



UPLAND CITY COUNCIL

AGENDA

**December 10, 2018
City Council Chamber**

**DEBBIE STONE, MAYOR
CAROL TIMM, MAYOR PRO TEM
GINO L. FILIPPI, COUNCILMEMBER
JANICE ELLIOTT, COUNCILMEMBER
SID ROBINSON, COUNCILMEMBER**

**JEANNETTE VAGNOZZI, ACTING CITY MANAGER
JAMES L. MARKMAN, CITY ATTORNEY**

DISRUPTION OF MEETINGS

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

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

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

- 4. CLOSED SESSION None**

7:00 PM

5. INVOCATION

Pastor Randy Gardner, Purpose Church

6. PLEDGE OF ALLEGIANCE

7. PRESENTATIONS

Recognition of the Upland High School Football Team CIF Division 2 Southern Section Championship

CERTIFICATION OF GENERAL MUNICIPAL ELECTION RESULTS - NOVEMBER 6, 2018

Adopt a Resolution reciting the fact of the General Municipal Election held on November 6, 2018, declaring the results and such other matters as provided by law. (Staff Person: Jeannette Vagnozzi)

RECOGNITION OF CITY COUNCIL MEMBERS GINO FILIPPI, CAROL TIMM, AND SID ROBINSON

Proclamations honoring Councilmembers Gino Filippi, Carol Timm, and Sid Robinson for their years of dedicated and loyal service to the City of Upland.

ADMINISTRATION OF OATH OF OFFICE

Janice Elliott, Member of the City Council, District 2
Ricky Felix, Member of the City Council, District 3
Rudy Zuniga, Member of the City Council, District 4

REMARKS FROM NEWLY ELECTED OFFICIALS

ROLL CALL

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 WARRANT AND PAYROLL REGISTERS NOVEMBER 2018

Approve the November Warrant Registers and Direct Disbursements (check numbers 22937-23277) totaling \$4,771,947.48 and Payroll Registers totaling \$1,194,501.29 (check Numbers 160299-160324 and EFTs 11581-12066). (Staff Person: Londa Bock-Helms)

B. APPROVAL OF MINUTES

Approve the Regular Meeting Minutes of November 26, 2018. (Staff Person: Jeannette Vagnozzi)

- C. SCHEDULED VACANCIES FOR COMMISSIONS, COMMITTEES, AND BOARDS FOR CALENDAR YEAR 2019
Accept and file the Local Appointments List for all City commissions, committees, and boards for calendar year 2019, and direct the City Clerk to post the list. (Staff Person: Jeannette Vagnozzi)
- D. TREASURER'S REPORT OCTOBER 2018
Receive and file the October 2018 Treasurer's Report. (Staff Person: Londa Bock-Helms)
- E. ACCEPTANCE OF WORK FOR PROJECT NO. 7066, CITYWIDE CONCRETE REPAIRS 2017-2018
Accept the work; record the Notice of Completion; and, reduce the Faithful Performance Bond to 10% for Project No. 7066, Citywide Concrete Repairs 2017-2018. (Staff Person: Rosemary Hoerning)
- F. RESIGNATION OF TRAFFIC SAFETY ADVISORY COMMITTEE MEMBER
Accept the resignation from Traffic Safety Advisory Committee Member Jim Stewart. (Staff Person: Jeannette Vagnozzi)
- G. EMERGENCY PURCHASE AND INSTALLATION OF EQUIPMENT AND PROFESSIONAL SERVICES FOR WATER SYSTEM IMPROVEMENTS
Receive and file the status update. (Staff Person: Rosemary Hoerning)
- H. DISPOSAL OF SURPLUS EQUIPMENT
Declare the items included on the attached list as surplus, and authorize the Acting City Manager to initiate disposal of the surplus equipment. (Staff Person: Jeannette Vagnozzi)

12. PUBLIC HEARINGS

- A. APPROVAL OF THE UPDATE TO THE CITY OF UPLAND'S ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE FY 2019-23
Adopt a Resolution approving the update to the City of Upland's Analysis of Impediments to Fair Housing Choice FY 2019-23 (the "AI") as required by the Federal Department of Housing and Urban Development; and, authorize the City Manager or her designee to execute all related documents to effectuate the acceptance of the AI. (Staff Person: Steven H. Dukett)

13. COUNCIL COMMITTEE REPORTS

14. BUSINESS ITEMS

- A. ASSIGNMENT AND ASSUMPTION AGREEMENT BETWEEN BRAVEPARK PROPERTY, LLC, TAYLOR MORRISON OF CALIFORNIA, LLC, AND THE CITY OF UPLAND, PERTAINING TO PORTIONS OF PLANNING AREA 3 OF THE SYCAMORE HILLS SPECIFIC PLAN, LOCATED NORTH OF BASELINE ROAD, SOUTH OF THE 1-210 FREEWAY AND WEST OF THE MOUNTAIN SHADOWS HOUSING DEVELOPMENT.
Approve the Assignment and Assumption Agreement by and between Bravepark Property, LLC, a Delaware limited liability company, Taylor Morrison of California, LLC, a California limited liability company, and the City of Upland, pertaining to Planning Area 3 of the Sycamore Hills Specific Plan. (Staff Person: Steven H. Dukett)
- B. ACTION TO FILL CITY COUNCIL VACANCY
Consider the following options to fill the City Council Vacancy. (Staff Person: Jeannette Vagnozzi)

- 1) Direct staff to initiate a process for appointment of a resident and registered voter of the City of Upland; or
- 2) Direct staff to bring back the required resolutions to call for an all-mail ballot special election; or
- 3) Direct staff to bring back required resolutions to call for a special election.

C. RESOLUTION REPEALING AND RESCINDING RESOLUTION NO. 6446

Adopt a Resolution repealing and rescinding Resolution No. 6446, Censure of Council Member Janice Elliott. (Staff Person: Jeannette Vagnozzi)

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 regular City Council meeting scheduled for December 24, 2018 will be cancelled. The next regularly scheduled City Council meeting is Monday, January 14, 2019.

NOTE: If you challenge the public hearing(s) or the related environmental determinations in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Upland, at, or prior to, the public hearing.

All Agenda items and back-up materials are available for public review at the Upland Public Library, downstairs reference desk at 450 North Euclid Avenue, the City Clerk's Office at 460 North Euclid Avenue and the City website at www.ci.upland.ca.us, subject to staff's ability to post the documents before the meeting.

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

POSTING STATEMENT: On December 6, 2018 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).



STAFF REPORT

ITEM NO. 7.

DATE: December 10, 2018
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, ACTING CITY MANAGER
PREPARED BY: JEANNETTE VAGNOZZI, ACTING CITY MANAGER
KERI JOHNSON, DEPUTY CITY CLERK
SUBJECT: CERTIFICATION OF GENERAL MUNICIPAL ELECTION RESULTS -
NOVEMBER 6, 2018

RECOMMENDED ACTION

It is recommended that the City Council adopt a Resolution reciting the fact of the General Municipal Election held on November 6 2018, declaring the results and such other matters as provided by law.

