Exhibit "C". If during the term of this Agreement City determines that additional funds will be required to complete the City tasks, City will notify Developer and the Parties shall meet to determine whether to amend the Final Budget and increase the amount of credits to be issued once Developer pays the additional costs. Within thirty (30) days after Final Acceptance, City shall return to Developer whatever balance remains, if any, of the funds paid by Developer for City's staff costs under this Agreement and the amount of credits shall be adjusted accordingly.

3.1 Issuance of Credits. Based on the initial Park Development Budget set forth in Exhibit E, if Developer completes all of its obligations under this Agreement, under the Fee Ordinance Developer will be eligible for a total value of \$381,645.69 in Park Impact Fee Credits. The Credits will be applied to the Park Impact Fee due at the time each building permit is issued for development of the Property.

3.2 Advancement of Credits. Developer may request an advancement of additional Credits prior to Final Acceptance of the Park; however, Developer must post security and the amount of the Credits requested shall not exceed the total estimated amount of remaining expenditures for the Project as set forth in the Final Budget.

3.3 Allocation of Prepaid Park Impact Fees and Reimbursement. Park Impact Fees may have been paid for building permits to develop the Property by Developer and/or third-party builders in advance of the execution of this Agreement. If the fees collected by City are to be applied to development of this Park as provided

in Section 1.2.4, Developer shall be entitled to credit for the Park construction costs in an amount equal to an allocation of the Park Impact Fees previously paid,.

3.4 Letter of Credit Requirements. If Developer requests advancement of Credits before Final Acceptance of the Park, the Irrevocable Standby Letter of Credit ("letter of credit") must meet all of the following conditions:

(a) The letter of credit must be in a form acceptable to the City Attorney's Office, in that office's sole discretion, and, by its express terms, must be unconditional and absolutely free of defenses on the part of Developer and the financial institution that issues it. The financial institution that issues the letter of credit must be a commercial bank lawfully operating within the United States and acceptable to the City Treasurer's Office, in that office's sole discretion.

(b) The letter of credit shall not be subject to expiration, or shall by its express terms not be subject to expiration without written notice to the City given not less than thirty (30) days prior to the date of expiration. The letter of credit must provide that City may draw upon it by presenting one or more site drafts, each accompanied by a signed-and-dated demand letter worded substantially as follows:

The [title] of the City of Upland, demand payment of the sum of _____ U.S. Dollars (\$_____) representing a partial/full draw upon the amount of your Irrevocable Letter of Credit No. _____. This sum represents payment due to the City under the credit agreement between ADC Sage TH, LLC, and City that is dated _____, 20__, and designated by the City as Agreement No. _____.

(c) Until the date of Final Acceptance, Developer must replace the letter of credit (and any replacement of letter of credit) at least five (5) working days before its expiration date. The replacement letter of credit must be identical to the letter of credit being replaced, except that it must have an expiration date that is no sooner than 12 months following the expiration date of the letter of credit being replaced.

3.5 Drawing Upon Cash or the Letter of Credit. City may draw on the cash in the Developer's Prepaid Park Impact Fee Account or the letter of credit as follows:

(a) If Developer fails to complete construction of the Project as required by this Agreement, then the City will have the absolute right to draw upon the cash or letter of credit in an amount City determines, in its sole discretion, to be necessary to complete the Project.

- (b) If repayment is due under Section 3.5 and Developer does not repay City within the time specified, then City will be entitled to draw against the cash or letter of credit in an amount equal to the repayment amount then due. A draw under this Section 3.4 will be a partial draw under the letter of credit and will leave the balance of the letter of credit intact.
- (c) If Developer fails to provide City with a replacement letter of credit within the time specified in Section 3.5, then City will be entitled to draw against the letter of credit in an amount equal to the total amount of Credits that Developer has received under this Agreement as of the time of the draw. If City makes a draw under this Section 3.5(c), then—
 - (1) City will hold the amount drawn, with no obligation to pay Developer interest, until (i) City determines that Developer cannot or will not complete the Project as required by this Agreement (in which event City may use the amount drawn to complete the Project), or (ii) Developer completes the Project in full and City formally accepts the Project (in which event City will return the amount drawn to Developer); and
 - (2) City will not be obligated to issue additional Park Impact Fee Credits under this Agreement unless and until (i) Developer completes the Project in full and City issues Final Acceptance, or (ii) Developer furnishes City with a replacement letter of credit that complies with Section 3.4.

3.6 Release of Letter of Credit. The letter of credit shall not be released or reduced until the Developer completes the Project in full and the City issues Final Acceptance. To the extent that a portion of the letter of credit is to secure the provision of park maintenance during the warranty period in lieu of a warranty/maintenance bond, the letter of credit shall not be released until a new letter of credit, acceptable in all respects by the City at its sole discretion, is provided to City by Developer in the dollar amount specified for maintenance in the Final Budget or as determined by City. The maintenance letter of credit shall not be released until such time as the warranty obligation has been fully satisfied, as determined by the City in its sole discretion.

3.7 Performance Bond Requirements. If Developer requests advancement of Credits before Final Acceptance of the Park, in lieu of cash or a letter of credit Developer may obtain a Performance Bond as security for completion of the Park construction by insuring sufficient funds will be available to pay the construction contractor if Developer defaults in its obligation to fund the Park construction in lieu of paying the Park Impact Fees. The Performance Bond amount shall be not less than one hundred percent (100%) of the construction contract amount. The bond must be

issued to the Developer by a surety insurer admitted and duly authorized to transact business in the State of California with not less than an A/VIII rating by A.M. Best. The performance bond must name City as an obligee and be in the form provided as Exhibit "G", which is attached and incorporated herein by this reference.

ARTICLE IV ASSIGNMENTS OF CREDITS

4.0 Assignment Permitted. Developer may assign all or a portion of the Credits issued under this Agreement to third parties, which may then use the Credits against the Park Impact Fee to be assessed at the time of building permit issuance, if the third party's development project is located within the Property or within the designated service area for the Park Site, subject to and in accordance with the terms of this Article. All Credit assignments require City's prior written consent, which consent shall not be unreasonably withheld or delayed. Developer acknowledges and agrees that City shall have the discretion to deny an assignment of Credits under this Agreement on the basis of excessive fractionalization of the available Credits, provided City shall not deny an otherwise qualified assignment that represents at least ten percent (10%) of Developer's Credit rights. In addition, City shall be entitled to calculate and assess as a condition of its consent of any such assignment, a reasonable fee for the review, approval, and administration thereof.

4.1 Required Assumption by Assignee. In addition to the approval of the City, any assignment of Credits shall be subject to an express written assumption by the assignee, whereby said assignee agrees to be subject to all the provisions of this Agreement with respect to the application and interpretation of the Fee Ordinance and the Park Impact Fee Credit provisions. The assignment agreement shall contain a provision that Developer and the assignee agree to fully and completely indemnify and defend City from any liability relating to the assignment of rights and any disputes between the Developer and its assignee.

4.2 Disputes Between Developer and Assignee. Developer and any assignee thereof acknowledge and agree that in the event of any dispute between Developer, an assignee, and/or the City regarding the legal ownership of the rights to the Credits, City may withhold any cash reimbursement and may disallow the use of any Credits unless and until either: (i) all Parties to the dispute have executed an agreement in a form acceptable to the City Attorney specifying the legal ownership of such rights and the manner in which such rights will be exercised, which agreement shall contain acceptable indemnification and defense provisions, or (ii) one of the parties has obtained a court order determining as against the disputing party(ies) the legal ownership of such rights and the manner in which such rights will be exercised.

4.3 Credit Policies and Procedures. Developer, for itself and its successors in interest to the Property, acknowledges that the Credit rights are held by the Developer and such rights do not run with the Property ownership. The Credits must be assigned in accordance with this Article 4, even between affiliated entities of Developer. In addition, City policies and procedures relating to assignment and application of Credits, as they may be amended, shall apply to the use of the Credits by Developer and its assigns in the future. However, the terms and conditions of this Agreement shall prevail in the event of any conflict with the City policies and procedures.

ARTICLE VI MISCELLANEOUS

5.0 Entire Agreement. This Agreement represents the entire agreement of the Parties relating to the subjects covered by this Agreement. No oral or written statement, representation, or agreement not included within this Agreement shall be of any force or effect whatsoever, and shall be deemed to have been superseded by the terms hereof.

5.1 Notices. Any demand upon or notice required or permitted to be given by one Party to the other Party shall be in writing. Except as otherwise provided by law, any demand upon or notice required or permitted to be given by one Party to the other Party shall be effective (a) on personal delivery, (b) on the second business day after mailing by certified or registered United States Mail, return receipt requested or (c) on the succeeding business day after mailing by Express Mail or after deposit with a private delivery service of general use (e.g., Federal Express) postage or fee prepaid as appropriate, addressed to the Party at the address shown below:

If to City: City Manager
 City of Upland
 460 North Euclid Avenue
 Upland, CA 91786

If to Developer: Matthew Livingston
 ADC Sage TH, LLC
 1800 S Brand Blvd; Suite 203
 Glendale CA 91204

5.2 Alternative Dispute Resolution. Any dispute or controversy between the Parties to this Agreement relating to the interpretation and enforcement of their rights and obligations may be resolved by mediation or arbitration by a Party serving a Notice of Dispute ("Notice") on the other Party. The Notice shall describe the nature of the dispute and specify whether mediation or non-binding arbitration procedure is preferred. The Parties shall first attempt in good faith and use their best efforts to reach agreement on the matters in dispute.

If mediation is requested in the Notice, within fifteen (15) days of the mailing of the Notice, the Party serving the Notice shall attempt to employ the services of a third person ("Mediator") mutually acceptable to the Parties to conduct such mediation. The cost of the Mediator shall be borne equally by the Parties. The mediation shall take place within thirty (30) days after the appointment of the Mediator. If the Parties are unable to agree on a Mediator, then the dispute may be referred to arbitration.

The Party serving the Notice may request that the dispute be resolved by arbitration, which shall be conducted by Judicial Arbitration and Mediation Services (JAMS). The arbitration shall be held and conducted in Upland, California before an arbitrator selected by mutual agreement of the Parties. If agreement is not reached on the selection of an arbitrator within fifteen (15) days after referral to arbitration, then such arbitrator shall be appointed by the Presiding Judge of the Superior Court of Upland County as soon as practicable. The arbitration shall comply with the following requirements:

(a) Any referral to arbitration shall be barred after the date that institution of legal or equitable proceedings based on the subject controversy or dispute would be barred by the applicable statute of limitations.

(b) The arbitrator appointed must be a former or retired judge or an attorney with at least ten (10) years' experience in real property, commercial, and municipal law.

(c) The arbitrator shall prepare in writing and provide to the Parties factual findings and the reasons on which the decision of the arbitrator is based.

(d) The matter shall be heard by the arbitrator and the final decision by the arbitrator must be made within ninety (90) days from the date of the appointment of the arbitrator. The arbitration hearing date shall be established by the arbitrator, which date must be within such period of time that the arbitrator, in his or her sole discretion, determines to be sufficient to meet the foregoing time constraints.

(e) Costs and fees of the arbitrator and court reporter, if any, shall be borne equally by the Parties. The cost of preparing any transcript of the proceedings shall be the responsibility of the Party or Parties requesting such preparation.

(f) The award or decision of the arbitrator shall be non-binding.

(g) The provisions of Title 9 of Part 3 of the California Code of Civil Procedure, commencing with Section 1282 and including Section 1283.05, and

successor statutes, permitting, among other things, expanded discovery proceedings shall be applicable to all disputes that are arbitrated under this Section 5.2.

5.3 Enforced Delay, Extension of Times of Performance. In addition to specific provisions of this Agreement, performance by either Party hereunder shall not be deemed to be in default where delays or default are due to war, acts of terrorism, insurrection, strikes, walkouts, riots, energy shortages, energy rationing, floods, drought, rain, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by other governmental entities, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation, or similar bases for excused performance. If written notice of such delay is given to City within thirty (30) days of the commencement of such delay, an extension of time for such cause shall be granted for the period of the enforced delay, or for such longer period as may be mutually agreed upon.

5.4 Fee Ordinance. The Parties rights and obligations hereunder shall at all times be governed by and subordinate to the provisions of the City Code in effect on the date that this Agreement is approved and executed by both Parties.

5.5 City Attorney Preparation Fees. Developer shall pay to City the sum of _____, representing the costs associated with the City Attorney's services in negotiating this Agreement.

5.6 Exhibits. All exhibits attached hereto are hereby incorporated by reference herein.

5.7 Relationship Between Parties. Developer and the City agree that (a) the relationship between them is, is intended to be and shall at all times remain, in connection with the transactions contemplated by this Agreement, that of a private developer as to Developer and a public agency as to the City and (b) no Party is intended to be or shall be construed as a partner, joint venturer, alter ego, manager, controlling person or other business associate or participant of any kind of any other Party or any of its affiliates and no Party intends to ever assume such status.

5.8 No Third Party Beneficiaries. This Agreement shall not be deemed to confer any rights upon any individual or entity, which is not a Party hereto, and the Parties hereto expressly disclaim any such third-Party benefit.

5.9 Governing Law and Venue. This Agreement is entered into and shall be construed and interpreted in accordance with the laws of the State of California. Venue of any litigation arising out of or connected with this Agreement shall lie exclusively in the state trial court located in Upland County in the State of California, and the Parties consent to jurisdiction over their persons and over the subject matter

of any such litigation in such courts, and consent to service of process issued by such courts.

5.10 Counterparts and Digital Signatures. This Agreement may be executed in counterparts, which when taken together shall constitute a single signed original as though all Parties had executed the same page. A facsimile or other electronic signature shall be deemed an original signature.

5.11 Severability. If any portion of this Agreement shall become illegal, null, void or against public policy for any reason, or shall be held by any court of competent jurisdiction to be illegal, null, void or against public policy, the remaining portions of this Agreement shall not be affected thereby and shall remain in force and effect to the full extent permissible by law.

5.12 Authority to Bind. Each person signing this Agreement warrants that it is authorized to bind its respective Party on whose behalf they sign.

5.13 Time is of the Essence. Time is of the essence in the performance of each and every covenant and condition of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first written above.

CITY OF UPLAND,

DEVELOPER: ADC SAGE TH, LLC

By: _____
Rosemary Hoerning
City Manager

By: _____
Matthew Livingston
Title:

APPROVED AS TO FORM:

By: _____
Steven Flower
Interim City Attorney

ATTEST:

By: _____
Keri Johnson
City Clerk

Exhibit "A"
Legal Description

EXHIBIT "A"
BODENHAMER STREET
PARK AREA

LEGAL DESCRIPTION:

THAT PORTION OF BODENHAMER STREET LYING SOUTH OF NINTH STREET AND ADJACENT TO LOT 1 TRACT NO. 20023, IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA AS PER MAP RECORDED IN BOOK 355, PAGES 45 THROUGH 47 OF MAPS, RECORDS OF THE COUNTY RECORDER OF SAID COUNTY AND A PORTION OF SAID LOT 1, DESCRIBED AS FOLLOWS:

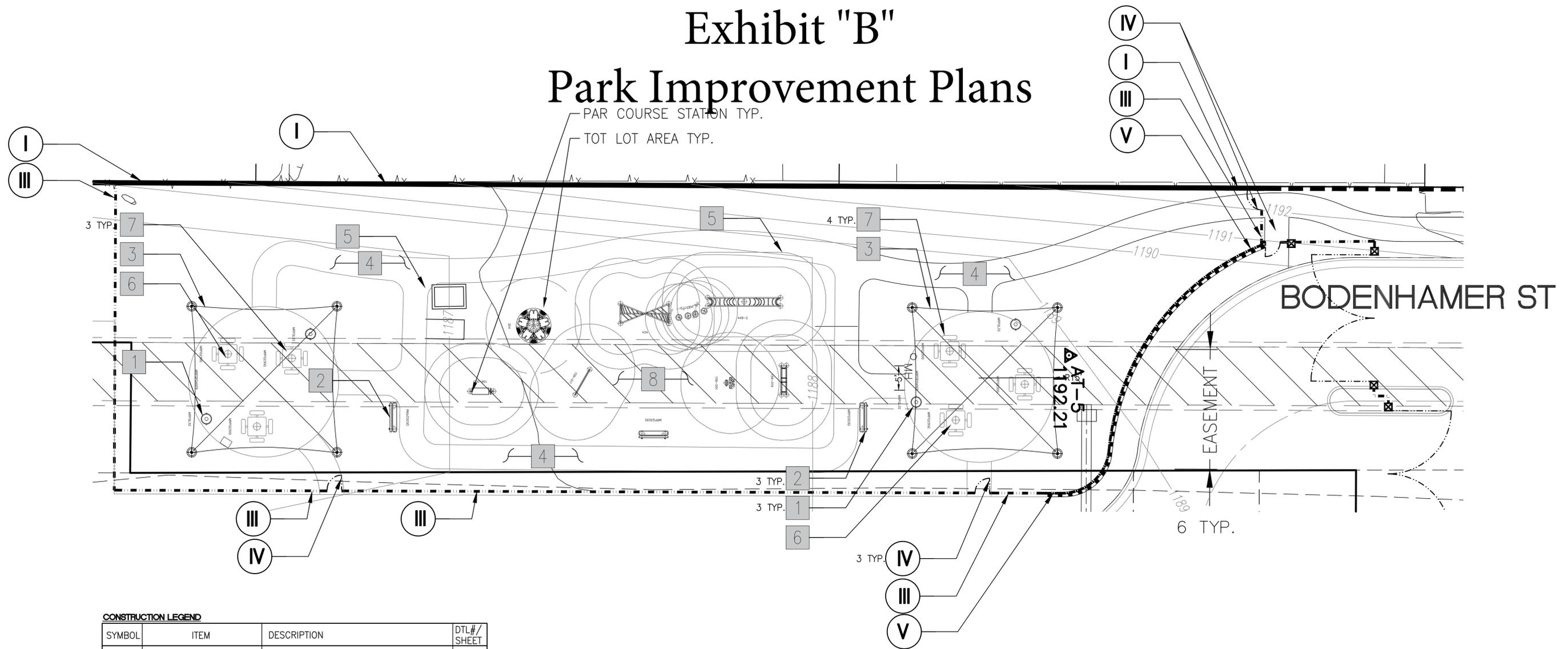
BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 1; THENCE ALONG THE WEST LINE OF SAID LOT 1 NORTH 00° 13' 53" EAST 268.17 FEET TO THE SOUTH LINE OF THE EASTERLY PORTION OF BODENHAMER STREET; THENCE ALONG SAID SOUTH LINE SOUTH 89° 26' 23" EAST 26.80 FEET TO THE **TRUE POINT OF BEGINNING**; THENCE CONTINUING ALONG THE SOUTHEASTERLY PROLOGATION OF SAID SOUTH LINE 3.84 FEET; THENCE NORTH 00° 10' 36" EAST 192.58 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE SOUTHWESTERLY HAVING A RADIUS OF 9.50 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 84° 05' 10" AN ARC LENGTH OF 13.94 FEET, TO THE BEGINNING OF A COMPOUND CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 51.50 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 62° 21' 27" AN ARC LENGTH OF 56.05 FEET; THENCE NORTH 89° 46' 07" WEST 14.25 FEET TO A POINT ON THE WEST LINE OF SAID BODENHAMER STREET; THENCE ALONG SAID WEST LINE SOUTH 89° 26' 23" EAST 233.78 FEET; THENCE SOUTH 89° 26' 23" EAST 59.81 FEET TO THE **TRUE POINT OF BEGINNING**.

AREA: 13,840 S.F.

Exhibit "B"
Park Improvements

Exhibit "B"

Park Improvement Plans

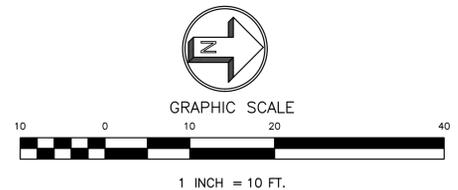


CONSTRUCTION LEGEND

SYMBOL	ITEM	DESCRIPTION	DTL# / SHEET
1	TRASH CONTAINER	MYTCOAT #RRD32-S-00-000 32 GALLON TRASH RECEPTACLE, PUNCHED STEEL, PVC COATED WITH DOME LID, LINER AND INGROUND MOUNT	1/LC-3
2	BENCH	MYTCOAT #BRT06-D-19-000 6' BENCH WITH BACK, PUNCHED STEEL, PVC COATED, INGROUND.	2/LC-3
3	PLAY SHADE PYRAMID	30x30x10, CONTACT MIRACLE RECREATION EQUIPMENT CO. AT 800-264-7225	1/LC-4
4	STANDARD CONCRETE	MEDIUM FINISH GRAY CONCRETE - SAW CUT SCORE LINES PER DETAIL.	3/LC-3
5	PLAYGROUND EDGE	MEDIUM FINISH CONCRETE THICKENED EDGE	4/LC-3
6	ADA TABLE	MYTCOAT #TRT08-D-10-001 - 8' INDEPENDENT PEDESTAL TABLE, ADA ACCESSIBLE, PUNCHED STEEL, PVC COATED	5/LC-3
7	TABLE	MYTCOAT #TRT06-D-07-000 - 6' PEDESTAL TABLE, SURFACE MOUNT, PUNCHED STEEL, PVC COATED	5/LC-3
8	PLAYGROUND AND FITNESS AREAS	PLAYGROUND SYSTEM WITH SUMP, RAMP, CONCRETE CURBS	1/LC-4

FENCE AND WALL LEGEND

SYMBOL	DESCRIPTION	DTL# / SHEET
I	SPLIT FACE BLOCK WALL	6/LC-3
II	LEFT BLANK INTENTIONALLY	-
III	TUBULAR STEEL FENCE	7/LC-3
IV	TUBULAR STEEL MAN GATE WITH KICK PLATE	8/LC-3
V	TUBULAR STEEL ON TOP OF RETAINING WALL	9/LC-3



Underground Service Alert



Call: TOLL FREE
811

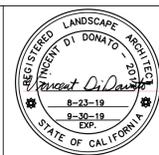
TWO WORKING DAYS BEFORE YOU DIG

REVISIONS					
MARK	DATE	INITIAL	DESCRIPTION	DATE	APP'VD

PLANS PREPARED BY



ALHAMBRA GROUP
LANDSCAPE ARCHITECTURE
CALIFORNIA LICENSE #2017
RECREATION FACILITIES PLANNING
41635 ENTERPRISE CIRCLE NORTH, SUITE C
TEMECULA, CA 92590 (951) 296-6802



DRAWN BY: V.D.
DESIGNED BY: V.D.
CHECKED BY: V.D.
RECOMMENDED BY:

APPROVED BY:

PUBLIC WORKS DIRECTOR / CITY ENGINEER
R.C.E. 44766 EXP. DATE 03/31/20

RECOMMENDED BY:

ENGINEERING STAFF

RECOMMENDED BY:

LAND DEVELOPMENT AND TRANSPORTATION

CITY OF UPLAND

TRACT NO. 20023
BODENHAMER ST. and 9TH ST. PARK
LANDSCAPE CONSTRUCTION PLANS
CONSTRUCTION PLAN

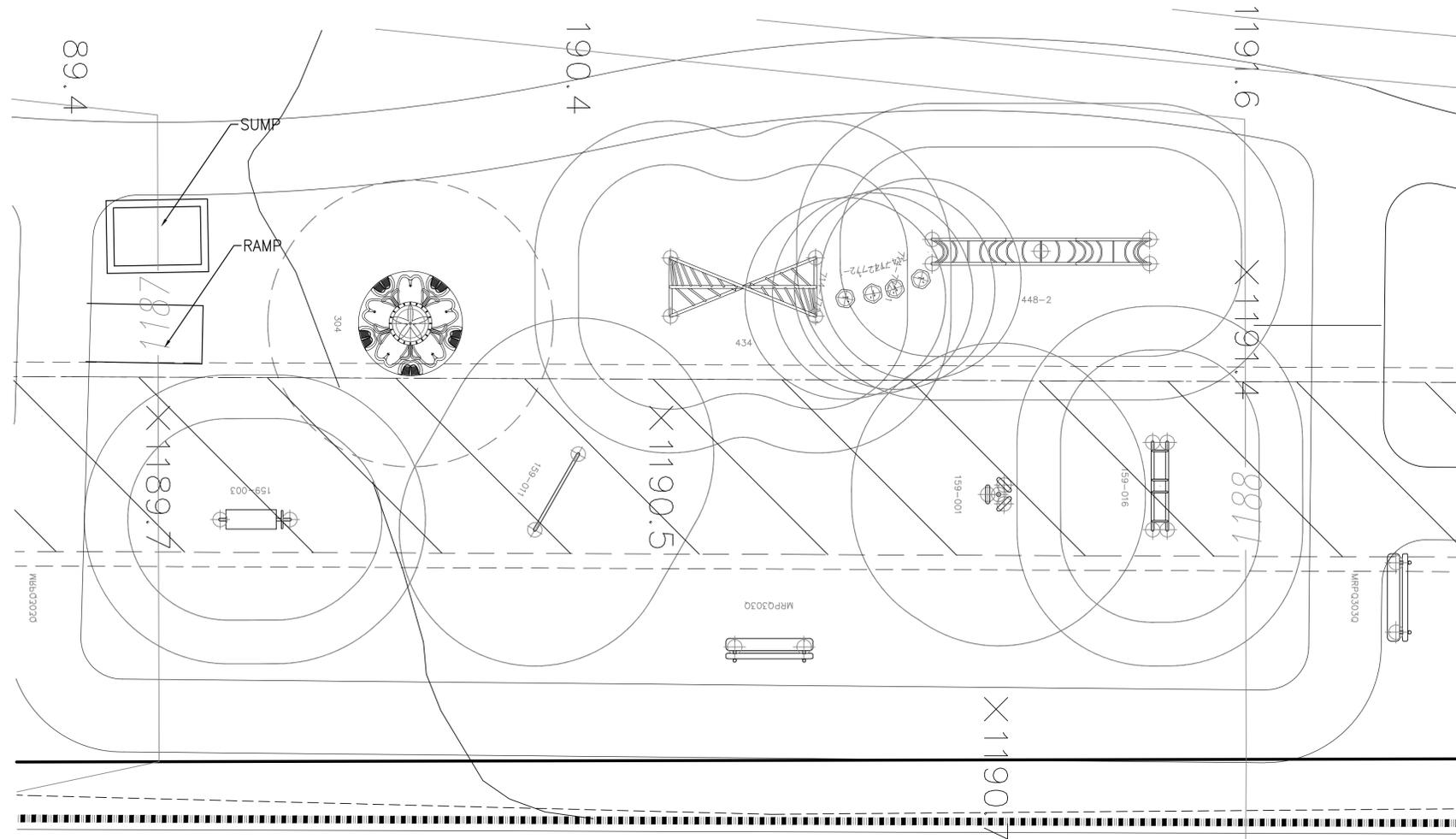
PROJECT NO.
TM 20023

SHT **LC-2**

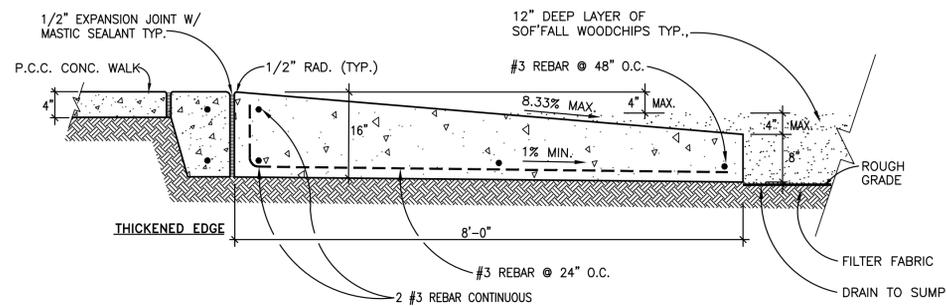
2 OF 9 SHEETS

DRAWING NO.
LS 18-12 A
E102-23.300 P01

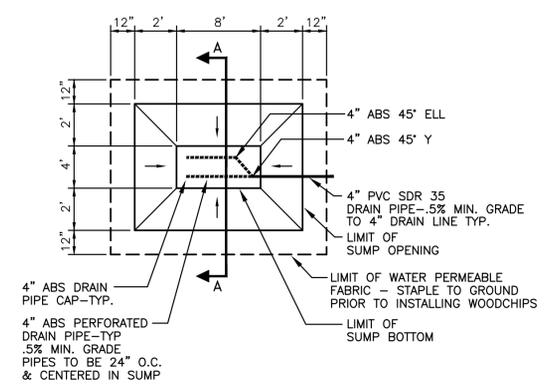
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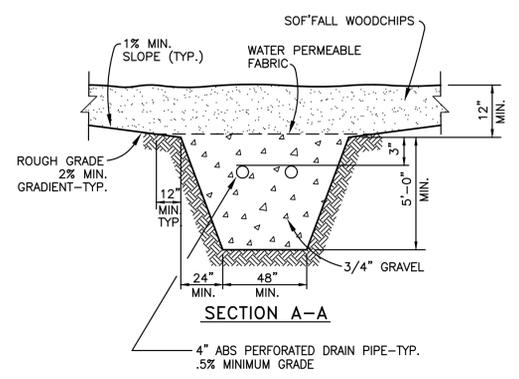
PLAYGROUND CHIPS AVAILABLE FROM:
 MIRACLE PLAYGROUND SALES, INC.
 KELLY SPENCE
 1-800-264-7225



TOT LOT CONCRETE RAMP



TOT LOT SUMP PLAN



(FOR EXCAVATION ONLY ~ SEE SPECIFICATIONS FOR CONSTRUCTION MATERIALS)
 NOTE: EXTEND WATER PERMEABLE FABRIC 5' BEYOND SUMP IN ALL DIRECTIONS
 SECURE FABRIC WITH (8) 12" LONG METAL 'U' STAKES.

SUMP SECTION A-A

1 PLAYGROUND AREA
 LC-4 N.T.S.

Underground Service Alert
 Call: TOLL FREE 811
 TWO WORKING DAYS BEFORE YOU DIG

REVISIONS				
MARK	DATE	INITIAL	DESCRIPTION	DATE APP'VD

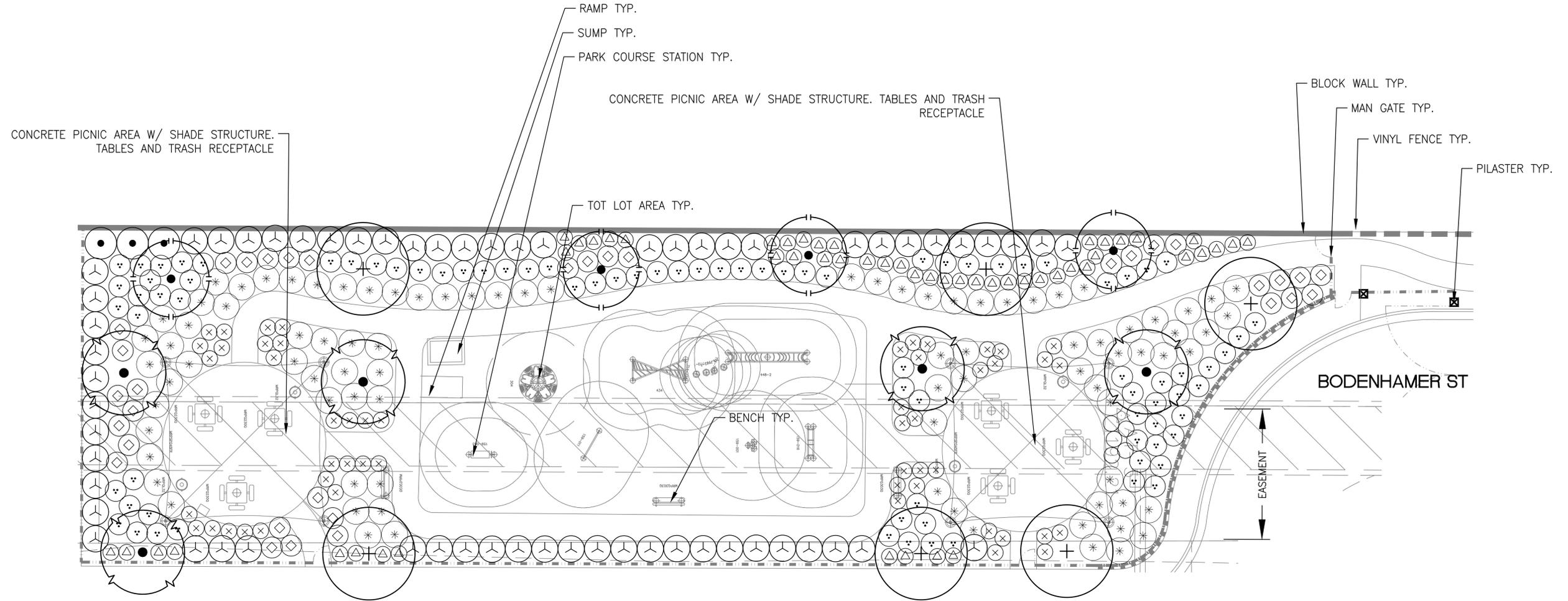
PLANS PREPARED BY
ALHAMBRA GROUP
 LANDSCAPE ARCHITECTURE
 CALIFORNIA LICENSE #2017
 RECREATION FACILITIES PLANNING
 41635 ENTERPRISE CIRCLE, NORTH, SUITE C
 TEMECULA, CA 92590 (951) 296-6802



DRAWN BY:	V.D.	APPROVED BY:	
DESIGNED BY:	V.D.	PUBLIC WORKS DIRECTOR / CITY ENGINEER	
CHECKED BY:	V.D.	R.C.E. 44766 EXP. DATE: 03/31/20	
RECOMMENDED BY:		RECOMMENDED BY:	
		ENGINEERING STAFF	LAND DEVELOPMENT AND TRANSPORTATION

CITY OF UPLAND
 TRACT NO. 20023
 BODENHAMER ST. and 9TH ST. PARK
 LANDSCAPE CONSTRUCTION PLANS
DETAILS

PROJECT NO. TM 20023
 SHT **LC-4**
 4 OF 9 SHEETS
 DRAWING NO. LS 18-12 A
 8102-28300 PCT

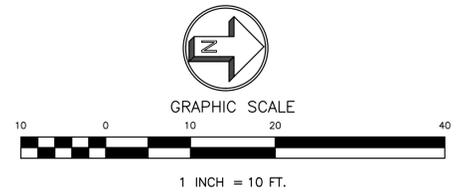


PLANTING LEGEND

SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	QTY	REMARKS	WUCOLS M
TREES:						
⊕	ARBUS MARINA	ARBUTUS	24" BOX	-	DOUBLE STAKE / HEIGHT 8-10', SPREAD 3'-4' MIN.	L
⊕	CHITALPA TASHKENTENSIS	PINK FLOWERING CHITALPA	15 GAL	5	DOUBLE STAKE / HEIGHT 7-8', SPREAD 2'-3' MIN.	L
⊕	CINNAMONUM CAMPHORA	CAMPOR TREE	24" BOX	6	DOUBLE STAKE / HEIGHT 8-10', SPREAD 3'-4' MIN.	M
⊕	PYRUS CALLERYANA 'ARISTOCRAT'	FLOWERING PEAR	24" BOX	4	DOUBLE STAKE / HEIGHT 8-10', SPREAD 3'-4' MIN.	M
⊕	PINUS CANARIENSIS	CANARY ISLAND PINE	24" BOX	-	DOUBLE STAKE / HEIGHT 8-10', SPREAD 3'-4' MIN.	L
⊕	LIGUSTRUM JAPONICA 'TEXANUM STANDARD'	TEXAS PRIVET - PATIO TREE	15 GAL	-	DOUBLE STAKE / HEIGHT 8-10', SPREAD 3'-4' MIN.	L
SHRUBS:						
⊕	BACCHARIS PILULARIS 'PIGEON POINT'	PROSTRATE COYOTE BUSH	1 GAL	90	TRIANGULAR SPACING @ 5' O.C.	L
⊕	HESPERALOE PARVIFLORA	RED YUCCA	5 GAL	34	FULL & BUSHY @ 3' O.C.	L
⊕	HETEROMELES ARBUTIFOLIA	TOYON	5 GAL	3	FULL & BUSHY @ 6' O.C. - LARGE SHRUB	L
⊕	ANAGOZANTHUS FLAVIDUS 'VELVET'	KANGAROO PAWS	1 GAL	5	FULL & BUSHY @ 3' O.C.	L
⊕	LAVANDULA DENTATUM	FRENCH LAVENDER	5 GAL	-	FULL & BUSHY @ 3' O.C.	L
⊕	WESTRINGIA FRUTICOSA 'MUNDII'	PROSTRATE COAST ROSEMARY	1 GAL	86	TRIANGULAR SPACING @ 4' O.C.	L
⊕	LEUCOPHYLLUM FRUTESCENS 'GR. CLOUD'	GREEN CLOUD TEXAS RANGER	5 GAL	61	FULL & BUSHY @ 5' O.C. - LARGE SHRUB	L
⊕	CALLISTEMON VIMINALIS 'LITTLE JOHN'	DWARF BOTTLE BRUSH	5 GAL	53	FULL & BUSHY @ 3' O.C.	L
⊕	ROSA 'GREEN CARPET RED'	RED GROUND COVER ROSE	5 GAL	-	FULL & BUSHY @ 3' O.C.	L-M
⊕	SALVIA GREGGI	AUTUMN SAGE	5 GAL	52	FULL & BUSHY @ 3' O.C.	L
VINES:						
⊕	DICTYCTUS BUCCINATORIA	BLOOD RED TRUMPET VINE	5 GAL	-	ATTACH TO TRASH ENCLOSURE WALLS	M
BASIN:						
⊕	JUNCUS PATENS	CALIFORNIA GRAY RUSH	1 GAL	-	3' O.C. TYP. IN ALL BASIN AREAS TYP.	M
MULCH:						
⊕	FOREST BLEND WOOD MULCH	MEDIUM GRIND WOOD MULCH	3" MAX. AS REQ'D	3" DEEP	- INSTALL TO ALL PLANTING AREAS	