GOAL STATEMENT

The proposed action supports the City's goal to conduct municipal elections in an efficient and cost effective manner, complying with all state regulations pertaining to municipal elections.

BACKGROUND

Pursuant to Elections Code and at the request of the City Council, the San Bernardino County Registrar of Voters conducted the City's General Municipal Election held on November 6, 2018, for the purpose of electing a member of the City Council (one each) for Districts 2, 3 and 4.

ISSUES/ANALYSIS

The Elections Code requires that the Legislative Body of the municipal government adopt a resolution certifying the results of the municipal election. This resolution affirms the whole number of votes cast with the following results certified by the San Bernardino County Registrar of Voters.

Member of City Council (District 2)	Vote Count	Percent
YVETTE M. WALKER	3,492	45.77%
JANICE ELLIOTT*	4,138	54.23%
TOTAL	7,630	100.00%

Member of City Council (District 3)	Vote Count	Percent
RICKY FELIX*	1,517	39.39%
GINO L. FILIPPI	980	25.45%
IRMALINDA OSUNA	1,354	35.16%
TOTAL	3,851	100.00%

Member of City Council (District 4)	Vote Count	Percent
RUDY ZUNIGA*	1,939	45.87%
TAMMY RAPP	608	14.38%
CAROL TIMM	1,680	39.74%
TOTAL	4,227	100.00%

FISCAL IMPACTS

The is no fiscal impact associated with this action.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

**Resolution certifying election results
Exhibit A**

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UPLAND
RECITING THE FACT OF THE GENERAL MUNICIPAL ELECTION
HELD ON NOVEMBER 6, 2018, DECLARING THE RESULT AND
SUCH OTHER MATTERS AS PROVIDED BY LAW.

Intent of the Parties and Findings

(i) A General Municipal Election was held and conducted in the City of Upland, California, on Tuesday, November 6, 2018, as required by law; and

(ii) Notice of the election was given in time, form and manner as provided by law; that voting precincts were properly established; that election officers were appointed and that in all respects the election was held and conducted and the votes were cast, received and canvassed and the returns made and declared in time, form and manner as required by the provisions of the Elections Code of the State of California for the holding of elections in general law cities; and

(iii) Pursuant to Resolution No. 6448 adopted June 11, 2018, the County Election Department canvassed the returns of the election and has certified the results to this City Council, the results were received, attached, and made a part hereof as "Exhibit A".

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

SECTION 1. The whole number of ballots cast in the precincts is 6,926. The number of vote by mail ballots cast was 11,218.

SECTION 2. The names of the persons voted for at the election for Member of City Council, District 2 are as follows:

Yvette M. Walker
Janice Elliott

SECTION 3. The names of the persons voted for at the election for Member of City Council, District 3 are as follows:

Ricky Felix
Gino L. Filippi
Irmalinda Osuna

SECTION 4. The names of the persons voted for at the election for Member of City Council, District 4 are as follows:

Rudy Zuniga
Tammy Rapp
Carol Timm

SECTION 5. The number of votes given at each precinct and the number of votes given in the City to each of the persons above names for the respective offices for which the persons were candidates are listed in the attached "Exhibit A".

SECTION 6. The City Council does declare and determine that: Janice Elliott was elected as Member of the City Council, District 2, for the full term of four years, Ricky Felix was elected as a Member of the City Council, District 3, for the full term of four years, Rudy Zuniga was elected as a Member of the City Council, District 4, for the full term of four years.

SECTION 7. The City Clerk shall enter on the records of the City, a statement of result of the election, showing:

- 1) the whole number of ballots cast in the City;
- 2) the names of the persons voted for;
- 3) for what office each person was voted for;
- 4) the number of votes given at each precinct to each person; and
- 5) the total number of votes given to each person.

SECTION 8. The City Clerk shall immediately make and deliver to each of the persons so elected a Certificate of Election signed by the City Clerk and authenticated; that the City Clerk shall also administer to each person elected the Oath of Office prescribed in the Constitution of the State of California and shall have them subscribe to it and file it in the Office of the City Clerk. Each and all of the persons so elected shall then be inducted into the respective office to which they have been elected.

SECTION 9. 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 10th day of December, 2018.

Debbie Stone, Mayor

I, Keri Johnson, Deputy 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 10th day of December, 2018, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAINED:

ATTEST: _____
Keri Johnson, City Clerk

SAN BERNARDINO COUNTY Statement of Vote
2018 STATEWIDE GENERAL ELECTION

100133	CITY OF UPLAND, CITY COUNCIL, DISTRICT 2													
	Registration	Ballots Cast	Turnout (%)		YVETTE M. WALKER	JANICE ELLIOTT								
UP20836 836	177	30	16.95		15	9								
UP20836 - Vote by Mail	177	104	58.76		39	44								
UP20837 837	243	28	11.52		10	13								
UP20837 - Vote by Mail	243	161	66.26		70	65								
UP20844 844	1176	300	25.51		116	142								
UP20844 - Vote by Mail	1176	600	51.02		225	300								
UP20845 845	1106	340	30.74		131	162								
UP20845 - Vote by Mail	1106	496	44.85		190	248								
UP20846 846	917	200	21.81		81	83								
UP20846 - Vote by Mail	917	365	39.80		158	152								
UP20847 847	1933	506	26.18		235	189								
UP20847 - Vote by Mail	1933	924	47.80		378	395								
UP20848 848	94	34	36.17		17	13								
UP20848 - Vote by Mail	94	34	36.17		18	12								
UP20849 849	1831	470	25.67		187	207								
UP20849 - Vote by Mail	1831	918	50.14		330	477								
UP20850 850	1906	449	23.56		167	210								
UP20850 - Vote by Mail	1906	1004	52.68		372	490								
UP20854 854	140	39	27.86		12	24								
UP20854 - Vote by Mail	140	67	47.86		25	33								
UP20855 855	383	127	33.16		53	58								
UP20855 - Vote by Mail	383	157	40.99		43	90								
UP21275 1275	51	18	35.29		6	11								
UP21275 - Vote by Mail	51	26	50.98		11	12								
UP21276 1276	758	159	20.98		69	68								
UP21276 - Vote by Mail	758	407	53.69		167	191								
UP21280 1280	381	101	26.51		42	42								
UP21280 - Vote by Mail	381	143	37.53		62	59								
UP21838 1838	275	63	22.91		31	26								
UP21838 - Vote by Mail	275	124	45.09		47	63								
UP21289 1289	870	238	27.36		94	100								
UP21289 - Vote by Mail	870	277	31.84		91	150								
Precinct Totals	12241	3102	25.34		1266	1357								
Vote by Mail Totals	12241	5807	47.44		2226	2781								
Grand Totals	12241	8909	72.78		3492	4138								
California	12241	8909	72.78		3492	4138								
San Bernardino County	12241	8909	72.78		3492	4138								
State Bd of Equal 1	12241	8909	72.78		3492	4138								
U. S. Representative District 27	9906	7353	74.23		2872	3416								
U. S. Representative District 31	2335	1556	66.64		620	722								
Senatorial District 25	12241	8909	72.78		3492	4138								
State Assembly District 41	12241	8909	72.78		3492	4138								
Supervisory District 2	11371	8394	73.82		3307	3888								
Supervisory District 4	870	515	59.20		185	250								
City of Upland	12241	8909	72.78		3492	4138								

SAN BERNARDINO COUNTY Statement of Vote
2018 STATEWIDE GENERAL ELECTION

100134		CITY OF UPLAND, CITY COUNCIL, DISTRICT 3													
	Registration	Ballots Cast	Turnout (%)		RICKY FELIX	GINO L. FILIPPI	IRMALINDA OSUNA								
UP31284 1284	20	6	30.00		2	0	3								
UP31284 - Vote by Mail	20	7	35.00		2	0	4								
UP31285 1285	44	8	18.18		4	4	0								
UP31285 - Vote by Mail	44	20	45.45		10	4	4								
UP31290 1290	2021	543	26.87		223	89	147								
UP31290 - Vote by Mail	2021	736	36.42		308	179	194								
UP31291 1291	2277	532	23.36		143	117	185								
UP31291 - Vote by Mail	2277	732	32.15		204	198	232								
UP31292 1292	2278	457	20.06		115	92	171								
UP31292 - Vote by Mail	2278	769	33.76		172	183	285								
UP31293 1293	0	0	0.00		0	0	0								
UP31293 - Vote by Mail	0	0	0.00		0	0	0								
UP31294 1294	0	0	0.00		0	0	0								
UP31294 - Vote by Mail	0	0	0.00		0	0	0								
UP31836 1836	952	290	30.46		143	51	64								
UP31836 - Vote by Mail	952	342	35.92		191	63	65								
UP31522 1522	0	0	0.00		0	0	0								
UP31522 - Vote by Mail	0	0	0.00		0	0	0								
UP31523 1523	0	0	0.00		0	0	0								
UP31523 - Vote by Mail	0	0	0.00		0	0	0								
UP31524 1524	0	0	0.00		0	0	0								
UP31524 - Vote by Mail	0	0	0.00		0	0	0								
Precinct Totals	7592	1836	24.18		630	353	570								
Vote by Mail Totals	7592	2606	34.33		887	627	784								
Grand Totals	7592	4442	58.51		1517	980	1354								
California	7592	4442	58.51		1517	980	1354								
San Bernardino County	7592	4442	58.51		1517	980	1354								
State Bd of Equal 1	7592	4442	58.51		1517	980	1354								
U. S. Representative District 31	7592	4442	58.51		1517	980	1354								
U. S. Representative District 35	0	0	0.00		0	0	0								
Senatorial District 20	0	0	0.00		0	0	0								
Senatorial District 25	7592	4442	58.51		1517	980	1354								
State Assembly District 41	7592	4442	58.51		1517	980	1354								
State Assembly District 52	0	0	0.00		0	0	0								
Supervisorial District 4	7592	4442	58.51		1517	980	1354								
City of Upland	7592	4442	58.51		1517	980	1354								

SAN BERNARDINO COUNTY Statement of Vote
2018 STATEWIDE GENERAL ELECTION

CITY OF UPLAND, CITY COUNCIL, DISTRICT 4

100135	Registration	Ballots Cast	Turnout (%)		RUDY ZUNIGA	TAMMY RAPP	CAROL TIMM								
UP41281 1281	809	161	19.90		51	13	68								
UP41281 - Vote by Mail	809	264	32.63		80	43	117								
UP41282 1282	971	315	32.44		129	39	100								
UP41282 - Vote by Mail	971	390	40.16		139	47	162								
UP41837 1837	25	6	24.00		2	1	3								
UP41837 - Vote by Mail	25	5	20.00		4	0	1								
UP41283 1283	659	173	26.25		94	12	47								
UP41283 - Vote by Mail	659	198	30.05		91	24	65								
UP41833 1833	915	254	27.76		114	30	79								
UP41833 - Vote by Mail	915	303	33.11		140	38	99								
UP41286 1286	1888	452	23.94		210	56	128								
UP41286 - Vote by Mail	1888	683	36.18		277	107	233								
UP41287 1287	1743	325	18.65		133	39	111								
UP41287 - Vote by Mail	1743	581	33.33		236	69	207								
UP41288 1288	1211	302	24.94		109	34	108								
UP41288 - Vote by Mail	1211	381	31.46		130	56	152								
UP41460 1460	0	0	0.00		0	0	0								
UP41460 - Vote by Mail	0	0	0.00		0	0	0								
UP41962 1962	0	0	0.00		0	0	0								
UP41962 - Vote by Mail	0	0	0.00		0	0	0								
Precinct Totals	8221	1988	24.18		842	224	644								
Vote by Mail Totals	8221	2805	34.12		1097	384	1036								
Grand Totals	8221	4793	58.30		1939	608	1680								
California	8221	4793	58.30		1939	608	1680								
San Bernardino County	8221	4793	58.30		1939	608	1680								
State Bd of Equal 1	8221	4793	58.30		1939	608	1680								
U. S. Representative District 31	8221	4793	58.30		1939	608	1680								
U. S. Representative District 35	0	0	0.00		0	0	0								
Senatorial District 20	0	0	0.00		0	0	0								
Senatorial District 25	8221	4793	58.30		1939	608	1680								
State Assembly District 41	8221	4793	58.30		1939	608	1680								
State Assembly District 52	0	0	0.00		0	0	0								
Supervisorial District 2	1805	1141	63.21		405	143	451								
Supervisorial District 4	6416	3652	56.92		1534	465	1229								
City of Upland	8221	4793	58.30		1939	608	1680								

**MINUTES OF THE REGULAR MEETING OF THE
UPLAND CITY COUNCIL
NOVEMBER 26, 2018**

OPENING

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

1. ROLL CALL

Present: Mayor Debbie Stone, Council Members Carol Timm, Gino Filippi, Janice Elliott, and Sid Robinson

Staff: Acting City Manager Jeannette Vagnozzi, City Attorney Counsel James L. Markman, and Deputy City Clerk Keri Johnson

2. ADDITIONS/DELETIONS TO AGENDA None

3. ORAL COMMUNICATIONS

John Engelhardt, Upland, spoke in support of the City Council extending the tax sharing agreement with Ford of Upland.

Dan Richards, Ontario, spoke in support of the City Council extending the tax sharing agreement with Ford of Upland.