PLANTING NOTES

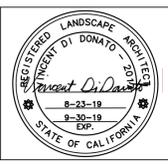
- CONTRACTOR SHALL APPLY "RON STAR" PRE-EMERGENT HERBICIDE AT 3 lbs. PER 1000 s.f. AFTER PLANTING AS PER MANUFACTURER'S RECOMMENDATIONS.(ONLY ON NON-SEEDED AREAS)
- ALL PLANTING SHALL CONFORM TO THE CITY OF UPLAND STANDARDS AND SPECIFICATIONS.
- SOIL TESTING (SOIL MANAGEMENT REPORT): CONTRACTOR SHALL PROVIDE A HORTICULTURAL SOILS ANALYSIS PERFORMED BY A LABORATORY OF THE CALIFORNIA ASSOC. OF AGRICULTURAL LABORATORIES. CONTRACTOR SHALL ADJUST SOIL AMENDMENT RECOMMENDATIONS TO CONFORM TO SOIL ANALYSIS RESULTS AS REQUIRED.
- THE CONTRACTOR SHALL CAREFULLY INSPECT THE SITE AND VERIFY ALL THE CONDITIONS AND DIMENSIONS PRIOR TO PROCEEDING WITH ANY WORK. NOTIFY LANDSCAPE ARCHITECT AND OWNER IF ANY INCONSISTENCIES OCCUR.
- THE CONTRACTOR SHALL REMOVE ALL WEEDS, ROCKS, DEBRIS AND OTHER EXTRANEIOUS MATERIALS FROM THE JOB SITE PRIOR TO PROCEEDING WITH ANY WORK.
- ALL PLANT MATERIALS SHALL BE HANDLED OR STORED SO THAT THEY ARE ADEQUATELY PROTECTED FROM DRYING OUT, FROM SUN OR WIND BURN, OR FROM ANY OTHER INJURY.
- THE CONTRACTOR SHALL APPLY TO ALL SHRUB PLANTING AREAS A 3" LAYER OF "FOREST BLEND" WOOD MULCH, CONTACT PLANTS CHOICE (619) 585-9909 OR EQUAL. CONTRACTOR SHALL PROVIDE LANDSCAPE ARCHITECT WITH SAMPLE FOR APPROVAL PRIOR TO INSTALLATION.
- CONTRACTOR TO VERIFY ALL PLANT QUANTITIES SHOWN ON PLANS.
- SEE SHEETS 8 FOR DETAILS & 9 FOR SPECIFICATIONS.
- ALL PLANTING SHALL NOT INTERFERE W/ TRAFFIC SITE LINES.
- INSTALL CENTURY PRODUCTS .0060" SIZE NON-PANELED ROOT BARRIERS ADJACENT TO HARDSCAPE WHEN TREES ARE PLANTED 6' FROM THE HARDSCAPE TYP. SEE DETAILS & SPECIFICATIONS.
- FOR INSPECTIONS CONTACT THE CITY OF UPLAND.
- NO CHANGES OR SUBSTITUTIONS SHALL BE MADE WITHOUT REVISIONS TO THE PLANS AND THE APPROVAL OF THE CITY INSPECTORS.
- TREES SHALL BE PLANTED 20' MINIMUM FROM STREET LIGHTS TYP.
- TREES & SHRUBS SHALL BE PLACED A MINIMUM OF 5' AWAY FROM WATER METER, GAS METER, OR SEWER LATERALS; A MINIMUM OF 10' AWAY FROM UTILITY POLES; & A MINIMUM OF 8' AWAY FROM FIRE HYDRANTS & FIRE DEPARTMENT SPRINKLER & STANDPIPE CONNECTIONS.



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REVISIONS				
MARK	DATE	INITIAL	DESCRIPTION	DATE APP'VD

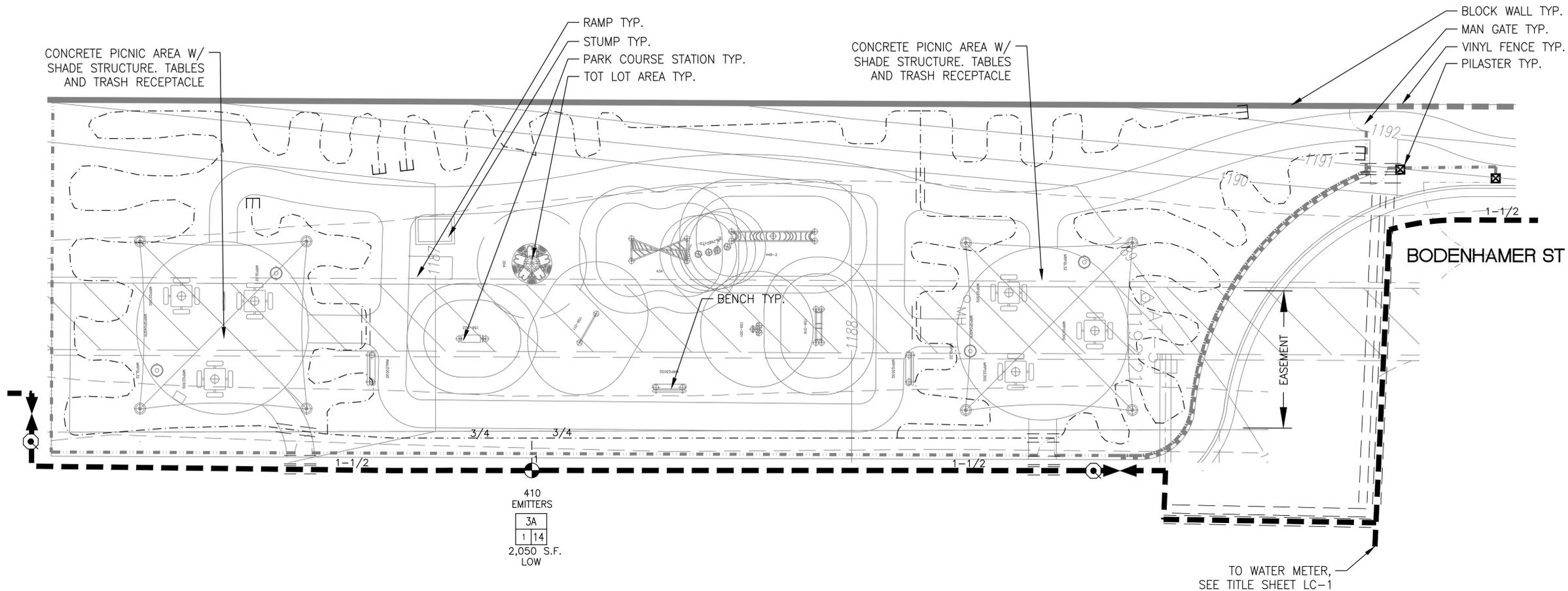
PLANS PREPARED BY
ALHAMBRA GROUP
 LANDSCAPE ARCHITECTURE
 CALIFORNIA LICENSE #2017
 RECREATION FACILITIES PLANNING
 41635 ENTERPRISE CIRCLE NORTH, SUITE C
 TEMECULA, CA 92590 (951) 296-6802



DRAWN BY:	V.D.	APPROVED BY:	
DESIGNED BY:	V.D.	PUBLIC WORKS DIRECTOR / CITY ENGINEER	DATE
CHECKED BY:	V.D.	R.C.E. 44766	EXP. DATE 03/31/20
RECOMMENDED BY:		RECOMMENDED BY:	RECOMMENDED BY:
		ENGINEERING STAFF	LAND DEVELOPMENT AND TRANSPORTATION

CITY OF UPLAND
 TRACT NO. 20023
 BODENHAMER ST. and 9TH ST. PARK
 LANDSCAPE CONSTRUCTION PLANS
PLANTING PLAN, LEGEND, AND NOTES

PROJECT NO.	TM 20023
SHT	L-1
OF	9 SHEETS
DRAWING NO.	LS 18-12 A

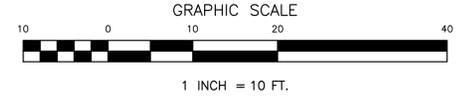


410
EMITTERS
3A
1 14
2,050 S.F.
LOW

142	EMITTERS	VALVE EMITTERS
1A	EMITTERS	VALVE SEQUENCE NUMBER
110	EMITTERS	GALLONS PER MINUTE
1,093	S.F.	REMOTE CONTROL VALVE SIZE
LOW		HYDROZONE DESIGNATION

IRRIGATION LEGEND

SYMBOL	MANUFACTURER	MODEL NO.	REMARKS - SEE SHEETS L-4 & L-5 FOR DETAILS & FOR SPECIFICATIONS
[A]	HUNTER	ACC-1200-PP	12 STATION AUTOMATIC CONTROLLER IN A METAL CABINET AND WALL MOUNT NEAR A 120V A.C. CONNECTION IN ELECT. ROOM.
Z	WILKINS	825-YA-3/4"	REDUCED PRESSURE B.P.U. WITH WILKINS 600 HLR PRESSURE REGULATOR, SET AT 60 P.S.I., INSTALL IN PLANTING AREA IN A STRONGBOX SBCC-30SS
[S]	HUNTER	SOLAR-SYNC	ET MODULE AND WEATHER STATION, INSTALL MODULE W/ CONTROLLER & WEATHER STATION ON BUILDING UNOBSTRUCTED BY TREES AND OVERHANGS.
[F]	HUNTER	HFS/FCT-100	FLOW SENSOR WITH 1" FLOW SENSOR BODY, INSTALL PER MANUFACTURER'S RECOMMENDATION
[C]	RAINBIRD	XCZ-100-PRB-COM	1" REMOTE CONTROL VALVE KIT
[P]	RAINBIRD	PESB-150	WATER 1-1/2" MASTER CONTROL VALVE
[Q]	RAINBIRD	44DLRC	WATER QUICK COUPLING VALVE
[B]	BOWSMITH	SB-20	2 GPH DRIP EMITTER (1 EMITTER FOR EACH SHRUB, 3 EMITTERS FOR EACH TREE)
[N]	NIBCO	UB SERIES	PLASTIC BALL VALVE (THREADED) LINE SIZE - TYPICAL
[S]	PAC. PLASTICS	SCHEDULE 40	PRESSURE TYPE MAINLINE - INSTALL WITH 18" MINIMUM COVER
[H]	HYDRO-RAIN	'BLU-LOCK'	NON-PRESSURE LATERAL LINE-INSTALL 2" BELOW GRADE EXCEPT UNDER PAVEMENT
[C]	PAC. PLASTICS	CL 315	INSTALL 12" BELOW GRADE-SEE DETAILS.
[F]	FLO-CONTROL	1520-10/1012-10	NON-PRESSURE TYPE SLEEVE
[E]	HYDRO-RAIN	ORBIT #50240	LINE SIZE SWING/SPRING CHECK VALVE. SWING TYPE FOR UPHILL & SPRING TYPE FOR DOWNHILL. END CAP ASSEMBLY, SEE DETAIL.



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DESIGNED BY:	V.D.		
CHECKED BY:	V.D.		
RECOMMENDED BY:		RECOMMENDED BY:	
		RECOMMENDED BY:	

CITY OF UPLAND
 TRACT NO. 20023
 BODENHAMER ST. and 9TH ST. PARK
 LANDSCAPE CONSTRUCTION PLANS
IRRIGATION PLAN and LEGEND

PROJECT NO. TM 20023
 SHT **L-2**
 6 OF 9 SHEETS
 DRAWING NO. LS 18-12 A
 E102-23300 P01

WATER CALCULATIONS

LANDSCAPE IRRIGATION WATER ANALYSIS

PROJECT: WATER METER #1
SAGE AT NINTH STREET
UPLAND, CA

Project ETo: 57.33

ANNUAL MAXIMUM APPLIED WATER BUDGET:
(BILLING UNITS/YEAR)

$$AMAWB = \frac{ETo \times 0.5 \times \text{Total Sq. Ft.}}{1200}$$

$$\frac{57.33 \times 0.8 \times 20,170}{1200} = 771 \text{ BILLING UNITS/YEAR}$$

576631 Gallons Per Year

ESTIMATED ANNUAL WATER USE:
(BILLING UNITS/YEAR)

$$EAWU = \frac{ETo \times \text{Crop Coefficient} \times \text{Hydrozone Sq. Ft.}}{(\text{Distribution Efficiency}) \times (\text{Application Efficiency}) \times 1200}$$

HYDROZONE # 1: (Bottom of basins Area with rotors)

$$\frac{57.33 \times 0.2 \times 0}{0.9 \times 0.85 \times 1200} = 0 \text{ B.U./Yr}$$

0 Gallons Per Year

HYDROZONE # 2: (Low Shrub Area with drip)

$$\frac{57.33 \times 0.2 \times 20,170}{0.9 \times 0.85 \times 1200} = 252 \text{ B.U./Yr}$$

188442 Gallons Per Year

ANNUAL WATER BUDGET:

771 B.U./Yr
576631 Gallons Per Year
252 B.U./Yr
188442 Gallons Per Year

TOTAL ESTIMATED ANNUAL WATER

188442 Gallons Per Year
516 Gallons Per Day
3614 Gallons Per Week
4 Irrigation Days Per Week
903 Gallons Per Irrigation Day
7 Average Demand in GPM (average valve GPM)
2 Hours Per Day

WATER CALCULATION IS BASED ON WETTABLE AREA 5' S.F. PER EMITTER. 3 EMITTERS PER TREE AND 1 EMITTER PER SHRUB TYP.