4. CLOSED SESSION

At 6:08 p.m. Mayor Stone announced the City Council would recess to Closed Session pursuant to Government Code Section

A. GOVERNMENT CODE SECTION 54956.8 - CONFERENCE WITH REAL PROPERTY NEGOTIATOR

Property: APN 0201-201-36

Agency Negotiator: Acting City Manager Vagnozzi and Development Services Consultant Dukett

Negotiating Parties: City of Upland and Ford of Upland

Under Negotiation: Price and terms

B. GOVERNMENT CODE SECTION 54956.9 (d) (1) EXISTING LITIGATION (WORKER'S COMP CLAIM)

Claimant: Thomas Melendrez

Agency: City of Upland

C. GOVERNMENT CODE SECTION 54956.9 (d) (1) EXISTING LITIGATION (WORKER'S COMP CLAIM)

Claimant: Kenneth Bonson

Agencies: City of Upland

D. GOVERNMENT CODE SECTION 54956.9 (d) (1) EXISTING LITIGATION (WORKER'S COMP CLAIM)

Claimant: Lawrence Latimer

Agencies: City of Upland

- E. GOVERNMENT CODE SECTION 54956.9 (d) (1) EXISTING LITIGATION
(WORKER'S COMP CLAIM)
Claimant: William Diamond
Agencies: City of Upland

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

5. **INVOCATION** Alfredo Silvestre, Church of Jesus Christ of Latter-day Saints,
President of the Upland 4th Branch

6. **PLEDGE OF ALLEGIANCE** City Attorney Markman

7. **PRESENTATIONS**

Presentation of Certified Municipal Clerk designation by CCAC President Stephanie Smith, MMC, to Deputy City Clerk Keri Johnson.

8. **CITY ATTORNEY**

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

9. **ORAL COMMUNICATIONS**

A number of individuals spoke in opposition of the appointment of the City Manager. They stated the need for a full recruitment for the position, allowing the new Councilmembers to be sworn in before making any decisions, and concerns about the transparency of the process. The following spoke:

Sharon Hardin, UCEA
Vera Heilman
Ricky Felix, Upland
Larry Kinley, Upland
Marla White, Upland
Steve Carvalho, Upland
Barbara McJoynt, Upland

David Wade, Upland
Diane Fedele, Upland
Steve Bierbaum, Upland
Brinda Sarathy, Upland
April McCormick, Upland
Irmalinda Osuna, Upland

A number of individuals spoke in support of the appointment of Jeannette Vagnozzi as the City Manager. They cited her education, qualifications, and long history in the City. The following spoke:

Ralph Cavallo, Upland
Linda Biscardi, Upland
Jon Blickenstaff, La Verne
Terri Donaldson, Upland

Carolyn Anderson, Upland
Don Kendrick, La Verne
Bob Russi, Upland

Hydee Hall, Upland, spoke regarding past decisions of the Council and urged the incoming Council not to make rushed decisions.

Paul Trawnik, Upland, spoke in favor of the City dissolving the Parking Business Improvement Area in the downtown.

10. **COUNCIL COMMUNICATIONS**

Councilmembers announced various activities throughout the community.

11. CONSENT CALENDAR

Motion by Councilmember Filippi to approve the Consent Calendar, seconded by Councilmember Elliott, and carried with Councilmember Timm absent.

A. APPROVAL OF WARRANT AND PAYROLL REGISTERS OCTOBER 2018

Approved the October Warrant Registers and Direct Disbursements (check numbers 22485-22936) totaling \$4,914,649.61 and Payroll Registers totaling \$1,183,058.40 (check numbers 160271-160298 and EFTs 11103-11580).

B. APPROVAL OF MINUTES

Approved the Regular Meeting Minutes of November 12, 2018.

C. FIRST AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES WITH INTERWEST CONSULTING GROUP, INC.

Approved the First Amendment to Agreement for Consulting Services with Interwest Consulting Group, Inc. and authorized the Acting City Manager to sign; and authorized a budget adjustment to reduce building and safety and housing salaries and benefits by \$98,110 and \$55,949 respectively (salary savings for unfilled positions) and increase professional services in both departments by the same amount for the contracted positions.

D. RESIGNATION OF PERSONNEL BOARD OF REVIEW MEMBER

Accepted the resignation of Marni Bobich, who served on the Personnel Board of Review.

E. APPROVAL OF FINAL TRACT MAP 18274 BY LENNAR HOMES (LOCATED SOUTH OF FOOTHILL BOULEVARD AND EAST OF SAN ANTONIO CHANNEL)

Authorized the Acting City Manager to accept and execute Subdivision Improvement Agreement and the accompanying bonds being posted by Lennar Homes; and authorized the Acting City Manager to record Final Map 18274.

F. ACCEPTANCE OF SEWER EASEMENT FOR TRACT 20034

Authorized the Acting City Manager to execute the sewer easement dedication and allow for its recordation.

G. EMERGENCY PURCHASE AND INSTALLATION OF EQUIPMENT AND PROFESSIONAL SERVICES FOR WATER SYSTEM IMPROVEMENTS

Received and filed the status update.

12. PUBLIC HEARINGS None

13. COUNCIL COMMITTEE REPORTS None

14. BUSINESS ITEMS

A. 2018 MILLS ACT CONTRACTS FOR ELEVEN HISTORIC PROPERTIES

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

There was discussion on the staff time involved in administering the program.

Motion by Councilmember Robinson to approve the Mills Act contracts for eleven historic properties and authorize the Acting City Manager to execute the documents, subject to review and approval of the Mills Act contracts by the City Attorney, seconded by Councilmember Filippi, and carried with Councilmember Timm absent.

B. APPROVAL OF A CITY MANAGER EMPLOYMENT AGREEMENT WITH JEANNETTE VAGNOZZI

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

There was discussion on the timing of the selection process, the need for stability in the city, and the potential cost of a professional recruitment.

Motion by Councilmember Elliott that the item be tabled until the new City Council is sworn in, there being no second, the motion failed.

There was discussion on the history of vacancies and recruitments for the City Manager position.

Motion by Councilmember Elliott to amend the employment agreement by removing Section 3 (i), subsection (iii), and amend Section 3 (j) "severance pay" to read as follows: after serving in the capacity as City Manager for over four months, in the event the City Manager is terminated by the City Council during such time that the City Manager is willing and able to perform the City Manager's duties under this Agreement, then in that event the City agrees to continue to compensate the City Manager at the current rate of pay, as severance pay, for a total of six months including all benefits and accrued leaves. Prior to achieving the four month anniversary date, in the event the City Manager's contract is terminated, the City agrees to continue to compensate the City Manager at the current rate of pay, as severance pay, for a total of one month for each month served including all benefits and accrued leaves, there being no second, the motion failed.

Motion by Councilmember Robinson to approve a City Manager Employment Agreement with Jeannette Vagnozzi, seconded by Mayor Stone, and carried with Councilmember Elliott opposed and Councilmember Timm absent.

At 8:36 p.m. Mayor Stone announced she would abstain from Business Items 14C and 14D and Mayor Stone then left the Council Chamber.

C. RESOLUTION FOR THE AMENDMENT TO THE PARKING AND BUSINESS IMPROVEMENT AREA ORDINANCES

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

There was discussion on the needed parking lot improvements in the area and the vision for the downtown area.

Motion by Councilmember Elliott to adopt Resolution No. 6474 declaring its intention to amend the Parking and Business Improvement Area Ordinances to reduce the tax levy to zero, set January 14, 2019 at 7:00 PM as the public hearing date to consider such amendment and approve certain related actions, seconded by Councilmember Robinson, and carried with Mayor Stone abstaining and Councilmember Timm absent.

D. APPROVAL OF A PROPOSED PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS WITH THE POMONA VALLEY HABITAT FOR HUMANITY, INC. WITH RESPECT TO REAL PROPERTY LOCATED AT THE SOUTHWEST CORNER OF WASHINGTON STREET AND 6TH AVENUE (A PORTION OF APN 1046-433-23)

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

There was discussion on the purchase amount of the property.

Representatives from Pomona Valley Habitat for Humanity answered Council's questions regarding the process for rehabilitation of the home and the selection of the recipient family.

Motion by Councilmember Elliott to approve a proposed Purchase and Sale Agreement and Escrow Instructions with the Pomona Valley Habitat for Humanity, Inc. with respect to an 8,090 square foot vacant parcel of real property located at the southwest corner of Washington Street and 6th Avenue (a portion of APN 1046-433-23) and authorize the Acting City Manager to execute said Agreement and make ministerial changes if required, seconded by Councilmember Robinson, and carried with Mayor Stone abstaining and Councilmember Timm absent.

Mayor Stone returned to the Council Chamber at 9:08 p.m. and took her seat on the dais.

15. ORAL COMMUNICATION (items not on the agenda)

Elinor Barnes, Upland, commented on her health issues and quoted Scripture.

Yvette Walker, Upland, thanked outgoing Council Members and encouraged support for the incoming Council Members.

April McCormick, Upland, spoke regarding district elections and the upcoming Council vacancy.

Irmalinda Osuna, Upland, encouraged community volunteerism and commented on the upcoming Council vacancy.

Mike Pattison, Upland, announced upcoming community activities.

Brinda Sarathy, Upland, commented on behavioral consequences of social media activities.

David Wade, Upland, congratulated incoming Council Members and commented on Council conduct.

16. CITY MANAGER None

17. ADJOURNMENT

Mayor Stone adjourned the meeting at 9:31 p.m. The next regularly scheduled City Council meeting is Monday, December 10, 2018.

SUBMITTED BY


Keri Johnson, Deputy City Clerk

APPROVED

December 10, 2018



STAFF REPORT

ITEM NO. 11.C.

DATE: December 10, 2018
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, ACTING CITY MANAGER
PREPARED BY: JEANNETTE VAGNOZZI, ACTING CITY MANAGER
KERI JOHNSON, DEPUTY CITY CLERK
SUBJECT: SCHEDULED VACANCIES FOR COMMISSIONS, COMMITTEES,
AND BOARDS FOR CALENDAR YEAR 2019

RECOMMENDED ACTION

It is recommended that the City Council accept and file the Local Appointments List for all City commissions, committees, and boards for calendar year 2019, and direct the City Clerk to post the list.

GOAL STATEMENT

The proposed action supports the City's goal to provide opportunities for the citizenry to participate in local government through service on various committees, commissions, and boards.

BACKGROUND

Pursuant to the Maddy Act and Resolution No. 6397, the City Clerk is required to announce all scheduled vacancies for commissions, committees, and boards expected during the next calendar year. This action must be taken prior to December 31st of each year.

ISSUES/ANALYSIS

There are a total of 6 positions on commissions, committees, and boards that have terms expiring during 2019. The Local Appointments List has been prepared and must be posted prior to December 31, 2018 at the following locations:

City Hall Bulletin Board (Exterior)
Upland Library
City of Upland website

FISCAL IMPACTS

There are no fiscal impacts related to this item.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Local Appointment List



City Clerk Division

Telephone (909) 931-4120

Facsimile (909) 931-4123

LOCAL APPOINTMENTS LIST

Pursuant to Government Code Section 54972, the following terms will expire during the 2019 calendar year. Upland has boards, committees, and commissions, which advise and assist the Council in dealing with specific issues. Appointments are made by the Mayor with, approval by the full Council. Each Councilmember may nominate an individual to the Building Appeals Board, City Council Advisory Committee, Community Development Block Grant Committee, Street Tree Advisory Committee, and Traffic Safety Advisory Committee.

Qualifications for service are Upland residency, a strong interest in the community, and the ability to give of one's time when serving. Terms of office are for up to four years. The following list shows current members, the date appointed and the date each term expires. Applications may be obtained from the City Clerk or by calling (909) 931-4120 or on the City website: www.ci.upland.ca.us

	<u>Date of Appointment</u>	<u>Term Expires</u>
<u>LIBRARY BOARD</u>		
Jeryl Boring	05/23/2016	06/2019
Ralph Cavallo	3/28/2017	06/2019
<u>PERSONNEL BOARD OF REVIEW</u>		
Vacant		06/2019
Mark Bertone	06/22/2015	06/2019
<u>PLANNING COMMISSION</u>		
Linden Brouse	11/12/2018	06/2019
Shelly Verrinder	06/08/2015	06/2019

Keri Johnson
Deputy City Clerk
Posted: December 11, 2018



STAFF REPORT

ITEM NO. 11.D.

DATE: December 10, 2018
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, ACTING CITY MANAGER
PREPARED BY: LONDA BOCK-HELMS, FINANCE OFFICER
SUBJECT: TREASURER'S REPORT OCTOBER 2018

RECOMMENDED ACTION

It is recommended that the City Council receive and file the October 2018 Treasurer's Report.

GOAL STATEMENT

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

BACKGROUND

Per California Government Code Section 53646(b), the City's treasurer or fiscal officer shall render a treasurer's 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 moneys 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 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 Treasurer's Report is a compliance measure.

FISCAL IMPACTS

There is no fiscal impact associated with this action.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Treasurer's Report October 2018

TREASURY REPORT

City of Upland - Successor Agency - Public Financing Authority

For Period Ended
October 31, 2018

Investment Portfolio	Cost	Par Value	Market Value	% of Portfolio
State Local Agency Investment Fund	\$ 11,105,691	N/A	\$ 11,134,737	16.4%
Bank Accounts and Change Funds	7,979,015	N/A	7,979,015	11.8%
ABS-Corporate Paydown Securities	-	N/A	-	0.0%
Money Market Fund	6,026,331	N/A	6,026,331	8.8%
Government Agency Securities	34,726,326	37,765,000	34,102,326	49.8%
Corporate Bonds	7,497,891	7,241,000	7,425,539	10.9%
US Treasury	1,778,677	1,780,000	1,758,847	2.6%
Total Cash and Investments	\$ 69,113,931	\$ 46,786,000	\$ 68,426,795	100.0%

PARS Investment Portfolio	Cost	Market Value	% of Portfolio
115 Trust-OPEB Investment as of 9/30/18	1,033,507	1,033,507	14.3%
Pension Trust Investment as of 9/30/18	6,225,066	6,225,066	85.9%
Total Cash and Investments	\$ 7,258,572	\$ 7,258,572	100.0%