DRIP SCHEDULE

	ETO	% ETO	CU. FT.	GALLONS	DAYS	GPM	MIN	G/DAY
JANUARY	2.10	0.04	950	7,108.11	4.00	134.47	13	1777
FEBRUARY	2.75	0.05	1,244	9,308.23	5.00	134.47	14	1862
MARCH	3.90	0.07	1,765	13,200.77	7.00	134.47	14	1886
APRIL	4.40	0.08	1,991	14,893.17	7.00	134.47	16	2128
MAY	5.90	0.11	2,670	19,970.39	10.00	134.47	15	1997
JUNE	7.40	0.13	3,349	25,047.61	12.00	134.47	16	2087
JULY	7.60	0.14	3,439	25,724.57	12.00	134.47	16	2144
AUGUST	7.00	0.13	3,168	23,693.68	12.00	134.47	15	1974
SEPTEMBER	5.80	0.10	2,625	19,631.91	10.00	134.47	15	1963
OCTOBER	3.90	0.07	1,765	13,200.77	7.00	134.47	14	1886
NOVEMBER	2.60	0.05	1,177	8,800.51	5.00	134.47	13	1760
DECEMBER	2.10	0.04	950	7,108.11	4.00	134.47	13	1777
	1.00	25,092	187,687.82					

THIS DRIP SCHEDULE IS FOR VALVES 1A THROUGH 11A, GALLONS PER DAY LISTED ABOVE IS THE COMBINED FOR ALL VALVES. PROJECTED/PROGRAMMED GALLONS PER YEAR SHALL NOT EXCEED CALCULATED MAWA SHOWN. RUN EVERYDAY DURING PLANT ESTABLISHMENT PERIOD.

IRRIGATION NOTES

- IRRIGATION SYSTEM IS SHOWN DIAGRAMMATICALLY. LOCATE ALL PIPE AND EQUIPMENT WITHIN PLANTING AREAS WHEREVER POSSIBLE.
- LOCATE PRESSURE LINES WITHIN 18" OF EDGE OF HARDSCAPE IN PLANTING AREAS.
- TREE LOCATIONS TAKE PRECEDENCE OVER IRRIGATION PIPING & DRIP LINE. STAKE TREE LOCATIONS PRIOR TO TRENCHING PIPE.
- CONTRACTOR SHALL ARRANGE AND PAY FOR ALL NECESSARY CONNECTIONS FOR 120V A.C. ELECTRICAL SERVICE TO IRRIGATION CONTROLLER.
- CONTRACTOR SHALL INSPECT THE SITE AND VERIFY ALL CONDITIONS PRIOR TO PROCEEDING WITH ANY WORK. TO ALLOW FOR ADEQUATE IRRIGATION COVERAGE AS SHOWN ON PLAN, ADJUST DRIP LINE & SPRAY HEADS TO COMPENSATE FOR ANY CHANGES IN AREA.
- TO ENSURE PROPER LOCATION OF IRRIGATION SLEEVE INSTALLATION COORDINATE LOCATION OF MAINLINE, DRIP LINES AND CONTROL WIRES WITH ALL OTHER RELATED TRADES AS REQ.
- ALL BRASS FITTINGS TO BE RED BRASS TYPICAL.
- USE 3/4" TEFLON TAPE ON ALL THREADED CONNECTIONS.
- IRRIGATION SYSTEMS DESIGNED FROM A STATIC WATER PRESSURE OF 80 PSI REDUCED TO 60 P.S.I., CONTRACTOR SHALL VERIFY WATER PRESSURE AT WORST CONDITION AND CONTACT LANDSCAPE ARCHITECT IF ANY INCONSISTENCIES OCCUR.
- CONTROL WIRE SCHEDULE: (MAX. LENGTH OF RUNS)
CONTROL/Common NO. 14 NO. 12 NO. 10 NO. 8
NO. 14 1700' 2000' 2400' 2700'
NO. 12 2700' 3300' 3800'
NO. 10 4300' 5200'
NO. 8 6700'
- ABOVE WIRING SCHEDULE IS BASED ON THE USE OF A 24 VOLT AUTOMATIC IRRIGATION CONTROLLER & WIRE SIZE IS BASED ON OPERATING ONE VALVE AT A TIME.
- ALL IRRIGATION SHALL CONFORM TO THE CITY OF UPLAND STANDARDS AND SPECIFICATIONS.

DRIP SYSTEM PRESSURE LOSS CALCS.

VALVE 9A @ 15 G.P.M.
PRESSURE AVAILABLE AT METER : 80.0 P.S.I.
REGULATED PRESSURE: 60.0 P.S.I.
LOWEST ELEVATION OF R.C.V (7A): 1,282.00'
METER ELEVATION: 1,307.00'

EQUIPMENT	SIZE	P.S.I. LOSS
METER	1"	(3.1)
B.P.U.	1"	(11.5)
MASTER VALVE	1-1/2"	(2.0)
FLOW SENSOR	1-1/2"	(.1)
BALL VALVE	1-1/2"	(3.0)
R.C.V.	1"	(9.12)
MAIN LINE	1-1/2"	6.60
ELEVATION CHANGE	1.34'	

P.S.I. LOSS BEFORE PRESSURE REGULATOR: (23.72 P.S.I.)
PRESSURE AVAILABLE AT REGULATOR: 36.28 P.S.I.
REGULATOR REDUCES PRESSURE TO: 30.0 P.S.I.

EQUIPMENT	SIZE	P.S.I. LOSS
LATERAL LINES	VARIES	(3.0)
EMITTERS	N/A	(7.0)
ELEVATION CHANGE	0'	(0)

P.S.I. LOSS AFTER PRESSURE REGULATOR: (20.0 P.S.I.)
TOTAL RESIDUAL PRESSURE: 20.0 P.S.I.

BLU-LOCK SPECIFICATIONS

HIGH DENSITY POLYETHYLENE PIPE AND FITTINGS:

A. ALL PIPE SHALL BE CONSTRUCTED OF VIRGIN HIGH DENSITY POLYETHYLENE (HDPE) RESIN WITH THE CELL CLASSIFICATION OF 345464C PER ASTM D 2239 OR ASTM D 2737. THE MATERIAL SHALL CONTAIN 2% CARBON BLACK AS A UV INHIBITOR TO ACCOMMODATE OUTSIDE STORAGE.

B. ALL PIPE FITTINGS SHALL BE CONSTRUCTED FOR QUICK COUPLE PUSH-ON INSTALLATION WITHOUT THE USE OF GLUE OR CLAMPS ONTO 1/2" SWING, OR 3/4", OR 1", HDPE 3408 SIDR 15 LATERAL PIPE.

C. FITTINGS SHALL BE BUILT OF ABS MATERIAL WITH A STAINLESS STEEL RETAINING RING AND EPDM SEAL MATERIAL.

D. FITTINGS SHALL BE FOR OUTDOOR USE ONLY ON COLD WATER,

TYPE: HYDRO-RAIN BLU LOCK OR APPROVED EQUAL

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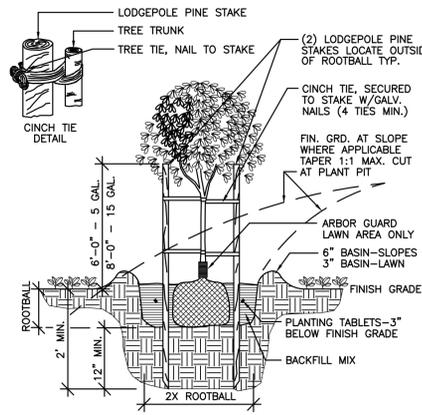


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DESIGNED BY:	V.D.		
CHECKED BY:	V.D.	PUBLIC WORKS DIRECTOR / CITY ENGINEER	DATE
RECOMMENDED BY:		RECOMMENDED BY:	RECOMMENDED BY:
		ENGINEERING STAFF	LAND DEVELOPMENT AND TRANSPORTATION

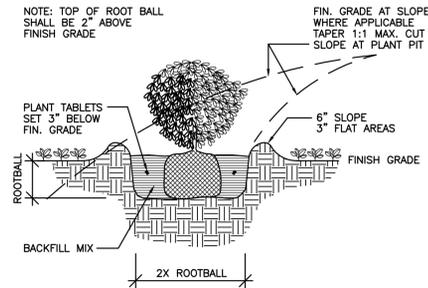
CITY OF UPLAND

TRACT NO. 20023
BODENHAMER ST. and 9TH ST. PARK
LANDSCAPE CONSTRUCTION PLANS
IRRIGATION CALC'S AND NOTES

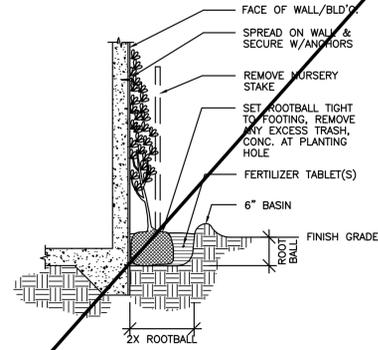
PROJECT NO. TM 20023
SHT **L-3**
7 OF 9 SHEETS
DRAWING NO. LS 18-12 A
1102-28300 POT



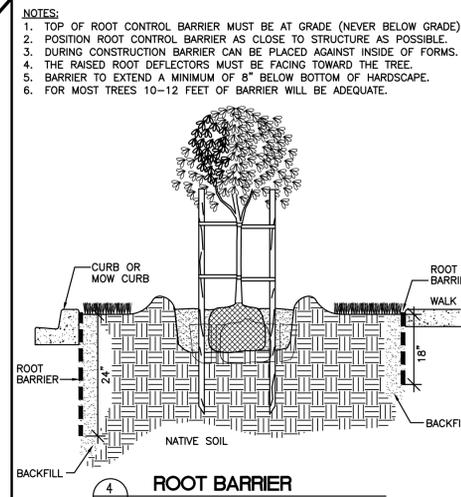
1
L-4
TREE PLANTING AND STAKING



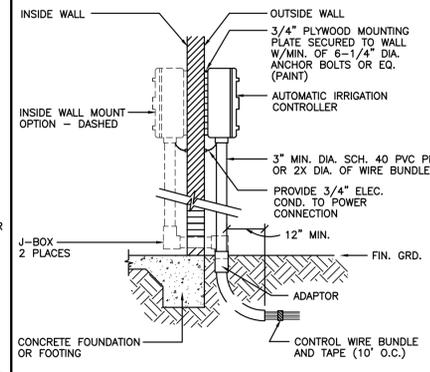
2
L-4
SHRUB PLANTING



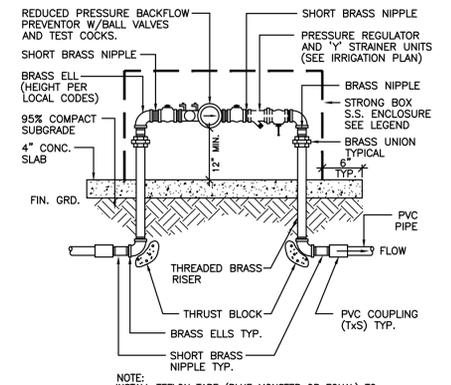
3
L-4
VINE DETAIL



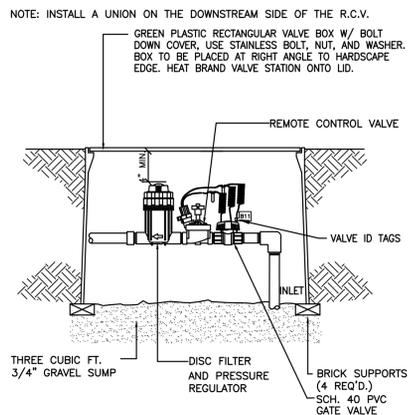
4
L-4
ROOT BARRIER



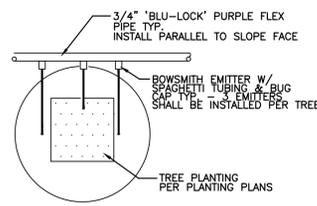
5
L-4
CONTROLLER WALL MOUNT



6
L-4
REDUCED PRESSURE BACKFLOW PREVENTER
PER CITY STANDARD W-19

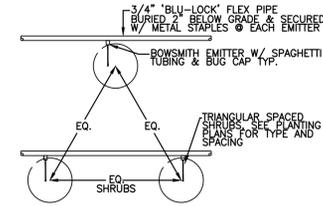


7
L-4
REMOTE CONTROL VALVE



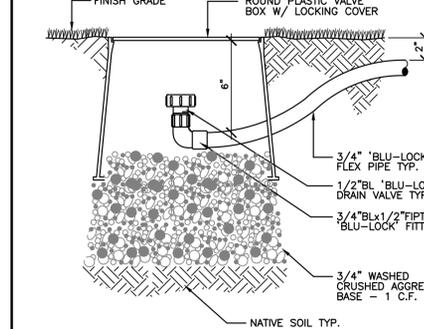
NOTE: DRIP EMITTERS SHALL BE PLACED TO DRIP DIRECTLY ADJACENT TO TREE ROOTBALL.