Weighted Average Days to Maturity	527.41
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Blended Yield:	2.020%
Benchmarks:	
LAIF	2.144%
2yr U.S. Treasury	2.870%
5yr U.S. Treasury	2.980%

Restricted Funds with Fiscal Agent	Book Value	Market Value
Water System Lease Revenue Refunding Bonds 2011	54	54
Colonies CFD Area #2 2015	1,838,633	1,838,633
Colonies CFD Area #1 2012	2,443,307	2,443,307
Upland 54 CFD 2004	216,851	216,851
Successor Agency TAN 2013 / TAN 2016- Merged Project	2,451,847	2,451,847
Total Restricted Funds	\$ 6,950,694	\$ 6,950,694

- I hereby certify that the investments are in compliance with the investment policy adopted by the City Council in March 2017.
- The City has the ability to meet its budgeted expenditures for the next six months.
- The market values for funds held in banking institutions do not change. The amounts listed as market values for these items are the same as their book values.
- The book value for the State Pool is the withdrawal value provided by the State Treasurer. The market value of funds held by the State Treasurer equates to the City's pro-rata share of the market value of the entire State Pool.
- Sources for current market valuation are Account Statements and the Wall Street Journal GNMA Mortgage rates on the last trading day of the month.
- This report meets the requirements of Government Code Section 53646.



 Reviewed by Finance Officer




 Date
 11/28/18

TREASURY REPORT

City of Upland - Successor Agency - Public Financing Authority

State Local Agency Investment Fund

**For Period Ended
October 31, 2018**

<u>Fund or Account</u>		<u>Account Balance</u>	
City	98-36-942	11,105,691	
Successor Agency	65-36-007	-	
Upland Public Financing Authority	40-36-004	-	
	Totals	<u>\$ 11,105,691</u>	Market Value (See Note 4)
			<u>\$ 11,134,737</u>
Yield for Period Ended	10/31/2018	<u>2.144%</u>	

TREASURY REPORT

City of Upland - Successor Agency - Public Financing Authority

Bank Accounts and Change Funds

**For Period Ended
October 31, 2018**

<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	\$ -	\$ 11,780	\$ 11,780
City of Upland Payroll Zero Balance Account	Chase	-	-	-
City of Upland Checking Account	Chase	250,000	6,967,988	7,217,988
City of Upland Successor Agency	Chase	-	749,247	749,247
	Totals	\$ 250,000	\$ 7,729,015	\$ 7,979,015

TREASURY REPORT
City of Upland - Successor Agency - Public Financing Authority
For Period Ended
October 31, 2018

Investment	Purchased From	Cusip #	Cost	Market Value	Stated Rate	Maturity Date
<u>Government Securities</u>						
FNMA	Deutsche Bank Sec Intl	3135G0YT4	1,508,490	1,499,220	1.625%	11/27/2018
FNMA	Deutsche Bank Sec Intl	3135G0G72	209,687	209,710	1.125%	12/14/2018
FFCB	Keybanc Capital Mkt Inc	3133EFSJ7	100,337	99,888	1.300%	12/14/2018
FHLMC	Morgan Stanley & Co	3137EADZ9	199,934	198,720	1.125%	4/15/2019
FHLB	Wells Fargo Sec LLC	313379EE5	202,912	198,812	1.625%	6/14/2019
FHCB	Keybanc Capital Mkt Inc	3133EFW52	200,854	198,132	1.150%	7/1/2019
FHLMC	Bnp Paribas Securities	3137EADK2	198,576	197,902	1.250%	8/1/2019
FHLB	Wells Fargo Sec LLC	313380FB8	101,020	98,850	1.375%	9/13/2019
FHLMC	Morgan Stanley & Co	3137EADM8	198,617	197,290	1.250%	10/2/2019
FNMA	Deutsche Bank Sec Intl	3135G0R39	1,485,675	1,474,605	1.000%	10/24/2019
FHLB	Wells Fargo Sec LLC	3130AA3R7	1,498,710	1,478,760	1.375%	11/15/2019
FHLB	Wells Fargo Sec LLC	3130A0JR2	205,698	199,080	2.375%	12/13/2019
FHLB	Federal Home Loan Bks	3130ADPX4	1,496,250	1,496,115	2.000%	3/5/2020
FHLB	Wells Fargo Sec LLC	3130A7PU3	199,088	195,336	1.200%	4/6/2020
FFCB	Wells Fargo Sec LLC	3133ECPD0	204,100	200,656	1.420%	5/13/2020
FHLB	Wells Fargo Sec LLC	313382J53	1,508,501	1,467,660	1.750%	9/2/2020
FHLB	Federal Home Loan Bks	3130ADPR7	2,500,000	2,482,850	2.500%	9/15/2020
FNMA	Deutsche Bank Sec Intl	3135G0RM7	1,499,295	1,461,750	1.630%	10/30/2020
FFCB	Federal Farm Credit Bks	3133EJMX4	1,000,000	994,520	2.680%	11/2/2020
FNMA	Deutsche Bank Sec Intl	3135G0F73	1,492,515	1,457,805	1.500%	11/30/2020
FHLMC	Morgan Stanley & Co	3134GSNS0	998,750	990,650	2.800%	6/28/2021
FFCB	Federal Farm Credit Bks	3133EHYU1	1,236,313	1,209,325	1.840%	9/13/2021
FNMA	Deutsche Bank Sec Intl	3135G0Q89	1,481,400	1,431,585	1.375%	10/7/2021
FFCB	Federal Farm Credit Bks	3133EFPT8	2,020,180	1,937,620	1.960%	11/19/2021
FFCB	Federal Farm Credit Bks	3133EJPE3	1,000,000	991,190	2.950%	2/15/2022
FHLMC	Morgan Stanley & Co	3134GSFS9	2,500,000	2,485,475	2.375%	9/6/2022
FFCB	Federal Farm Credit Bks	3133EHYB3	1,232,838	1,199,825	1.940%	9/12/2022
FHLB	Federal Home Loan Bks	3130ACH72	1,247,738	1,206,938	2.260%	10/4/2022
FFCB	Federal Farm Credit Bks	3133EHF73	1,248,850	1,209,700	2.280%	10/17/2022
FHLMC	Federal Home LN Corp	3134GB3A8	1,500,000	1,448,490	2.250%	11/28/2022
FHLB	Wells Fargo Sec LLC	3130ACX82	1,250,000	1,209,338	2.375%	12/5/2022
FHLMC	Morgan Stanley & Co	3134GSLT0	1,500,000	1,491,780	1.125%	5/30/2023
FFCB	Federal Farm Credit Bks	3133EHKA0	1,500,000	1,482,750	1.400%	9/23/2019
Government Securities Subtotal			34,726,326	34,102,326		
<u>Money Market Fund</u>						
	City of Upland US Bank	31846V203	6,026,331	6,026,331	0.93%	N/A
Money Market Fund Subtotal			6,026,331	6,026,331		
<u>Corporate Bonds</u>						
	Microsoft Corp	594918BF0	59,940	59,995	1.300%	11/3/2018
	Dedham Instn for Svgs Mass	24367JAW5	250,000	249,985	1.800%	11/13/2018
	Citizens Bk Pa Philadelphia	17417QFE8	250,000	249,990	1.950%	11/16/2018
	Texas Capital Bank Na	88224PKJ7	250,000	249,990	1.950%	11/16/2018
	First National Bank CD	332135HJ4	250,000	249,980	2.000%	12/13/2018
	John Deere Capital Corp Note	24422ETE9	126,958	124,859	1.950%	1/8/2019
	Bank of New York Note	06406HCP2	126,059	124,844	2.500%	1/15/2019
	Illini St Bank II	45177RAR3	250,000	249,725	2.000%	3/25/2019