8
L-4
DRIP TREE LAYOUT

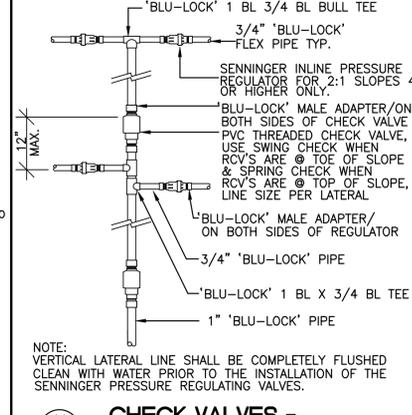


NOTE: DRIP EMITTER SHALL BE PLACED TO DRIP DIRECTLY ADJACENT ASSEMBLY DETAIL. 'BLU-LOCK' LATERAL LINES SHALL RUN PARALLEL TO SLOPE WITH DRIP EMITTER LINES RUN PERPENDICULAR TO SLOPE AS SHOWN ABOVE.

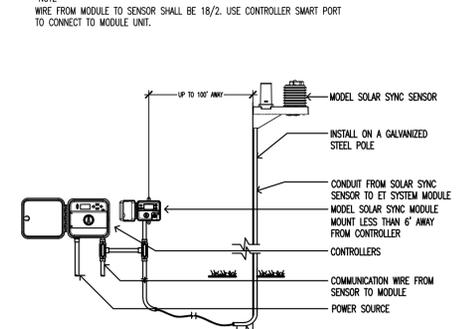
9
L-4
DRIP SHRUB LAYOUT



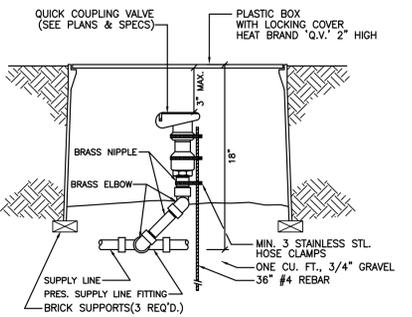
10
L-4
END FLUSH CAP



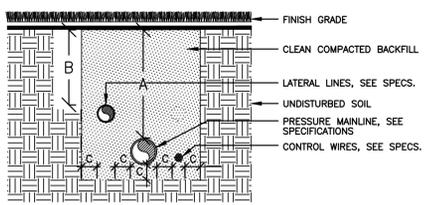
11
L-4
CHECK VALVES - PRESSURE REGULATORS



12
L-4
SOLAR SYNC



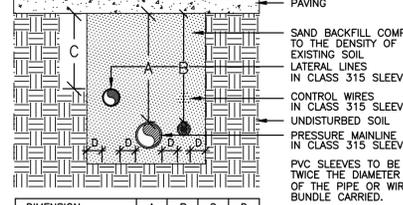
13
L-4
QUICK COUPLER



DIMENSION	A	B	C
1/2" TO 3" IN SIZE	18"	12"	4"

SECTION VIEW - N.T.S.
NOTE: ALL PLASTIC PIPING SHALL BE SNAKED WITHIN TRENCH. BUNDLE WIRING AND WRAP WITH TAPE AT TEN FOOT INTERVALS. ALL MAINLINE PIPING TO BE INSTALLED IN ACCORDANCE WITH MANUFACTURERS INSTALLATION SPECIFICATIONS.

14
L-4
PIPE AND WIRE TRENCHING

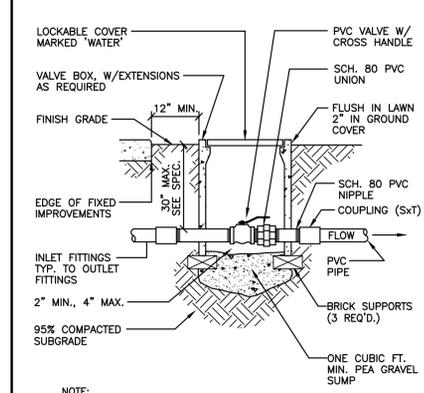


DIMENSION	A	B	C	D
1/2" TO 4" IN SIZE	24"	24"	18"	4"

SECTION VIEW - N.T.S.
NOTE: TIE A 24" LOOP IN ALL WIRING AT CHANGES OF DIRECTION GREATER THAN 30 DEGREES, UNTIL AFTER ALL CONNECTIONS HAVE BEEN MADE.

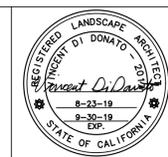
PLAN VIEW - N.T.S.
NOTE: BUNDLE WIRING AND WRAP WITH ELECTRICAL TAPE AT TEN FOOT INTERVALS. ALL MAINLINE PIPING TO BE INSTALLED IN ACCORDANCE WITH MANUFACTURERS INSTALLATION SPECIFICATIONS. ALL PVC MAINLINE, PVC LATERAL LINES, AND CONTROL WIRES SHALL BE SLEEVED BELOW ALL HARDSCAPE ELEMENTS WITH CLASS 315 PVC, 2 TIMES THE DIAMETER OF THE PIPE OR WIRE BUNDLE WITHIN. ALL CURBS SHALL BE MARKED WITH A "SCORE" MARK TO DESIGNATE SLEEVE LOCATION. TYPICAL.

15
L-4
SLEEVE TRENCHING



16
L-4
BALL VALVE

MARK	DATE	INITIAL	DESCRIPTION	DATE	APP'VD



DRAWN BY:	V.D.	APPROVED BY:	
DESIGNED BY:	V.D.	PUBLIC WORKS DIRECTOR / CITY ENGINEER	
CHECKED BY:	V.D.	R.C.E. 44766	EXP. DATE 03/31/20
RECOMMENDED BY:		RECOMMENDED BY:	
		RECOMMENDED BY:	
		ENGINEERING STAFF	LAND DEVELOPMENT AND TRANSPORTATION

IRRIGATION

- INTENT – TO INDICATE AND SPECIFY A COMPLETE AND EFFICIENT SPRINKLER IRRIGATION SYSTEM, READY FOR USE, WITH ALL WORK AND MATERIAL CONFORMING TO GOVERNING CODES.
- ALL DIMENSIONS AND LOCATIONS SHOWN ARE DIAGRAM SITE CONDITIONS AND SHALL BE VERIFIED BEFORE INITIATING WORK.
- ALL WORK SHALL BE INSTALLED IN THE MOST DIRECT AND WORKMANLIKE MANNER WITHOUT INTERFERING WITH EXISTING OR PROPOSED PLANTING OR OTHER WORK AND UTILITY LINES.
- IRRIGATION MATERIALS

VALVE BOXES: AMETEK PLASTIC BOXES SIZES AS REQUIRED.

PLASTIC PIPING: ALL PRESSURE PIPE, SCHEDULE 40 PVC SOLVENT WELD TYPE, OR BETTER. NON-PRESSURE PIPE, CLASS 200 PVC SOLVENT WELD TYPE, OR BETTER.

PLASTIC FITTINGS: TYPE I, SCHEDULE 80 PVC.

POLYETHYLENE: MOLDED, 85 P.S.I.

BALL VALVES: PLASTIC BODIED, 125 P.S.I. MINIMUM, HEAVY DUTY TYPE, FEDERAL SPEC, CROSS HANDLE.

DRIP EMITTERS: OF MODEL AND TYPE SHOWN ON PLANS.

CONTROL WIRE: DIRECT BURIAL, UL APPROVED; WHITE FOR COMMON, BLACK FOR CONTROL; 12 GAUGE MINIMUM SIZE COMMON, 14 GAUGE MINIMUM SIZE CONTROL WIRE.

QUICK COUPLING VALVES: SINGLE LUG, TWO PIECE; PER LEGEND.

EXTRA STOCK: SUPPLY OWNER WITH VALVE KEYS, EXTRA EMITTERS, TWO QUICK COUPLING HOSE BIBS, AND MANUALS FOR EQUIPMENT USED.

- EXCAVATION
TRENCHES SHALL BE CUT TO FOLLOWING REQUIRED GRADES: PRESSURE PIPE AT (18") MIN. COVER; ALL NON-PRESSURE PIPE @ (12") MIN. COVER; EXCEPT BLULOCK @ (2") MIN. COVER.

- PIPE FITTING AND LAYOUT
JOIN AND INSTALL PIPING IN STRICT ACCORDANCE WITH MANUFACTURER'S INSTALLATION GUIDE. INSTALL LINES AWAY FROM FIXED IMPROVEMENTS AND ALONG EDGE OF PLANTING AREAS.

- EQUIPMENT AND INSTALLATION
SET ALL EQUIPMENT TRUE, PLUMB, SECURE, AND ACCESSIBLE FOR OPERATION AND SERVICING PER MANUFACTURER'S RECOMMENDATIONS AND PER DETAILS SHOWN.

- BACKFILLING
MATERIAL: SUITABLE FILL SOIL FREE OF LARGE ROCKS AND CLODS.
BACKFILL: TRENCHES SHALL BE COMPACTED TO AT LEAST 85% OF THE MAX. RELATIVE DENSITY AS DETERMINED BY THE ASTM D-1557 EXCEPT BACKFILL IN TRENCHES LOCATED UNDER A.C. PAVED AREAS AND/OR ANY TRAFFIC AREAS IN WHICH CASE TRENCHES SHALL BE COMPACTED TO 90%. BACKFILL SHALL BE SUBJECT TO TESTING BY THE SOILS ENGINEER.
SETTLING: PROPERLY WETTED AND TAMPED TO A FIRM FINISH GRADE WITH NO FUTURE SETTLING.

- TESTING AND ADJUSTING
PRESSURE TEST: PRESSURE LINES AT 150 P.S.I. FOR 3 HOURS AND NON-PRESSURE LINES AT EXISTING STATIC LINE PRESSURE FOR 3 HOURS. LINES SHALL BE WATERTIGHT WITH NO LEAKAGE. WRITTEN CONFIRMATION OF PASS/FAIL SHALL BE SUBMITTED TO THE OWNER.
COVERAGE TEST: ADJUST AND POSITION SPRINKLER HEADS & EMITTERS FOR COMPLETE COVERAGE OF ALL PLANTING AREAS. NO OVERSPRAY OR RUNOFF IS ALLOWED.

- RECORD PRINTS
MAINTAIN A SET OF PRINTS DELINEATING AND DIMENSIONING LOCATIONS AND DEPTHS OF ALL PRESSURE PIPING, VALVES, AND GATE VALVES AS WORK IS COMPLETED. RECORD PRINTS SHALL REMAIN ON THE JOB SITE THROUGHOUT CONSTRUCTION. A LEGIBLE REDUCED LAMINATED SET SHALL BE PREPARED AND SUBMITTED TO THE OWNER PRIOR TO FINAL ACCEPTANCE.

SOIL PREPARATION AND PLANTING

- ALL PLANTING LOCATIONS SHOWN AND MEASUREMENTS SCALED FROM THE DRAWINGS ARE APPROXIMATE. FINAL LOCATIONS TO BE APPROVED BY THE LANDSCAPE ARCHITECT.
- ALL PLANT MATERIALS SHALL BE PROTECTED FROM EXCESSIVE WIND, SUN, AND ALL OTHER DAMAGE.
- MATERIALS:

TOPSOIL: APPROVED CLEAN SANDY LOAM AND/OR LOAM SOIL, OR APPROVED EQUAL.

SOIL CONDITIONER

NITROLIZED SHAVINGS, TERRA BLEND OR APPROVED EQUAL.

GYPHUM: BEN FRANKLIN AGRICULTURAL GYPHUM, OR EQUAL.

PRE-PLANT FERTILIZER: GRO-POWER (5-3-1 PLUS M).

POST-PLANT FERTILIZER: GRO-POWER (5-3-1).

PLANTING TABLETS: GRO-POWER TABLETS.

PLANTING BACKFILL: TWO (2) PARTS EXCAVATED SOIL BLENDED WITH ONE (1) PART SOIL CONDITIONER.

MULCH: SHREDDED, CLEAN GROUND WOOD MULCH.

TREE STAKES: TWO INCH (2") BY TEN FOOT (10') OR 12' LONG SOUND LODGE POLE PINE STAKES, POINTED ONE END ONLY.

TREE TIES: BLACK VINYL CINCH-TIES BY BORDEN OR EQUAL.

PLANT MATERIALS: PER THE CALIFORNIA STATE DEPARTMENT OF AGRICULTURE'S REGULATIONS FOR NURSERY INSPECTIONS OF RULES AND GRADING. PLANTS SHALL BE SOUND AND HEALTHY, FREE OF DISEASE AND DEFECTS, WELL DEVELOPED OF SIZE NORMAL FOR CONTAINER SIZE AND NOT ROOT-BOUND. UNSATISFACTORY AND UNDER-SIZED PLANTS WILL BE REJECTED. PROTECT PLANTS AT ALL TIMES ACCORDING TO SPECIES.

- SOIL PREPARATION AND GRADING

ROUGH GRADES AND ROCK PLACEMENT: ESTABLISHED BY OTHER SECTIONS.

DEEP WATERING: DEEP WATERING LEACH ALL PLANTING AREAS TO EIGHT (8) INCHES MINIMUM DEPTH.

FINAL GRADING: ENSURE POSITIVE DRAINAGE OF PROJECT AREA WITH ALL AREAS LEFT SMOOTH AND EVEN AND FREE OF ROCKS, CLODS AND DEBRIS. FINISH GRADE SHALL BE ONE INCH (1") BELOW ADJACENT FLATWORK AND CURBS

- PLANTING INSTALLATION

LAYOUT: PER PLANS WITH FINAL REVIEW AND APPROVAL OF LOCATIONS BY LANDSCAPE ARCHITECT.

EXCAVATION: PLANTING HOLES SHALL BE AS SHOWN ON DETAILS.

BACKFILL: SPREAD ALL AROUND WITHIN PIT:
GRO-POWER 5-3-1 PLUS M
1 GALLON-1/2 CUP
5 GALLON-1 CUP
15 GALLON-2 CUPS
24 INCH BOX SIZE-4 CUPS

PLANTING TABLETS: SET THREE INCHES (3") BELOW GRADE:

1-7 GRAM PER FLAT PLANT AND/OR CUTTING
2-7 GRAM PER 1 GALLON
3-7 GRAM PER 5 GALLON
12-7 GRAM PER 15 GALLON
1-7 GRAM PER EACH 2 INCH BOX SIZE

SETTING: SET PLANTS SLIGHTLY HIGHER THAN FINISH GRADE AND THOROUGHLY WATER IN.

STAKING: TO INSURE SAFETY AND PROPER HEALTH OF TREE. TIE WITH TIES PER DETAILS.

WATER BASINS: AS REQUIRED TO ADEQUATELY WATER TREES AND SHRUBS.

LEVELING: ALL PLANTING AREAS SHALL BE LEFT SMOOTH AND EVEN.

MULCHING: NOTED AREAS SHALL RECEIVE EVEN THREE INCH (3") LAYER OF BARK MULCH, SEE PLANS.

7. MAINTENANCE

PLANT MAINTENANCE WORK SHALL CONSIST OF APPLYING WATER (EXCEPT INITIAL WATERING OF PLANTS) WEEDING, CARING FOR PLANTS, AND PERFORMING THE FOLLOWING PLANT ESTABLISHMENT

THE ENTIRE PROJECT TO BE MAINTAINED FOR A PERIOD OF (60) CALENDAR DAYS, COMMENCING FROM THE TIME ALL ITEMS OF WORK HAVE BEEN COMPLETED TO THE SATISFACTION OF THE LANDSCAPE ARCHITECT.

DURING THE FINAL (60) CALENDAR DAY PERIOD ALL PLANTS AND PLANTED AREAS SHALL BE KEPT WELL WATERED AND WEED FREE AT ALL TIMES. WEEDS, DALLAS, JOHNSON, AND BERMUDA GRASS SHALL BE REMOVED.

WORK:

THE ENTIRE PROJECT SHALL BE CARED FOR SO THAT A NEAT AND CLEAN CONDITION WILL BE PRESENTED AT ALL TIMES, TO THE SATISFACTION OF THE LANDSCAPE ARCHITECT.

WORKMEN SHALL NOT BE ALLOWED TO WALK ON SHRUB AREAS UNNECESSARILY BEFORE, DURING OR AFTER PLANTING. DAMAGED OR COMPACTED LAWN AREAS SHALL BE RE-CULTIVATED AND REPLANTED, AT THE CONTRACTOR'S EXPENSE.

IN ORDER TO EXPEDITE THE PLANT ESTABLISHMENT WORK, THE CONTRACTOR SHALL MAINTAIN A SUFFICIENT NUMBER OF MEN AND ADEQUATE EQUIPMENT TO PERFORM THE WORK HEREIN SPECIFIED AND FROM THE TIME ANY PLANTING IS DONE UNTIL THE END OF THE FINAL (60) CALENDAR DAY PERIOD.

THE CONTRACTOR MAY BE RELIEVED FROM MAINTENANCE WORK WHEN THE FINAL (60) CALENDAR DAY PLANT ESTABLISHMENT WORK HAS BEEN SATISFACTORILY COMPLETED TO THE SATISFACTION OF THE LANDSCAPE ARCHITECT.

DAMAGE TO PLANTING AREAS SHALL BE REPLACED IMMEDIATELY.

- DEPRESSIONS CAUSED BY VEHICLES, BICYCLES, OR FOOT TRAFFIC TO BE FILLED WITH TOPSOILS AND LEVELED. REPLANT DAMAGED AREAS.

- EXTERMINATE GOPHERS AND MOLES AND REPAIR DAMAGE, AS ABOVE.

- CONTRACTOR WILL APPLY 10 POUNDS OF POST PLANT FERTILIZER (5-3-1) PER 1,000 SQUARE FEET TO ALL PLANTED AREAS.

- GUARANTEE AND REPLACEMENTS
ALL SHRUBS AND GROUNDCOVER SHALL BE GUARANTEED BY THE CONTRACTOR AS TO GROWTH AND HEALTH FOR A PERIOD OF SIXTY-DAYS AFTER COMPLETION OF THE SPECIFIED MAINTENANCE PERIOD AND/OR FINAL ACCEPTANCE BY THE LANDSCAPE ARCHITECT. ALL TREES UP TO 5 GALLON SIZE SHALL BE GUARANTEED BY THE CONTRACTOR TO LIVE AND GROW IN AN ACCEPTABLE UPRIGHT POSITION FOR A PERIOD OF SIX MONTHS AFTER COMPLETION OF THE SPECIFIED MAINTENANCE PERIOD AND/OR FINAL ACCEPTANCE BY THE LANDSCAPE ARCHITECT. TREES IN 15 GALLON, OR LARGER, AND ALL FIELD GROWN SPECIMENS SHALL BE GUARANTEED BY THE CONTRACTOR TO LIVE AND GROW IN AN ACCEPTABLE UPRIGHT POSITION FOR A PERIOD OF ONE YEAR AFTER COMPLETION OF THE SPECIFIED MAINTENANCE PERIOD, AND/OR FINAL ACCEPTANCE BY THE LANDSCAPE ARCHITECT.

- CLEAN-UP
UPON COMPLETION OF WORK OF THIS SECTION, REMOVE RUBBISH, TRASH AND DEBRIS RESULTING FROM OPERATION. REMOVE DISUSED EQUIPMENT AND IMPLEMENTS OF SERVICE, AND LEAVE ENTIRE AREA INVOLVED IN A NEAT AND ACCEPTABLE CONDITION SUCH AS TO MEET THE APPROVAL OF THE LANDSCAPE ARCHITECT, WITH ALL PAVING, WALKS AND OTHER CONSTRUCTION WASHED-DOWN AND FREE OF ALL DIRT AND DEBRIS.

SPECIAL CONDITIONS

ALL PROVISIONS OF THE GENERAL CONDITIONS OF THE CONTRACT SHALL APPLY TO THE WORK AS IF HEREIN WRITTEN.

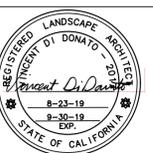
- ALL EXISTING UTILITY LINES AND IMPROVEMENTS SHALL BE LOCATED PRIOR TO WORK.
- CONTRACTOR SHALL SECURE AND PAY FOR ALL REQUIRED PERMITS AND FEES TO COMPLETE WORK.
- CONTRACTOR SHALL BE INSURED FOR LIABILITY AND PROPERTY DAMAGE.
- CONTRACTOR SHALL ADEQUATELY PROTECT ALL EXISTING PROPERTY.
- CONTRACTOR SHALL GUARANTEE ALL MATERIALS AND WORKMANSHIP FOR ONE YEAR. (EXCEPT AS NOTED)
- ALL MATERIALS SHALL BE OF STANDARD, APPROVED, AND FIRST GRADE QUALITY AND SHALL BE IN PRIME CONDITION.
- WORK SHALL BE PERFORMED WHEN WEATHER CONDITIONS PERMIT SATISFACTORY RESULTS.
- ALL WORK SHALL BE DONE IN ACCORDANCE WITH APPROVED METHODS AND STANDARDS AS SET FORTH BY THE CALIFORNIA COUNCIL OF LANDSCAPE CONTRACTORS OR CALIFORNIA LANDSCAPE CONTRACTORS ASSOCIATION, UNLESS OTHERWISE INDICATED OR SHOWN.
- ALL WORK SHALL BE IN FULL COMPLIANCE WITH ALL GOVERNING CODES AND REGULATIONS.
- ALL AREAS SHALL BE LEFT CLEAN, FREE OF DEBRIS AND WASHED DOWN.
- LANDSCAPE ARCHITECT RETAINS OPTION TO REQUIRE THAT CONTRACTOR RECEIVE A FIELD OBSERVATION OF EACH OPERATION AND MATERIAL PRIOR TO INCORPORATION INTO THE WORK.
- CONTRACTOR SHALL USE ANY MEANS NECESSARY TO PROTECT ALL PLANTED AREAS FROM FOOT TRAFFIC INCLUDING BUT NOT LIMITED TO STAKES & WARNING TAPE.

REVISIONS				
MARK	DATE	INITIAL	DESCRIPTION	DATE APP'VD

PLANS PREPARED BY



ALHAMBRA GROUP
LANDSCAPE ARCHITECTURE
CALIFORNIA LICENSE #2017
RECREATION FACILITIES PLANNING
41635 ENTERPRISE CIRCLE NORTH, SUITE C
TEMECULA, CA 92590 (951) 296-6802



DRAWN BY:	V.D.	APPROVED BY:	
DESIGNED BY:	V.D.	PUBLIC WORKS DIRECTOR / CITY ENGINEER	DATE
CHECKED BY:	V.D.	R.C.E. 44766	EXP. DATE 03/31/20
RECOMMENDED BY:		RECOMMENDED BY:	RECOMMENDED BY:
		ENGINEERING STAFF	LAND DEVELOPMENT AND TRANSPORTATION

CITY OF UPLAND

TRACT NO. 20023
BODENHAMER ST. and 9TH ST. PARK
LANDSCAPE CONSTRUCTION PLANS
PLANTING and IRRIGATION SPECIFICATIONS

PROJECT NO. TM 20023
SHEET **L-5**
OF 9 SHEETS
DRAWING NO. LS 18-12 A
E102-23.300 P01

Underground Service Alert



Call: TOLL FREE
811
TWO WORKING DAYS BEFORE YOU DIG

Exhibit "C"
Park Development Task Allocation

Task	Responsible
Plan development	Developer
Plan review and approval	City
Construction	Developer
Inspection	City

Exhibit "D"
Park Budget



**CITY OF UPLAND
PUBLIC WORKS DEPARTMENT
ENGINEERING DIVISION**

**COST ESTIMATE SUMMARY SHEET
Public Improvements**

BOND AMOUNT CALCULATION

Developer: UPLAND 3 ACRES, LP
 Project: SAGE @ NINTH STREET
 Location: 1337 Bowen Street

Item Description	Estimated Cost
1 . Street Improvements	\$ 66,736.25
2 . Sewer Improvements	\$ -
3 . Water Improvements	\$ -
4 . Drainage Improvements	\$ 6,325.00
6 . Miscellaneous	\$ 308,584.44
Sub-total	\$ 381,645.69
20% Contingency	\$
Total Bond Amount	\$
Faithful Performance (100%)	\$
Labor and Materials (50%)	\$
Final Monuments (Cash Deposit required for monuments)	\$ -

Estimated By: Vince DiDonato and Stephen Ventura.
 RCE#: See separate sheets for stamp/signature
 Date: 7/29/2019

Place RCE stamp and signature

Bond amounts will be calculated by the developer's engineer and checked by the Public Works Department. Inspection fee deposits shall be paid prior to issuance of permit.