TREASURY REPORT
City of Upland - Successor Agency - Public Financing Authority
For Period Ended
October 31, 2018

Investment	Purchased From	Cusip #	Cost	Market Value	Stated Rate	Maturity Date
Bank of China New York City		06426WY63	250,000	249,770	2.200%	5/15/2019
Maple Bank Champlin CD		565109AZ8	250,000	249,798	2.200%	5/15/2019
Bank of India New York Branch		06279KML7	250,000	249,935	2.350%	6/5/2019
Toyota Motor Credit Corp		89236TDE2	124,825	124,049	1.400%	8/8/2019
Microsoft Note		594918BN3	119,876	118,520	1.100%	8/8/2019
Paccar Financial Corp Note		69371RN36	90,000	88,724	1.200%	8/12/2019
First Fid Bank Oklahoma City CD		32024FAB7	250,000	247,813	2.850%	9/14/2019
Safra National Bank CD		78658Q3T8	250,000	249,945	2.500%	9/16/2019
Lakeside Bank CD		51210SPT8	250,000	249,468	2.400%	10/31/2019
Wex Bank Midvale CD		92937CHF8	250,000	249,673	2.550%	12/13/2019
Ally Bank Midvale Utah		02007GDM2	250,875	249,400	2.750%	6/29/2020
State Street Bank Note		857477AS2	103,593	98,960	2.550%	8/18/2020
Bank of Hope CD		062683BX4	250,000	249,150	2.800%	9/14/2020
Comenity CAP BK CD		20033AXY7	250,000	245,048	2.000%	10/23/2020
Eagle Bank CD		27002YDY9	250,000	248,625	2.800%	3/8/2021
CitiBank NA CD		17312QH93	250,000	247,908	2.750%	4/12/2021
B Bay LLC Promissory Notebal		05580ANK6	250,000	249,068	3.000%	7/13/2021
Abacus Federal CD		00257TBA3	250,000	248,218	2.900%	8/31/2021
Wells Fargo Bank CD		949763LT1	250,000	242,758	2.250%	12/8/2021
American Express CD		02587CFU9	250,000	239,663	2.400%	8/29/2022
American CD		02587DN38	249,675	238,069	2.400%	4/5/2022
Goldman Sachs CD		38148PYQ4	250,000	243,865	2.800%	2/28/2023
Sallie Mae Bank Salt Lke		795450P66	250,000	247,453	3.200%	5/9/2023
Discover Bank Greenwood Del CD		254673RF5	250,000	248,123	3.200%	5/9/2023
Capital One NA CD		14042RFV8	246,218	242,728	2.250%	5/24/2021
Wells Fargo Bank CD		949763SP2	249,873	249,448	2.800%	7/27/2020
Corporate Bonds Subtotal			7,497,891	7,425,539		
<u>US Treasury</u>						
US T-note	Citigroup Global Mkt Inc	912828P53	199,657	199,076	0.750%	2/15/2019
US T-note	Bmo Capital Mkt Corp	912828SN1	176,798	174,316	1.500%	3/31/2019
US T-note	Jefferies LLC	912828ST8	200,157	198,790	1.250%	4/30/2019
US T-note	Citigroup Global Mkt Inc	912828SX9	203,952	203,327	1.125%	5/31/2019
US T-note	Morgan Stanley	912828TH3	197,673	197,446	0.875%	7/31/2019
US T-note	Bmo Capital Mkt Corp	912828TR1	198,118	196,962	1.000%	9/30/2019
US T-note	Barclays Capital Inc	912828G61	199,188	197,360	1.500%	11/30/2019
US T-note	Citigroup Global Mkt Inc	912828H52	202,258	196,242	1.250%	1/31/2020
US T-note	Morgan Stanley	912828UV0	200,876	195,328	1.125%	3/31/2020
US Treasury Subtotal			1,778,677	1,758,847		
Total Portfolio			\$ 50,029,225	\$ 49,313,043		

TREASURY REPORT

City of Upland - Successor Agency - Public Financing Authority

For Period Ended	Market Value	Availability 10/31/18 11/01/18	No. of days until maturity	weight	days to maturity weighted average	Total by maturity
October 31, 2018						
Petty Cash	11,780	11/01/18	1	0.0%	0.00	
Checking Account	7,217,988	11/01/18	1	10.5%	0.11	
Successor Agency	749,247	11/01/18	1	1.1%	0.01	7,979,015
Total Bank Accounts	7,979,015					
State Local Agency Investment Fund	11,134,737	11/01/18	1	16.3%	0.16	11,134,737
US Bank	6,026,331	11/01/18	1	8.8%	0.09	6,026,331
Total Money Market Accounts	6,026,331					
Deutsche Bank Sec Intl	1,499,220	11/27/18	27	2.2%	0.59	1,499,220
Government Securities	1,499,220					
Microsoft Corp	59,995	11/03/18	3	0.1%	0.00	
Dedham Instn for Svgs Mass	249,985	11/13/18	13	0.4%	0.05	
Citizens Bk Pa Philadelphia	249,990	11/16/18	16	0.4%	0.06	
Texas Capital Bank Na	249,990	11/16/18	16	0.4%	0.06	809,960
Corporate Bonds	809,960					
						27,449,263 1 - 30 days
Deutsche Bank Sec Intl	209,710	12/14/18	44	0.3%	0.13	
Keybanc Capital Mkt Inc	99,888	12/14/18	44	0.1%	0.06	309,598
Government Securities	309,598					
First National Bank CD	249,980	12/13/18	43	0.4%	0.16	249,980
Corporate Bonds	249,980					
						559,578 31 - 60 days
John Deere Capital Corp Note	124,859	01/08/19	69	0.2%	0.13	
Bank of New York Note	124,844	01/15/19	76	0.2%	0.14	249,703
Corporate Bonds	249,703					
Citigroup Global Mkt Inc	199,076	02/15/19	107	0.3%	0.31	199,076
US Treasury	199,076					
						448,779 61 - 120 days
Morgan Stanley & Co	198,720	04/15/19	166	0.3%	0.48	198,720
Government Securities	198,720					
Illini St Bank II	249,725	03/25/19	145	0.4%	0.53	249,725
Corporate Bonds	249,725					
Bmo Capital Mkt Corp	174,316	03/31/19	151	0.3%	0.38	174,316
US Treasury	174,316					
						622,761 121 - 180 days
Wells Fargo Sec LLC	198,812	06/14/19	226	0.3%	0.66	
Keybanc Capital Mkt Inc	198,132	07/01/19	243	0.3%	0.70	
Bnp Paribas Securities	197,902	08/01/19	274	0.3%	0.79	
Wells Fargo Sec LLC	98,850	09/13/19	317	0.1%	0.46	
Federal Farm Credit Bks	1,482,750	09/23/19	327	2.2%	7.09	
Morgan Stanley & Co	197,290	10/02/19	336	0.3%	0.97	
Deutsche Bank Sec Intl	1,474,605	10/24/19	358	2.2%	7.71	3,848,341
Government Securities	3,848,341					
Bank of China New York City	249,770	05/15/19	196	0.4%	0.72	
Maple Bank Champlin CD	249,798	05/15/19	196	0.4%	0.72	
Bank of India New York Branch	249,935	06/05/19	217	0.4%	0.79	
Toyota Motor Credit Corp	124,049	08/08/19	281	0.2%	0.51	
Microsoft Note	118,520	08/08/19	281	0.2%	0.49	
Paccar Financial Corp Note	88,724	08/12/19	285	0.1%	0.37	
First Fid Bank Oklahoma City CD	247,813	09/14/19	318	0.4%	1.15	
Safra National Bank CD	249,945	09/16/19	320	0.4%	1.17	
Lakeside Bank CD	249,468	10/31/19	365	0.4%	1.33	1,828,020
Corporate Bonds	1,828,020					
Jefferies LLC	198,790	04/30/19	181	0.3%	0.53	
Citigroup Global Mkt Inc	203,327	05/31/19	212	0.3%	0.63	
Morgan Stanley	197,446	07/31/19	273	0.3%	0.79	
Bmo Capital Mkt Corp	196,962	09/30/19	334	0.3%	0.96	796,525
US Treasury	796,525					
						6,472,887 181 - 1 year