**Estimate of Cost for
Public Miscellaneous Improvements and Final Monuments**

Developer: Upland 3 Acres, LP
 Project: Sage at Ninth
 Location: 1337 Bowen Street

Miscellaneous Items		Quantity	Unit	Price	Amount
MIRACLE	WET STAMPED ENGINEERING	1	EA.	\$450.00	\$450.00
MIRACLE	FREESTANDING CLIMBERS	1	EA.	\$8,297.00	\$8,297.00
	482 CAMEL BACK CLIMBER				
	434 FLIP-FLOP CLIMBER				
	7147721 BONGO PERCH				
	304 TEN SPIN				
MIRACLE	FITNESS STATIONS	1	EA.	\$4,104.00	\$4,104.00
	159001 STEP UP				
	159016 DIP STATION				
	159011 CHIN UP				
	159003 BODY CURL				
MIRACLE	PLAY SHADE PYRAMID (30 X 30 X 10)	2	EA.	\$6,220.00	\$12,440.00
MIRACLE	BENCHES AND TABLES	1	L.S.	\$18,334.00	\$18,334.00
	MRPQ230Q SQUARE TABLE 46"				
	MRPQ235Q ADA SQUARE TABLE 46"				
	MRPQL32 RECEPTACLE POST FLAT LID				
	MRPQ303Q BENCH CONTEMPORARY				
	SUBTOTAL				\$43,625.00
CA	SALES TAX	7.75%	%	\$43,625.00	\$3,380.94
MIRACLE	COMMERCIAL FREIGHT	1	EA.	\$6,036.51	\$6,036.51
	UNPACKING, INSTALLATION & SETUP	25%	%	\$43,625.00	\$10,906.25
	TOTAL				\$63,948.70
FIBAR	FIBAR SYSTEM	2633	S.F.	\$2.12	\$5,574.00
CA	SALES TAX	7.75%	%	\$5,574.00	\$431.99
FIBAR	COMMERCIAL FREIGHT	1	EA.	\$441.00	\$441.00
	INSTALLATION	2633	S.F.	\$3.96	\$10,426.68
	TOTAL				\$16,873.67
KAY PARK	PET STATION DISPENSER	1	EA.	\$418.00	\$418.00
KAY PARK	DOG PARK DOUBLE HOOP JUMP	1	EA.	\$259.00	\$259.00
KAY PARK	DOG PARK TUNNEL RUN	1	EA.	\$998.00	\$998.00
	SUBTOTAL				\$1,675.00
CA	SALES TAX	7.75%	%	\$1,675.00	\$129.81
KAY PARK	COMMERCIAL FREIGHT	1	EA.	\$782.00	\$782.00
	UNPACKING, INSTALLATION & SETUP	25%	%	\$1,675.00	\$418.75
	TOTAL				\$3,005.56
	GRAND TOTAL				\$85,502.93

LIGHTING BOLLARDS	20	EA.	\$ 750.00	\$ 15,000.00
WALLS & FENCING				
SPLIT FACE BLOCK WALL (TYPE I)	237	L.F.	\$ 78.00	\$ 18,486.00
TUBULAR STEEL FENCE (TYPE III)	360	L.F.	\$ 65.00	\$ 23,400.00
TUBULAR STEEL GATE W/ LOCKS (TYPE IV)	4	L.F.	\$ 750.00	\$ 3,000.00
PLANTING AND IRRIGATION				
IRRIGATION	6750	S.F.	\$ 3.40	\$ 22,950.00
24" BOX TREES	15	EA.	\$ 400.00	\$ 6,000.00
1 GAL SHRUB	180	EA.	\$ 15.00	\$ 2,700.00
5 GAL SHRUB	181	EA.	\$ 40.00	\$ 7,240.00
WEED ABATEMENT & AMENDMENTS	6750	S.F.	\$ 0.45	\$ 3,037.50
FINE GRADING +/- 0.1'	6750	S.F.	\$ 0.50	\$ 3,375.00
90 DAY MAINTENANCE	6750	S.F.	\$ 0.06	\$ 398.25
3" THK LAYER BARK MULCH	6750	S.F.	\$ 0.60	\$ 4,050.00
CONCRETE (3,773 SF over 2" Sand - see STREET)				\$ -
SECURITY CAMERAS	1	L.S.	\$ 5,000.00	\$ 5,000.00
LANDSCAPE ARCHITECT/CIVIL ENGINEER/SURVEY	1	L.S.	\$ 45,000.00	\$ 45,000.00
CITY PERMIT FEES	1	L.S.	\$ 20,000.00	\$ 20,000.00
GENERAL CONTRACTING FEE	10%	%	\$ 217,223.84	\$ 21,722.38
PROJECT MANAGEMENT	10%	%	\$ 217,223.84	\$ 21,722.38
Total for Miscellaneous Improvements				\$ 308,584.44

By: _____
Miscellaneous Drawing Number(s): _____

Final Monuments	Quantity	Unit	Price	Amount
Monumentation per lot (refundable)		EA	\$ 700.00	\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
Total for Final Monuments				\$ -

By: VINCENT DI DONATO LIC. # 2017
Final Map Number: _____



Exhibit "E"
Hazardous Substances

Hazardous Substances means any flammable explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances and other related materials including, without limitation, any substances defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials" or "toxic substances" under any applicable federal, state or local laws, ordinances or regulations.

Exhibit "F"
Environmental Laws

"Environmental Laws" means any and all present federal, state and local laws (whether under common law, statute, rule, regulation or otherwise), permits, and other requirements of governmental authorities relating to the environment or to any Hazardous Substance (including, without limitation, (i) the Toxic Substances Control Act, 15 U.S.C., Section 2601 et seq., (ii) the Clean Water Act, 33 U.S.C., Section 1251 et seq., (iii) the Resource and Conservation and Recovery Act, 42 U.S.C., Section 6901 et seq., (iv) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C., Section 9601 et seq., (v) the Hazardous Materials Transportation Act, 49 U.S.C., Section 1801 et seq., (vi) the California Hazardous Waste Control Act, Health and Safety Code, Section 25100 et seq., (vii) the California Hazardous Substance Account Act, Health and Safety Code, Section 25249.5 et seq., (viii) the California Waste Management Act, Health and Safety Code, Section 25170.1 et seq., (ix) Health and Safety Code, Section 2550, Hazardous Materials Release Response Plans and Inventory, or (x) the California Porter-Cologne Water Quality Control Act, Water Code, Section 13000 et seq., all as amended).



STAFF REPORT

ITEM NO. 14.C.

DATE: September 14, 2020
TO: MAYOR AND CITY COUNCIL
FROM: ROSEMARY HOERNING, CITY MANAGER
PREPARED BY: ROBERT D. DALQUEST, DEVELOPMENT SERVICES DIRECTOR
LIZ CHAVEZ, DEVELOPMENT SERVICES MANAGER
GIOVANNI ARELLANO, REHAB PROGRAM ADMINISTRATOR
SUBJECT: CONSIDERATION TO PROVIDE DIRECTION TO PROCEED WITH THE DESIGN AND DEVELOPMENT OF A NEW URBAN PUBLIC SPACE IN THE DOWNTOWN ON 0.69 ACRE LOCATED BETWEEN SECOND AVENUE AND THIRD AVENUE, ADJACENT TO THE PACIFIC ELECTRIC TRAIL

RECOMMENDED ACTION

It is recommended that the City Council direct staff to proceed with the design and development of a new urban public space in downtown on 0.69 acre, and appropriate and amend the Capital Improvement Program in the amount of \$300,000 from Park Development fund for design and construction of the project.

GOAL STATEMENT

The proposed action supports the goals of the Historic Downtown Upland Specific Plan by providing public space to improve the visual aesthetics of Downtown and serve as an urban space for residents and visitors to gather and enjoy the Downtown environment and services.

BACKGROUND

As part of the Development Services Department's continuing efforts to improve and enhance the public realm in the Downtown, staff has created a plan to develop two vacant lots adjacent along the north and south of the Pacific Electric Trail, between Second Avenue and Third Avenue as a new urban public space. The property is owned by the San Bernardino County Transportation Agency (SBCTA) and is 0.69 acre in size. The City of Upland owns a License Agreement with SBCTA which allows the City to design and construct improvements along the Pacific Electric Trail within the City. Unlike many historic downtowns, Upland's downtown

lacks a central public space. The new public space will be utilized as a social gathering area, holiday celebrations, small concerts, recreation, reflection, and to promote local history and art. The location is also ideal to serve as a quasi trailhead for Upland's major Class 1 Bike Trail which will encourage bike riders and pedestrians to stop in Downtown to rest and/or have a bite to eat. Staff has observed on a few occasions people parking their vehicles on this stretch of Second Avenue and unloading their bicycles to enter the trail from this location. Lastly, the new urban space will encourage more pedestrian traffic to Downtown, thereby increasing the area's walkability factor and overall intrinsic value for the community.

The new public space provides an opportunity to incorporate Upland's citrus heritage and local history as the theme within the public space. Attached for the Committee's reference are conceptual renderings which illustrate what the new urban space could ultimately look like. Additionally, to accommodate a true urban public space, the area's paving and landscaping will be selected for its overall utilitarian use, as well as contributing toward the aesthetics in the Downtown environment.

Urban public spaces are dynamic, inclusive, and foster a sense of community and positively impact the daily lives of people living in urban areas. They play an important role in branding an area and promoting a healthier and livable environment that will result in recreational, social and economic benefits that will help revitalize the Downtown.

ISSUES/ANALYSIS

Under the Historic Downtown Specific Plan, a primary component missing from Downtown is a central urban public space. Without a central urban space, Downtown community events and activities are somewhat fragmented, and relegated to fringe parking lots or require the complete closure of streets. By creating an urban public space, this missing component in Downtown's public realm will be addressed.

In an effort to seek input from Downtown stakeholders, staff has communicated and showed the project's conceptual plans to Historic Downtown Upland (Merchant Group), Upland Chamber of Commerce, and Upland Heritage (Historical Society), and all are supportive of the concept and the conceptual improvements. In addition, on September 2nd, staff presented the project to the City Council Advisory Committee to obtain their comments and recommendation. The Committee voted unanimously to recommend to the Council to direct staff to proceed with the project, and provided comments relative to design elements or operational issues to consider, which included:

- Provide secure bike storage/racks so cyclists can stop in Downtown and get a bite to eat;
- Use drought-tolerant trees and landscaping;
- Murals to be consistent with the future changes to the Specific Plan's criteria;
- Add dog waste stations with disposable bags;
- Utilize shade trees to reduce the heat island effect from paved surfaces;
- Provide adequate lighting to reduce homelessness issues and vandalism - obtain input from the Police Department;
- Provide adequate number of trash receptacles;
- Provide an adequate level of service to maintenance the public space so it is continually sanitary;
- Obtain input from District 4 residents to name the urban space; and
- Develop a brick purchase program to help fund improvements.

In combination with other City efforts underway in the Downtown, such as the recently approved Historic Downtown Upland Streetscape Beautification Program, the Business Attraction and Assistance Program, the Commercial Rehabilitation Program and a number of

development inquiries, the new urban public space will augment the Downtown environment and help accelerate revitalization of Downtown.

This project furthers a key recommendation identified by the Ad Hoc Committee for the Downtown. This Ad Hoc committee was formed to evaluate concerns affecting business retention and attraction in Downtown. A Final Report detailing the Ad Hoc Committees findings was presented to the City Council. A key finding in this report concerned the poor aesthetics in Downtown and the need for public realm improvements to enhance the Downtown's environment and attract new businesses.

Lastly, a while back, the City received a \$2 million ATP Grant from SBCTA for trail improvements for the segment from Euclid Avenue to Campus Avenue. Staff has scheduled a meeting with SBCTA representatives to discuss the new urban public space project to determine what improvements the grant may be able to fund. If the Council decides to move forward on this project, staff will obtain the services of a landscape architect to develop a design, specs, and a cost estimate for the project. Staff will bring back the final design for City Council approval prior to going out to bid for the project.

FISCAL IMPACTS

The proposed urban public space will be funded in whole from the City's Park DIF Fund and is anticipated to total approximately \$300,000. Fees will be used for architectural and design services as well as project construction. There is no fiscal impact to the General Fund relative to the funding of this Project.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Conceptual Renderings of the new public urban space in Downtown



EXISTING SITE TOP VIEW

PROPOSED NEW PARK



PROPOSED NEW RESTROOMS



City of Upland

HISTORIC DISTRICT
BEAUTIFICATION

Park Project
Upland, California

August 30, 2020

City of Upland Historic District
Proposed Old Magnolia Plaza



PROPOSED MURAL ON EXISTING NORTH WALL. - SOUTH VIEW FROM N 2ND AVE.



EXISTING SOUTH VIEW



PROPOSED NEW MURAL



City of Upland

HISTORIC DISTRICT
BEAUTIFICATION

Park Project
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PROPOSED WEST VIEW FROM N 3RD AVE.
OLD MAGNOLIA PLAZA MURAL

EXISTING WEST VIEW

City of Upland Historic District
Proposed Old Magnolia Plaza



City of Upland

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STAGE AREA
 TRELIS PICNIC TABLE
 SEATING BENCHES
 PAVERS WALKWAY
 LANDSCAPING AREAS



PROPOSED PARK WEST VIEW FROM ALLEY

EXISTING WEST VIEW



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EXISTING NORTH VIEW

PROPOSED PARK BAND STAGE
WITH OPTION OF SUNKIST MURAL

City of Upland Historic District
Proposed Old Magnolia Plaza



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