TREASURY REPORT

City of Upland - Successor Agency - Public Financing Authority

For Period Ended	Market Value	Availability	No. of	weight	days to maturity	Total by
October 31, 2018		10/31/18 11/01/18	days until maturity		weighted average	maturity
Wells Fargo Sec LLC	1,478,760	11/15/19	380	2.2%	8.21	
Wells Fargo Sec LLC	199,080	12/13/19	408	0.3%	1.19	
Federal Home Loan Bks	1,496,115	03/05/20	491	2.2%	10.74	
Wells Fargo Sec LLC	195,336	04/06/20	523	0.3%	1.49	
Wells Fargo Sec LLC	200,656	05/13/20	560	0.3%	1.64	
Wells Fargo Sec LLC	1,467,660	09/02/20	672	2.1%	14.41	
Federal Home Loan Bks	2,482,850	09/15/20	685	3.6%	24.86	
Deutsche Bank Sec Intl	1,461,750	10/30/20	730	2.1%	15.59	8,982,207
Government Securities	8,982,207					
Wex Bank Midvale CD	249,673	12/13/19	408	0.4%	1.49	
Ally Bank Midvale Utah	249,400	06/29/20	607	0.4%	2.21	
Wells Fargo Bank CD	249,448	07/27/20	635	0.4%	2.31	
State Street Bank Note	98,960	08/18/20	657	0.1%	0.95	
Bank of Hope CD	249,150	09/14/20	684	0.4%	2.49	
Comenity CAP BK CD	245,048	10/23/20	723	0.4%	2.59	1,341,678
Corporate Bonds	1,341,678					
Barclays Capital Inc	197,360	11/30/19	395	0.3%	1.14	
Citigroup Global Mkt Inc	196,242	01/31/20	457	0.3%	1.31	
Morgan Stanley	195,328	03/31/20	517	0.3%	1.48	588,930
US Treasury	588,930					
						10,912,815 1- 2 years
Federal Farm Credit Bks	994,520	11/02/20	733	1.5%	10.65	
Deutsche Bank Sec Intl	1,457,805	11/30/20	761	2.1%	16.21	
Morgan Stanley & Co	990,650	06/28/21	971	1.4%	14.06	
Federal Farm Credit Bks	1,209,325	09/13/21	1,048	1.8%	18.52	
Deutsche Bank Sec Intl	1,431,585	10/07/21	1,072	2.1%	22.43	6,083,885
Government Securities	6,083,885					
Eagle Bank CD	248,625	03/08/21	859	0.4%	3.12	
CitiBank NA CD	247,908	04/12/21	894	0.4%	3.24	
Capital One NA CD	242,728	05/24/21	936	0.4%	3.32	
B Bay LLC Promissory Notebal	249,068	07/13/21	986	0.4%	3.59	988,328
Corporate Bonds	988,328					
						7,072,213 2- 3 years
Federal Farm Credit Bks	1,937,620	11/19/21	1,115	2.8%	31.57	
Federal Farm Credit Bks	991,190	02/15/22	1,203	1.4%	17.43	
Morgan Stanley & Co	2,485,475	09/06/22	1,406	3.6%	51.07	
Federal Farm Credit Bks	1,199,825	09/12/22	1,412	1.8%	24.76	
Federal Home Loan Bks	1,206,938	10/04/22	1,434	1.8%	25.29	
Federal Farm Credit Bks	1,209,700	10/17/22	1,447	1.8%	25.58	9,030,748
Government Securities	9,030,748					
Wells Fargo Bank CD	242,758	12/08/21	1,134	0.4%	4.02	
American CD	238,069	04/05/22	1,252	0.3%	4.36	
American Express CD	239,663	08/29/22	1,398	0.4%	4.90	
Abacus Federal CD	248,218	10/04/22	1,434	0.4%	5.20	968,706
Corporate Bonds	968,706					
						9,999,454 3- 4 years
Federal Home LN Corp	1,448,490	11/28/22	1,489	2.1%	31.52	
Wells Fargo Sec LLC	1,209,338	12/05/22	1,496	1.8%	26.44	
Morgan Stanley & Co	1,491,780	05/30/23	1,672	2.2%	36.45	4,149,608
Government Securities	4,149,608					
Goldman Sachs CD	243,865	02/28/23	1,581	0.4%	5.63	
Sallie Mae Bank Salt Lke	247,453	05/09/23	1,651	0.4%	5.97	
Discover Bank Greenwood Del CD	248,123	05/09/23	1,651	0.4%	5.99	739,440
Corporate Bonds	739,440					
						4,889,048 4- 5 years
Total Investments	\$ 68,426,795			100.00%	527.41	\$ 68,426,795

Average Maturity in Days 527.41
 Average Maturity in Years: 1.445

LAIF Amortized Cost \$ 84,678,998,445
 LAIF Fair Value \$ 84,900,466,984

Check: 1.002615389

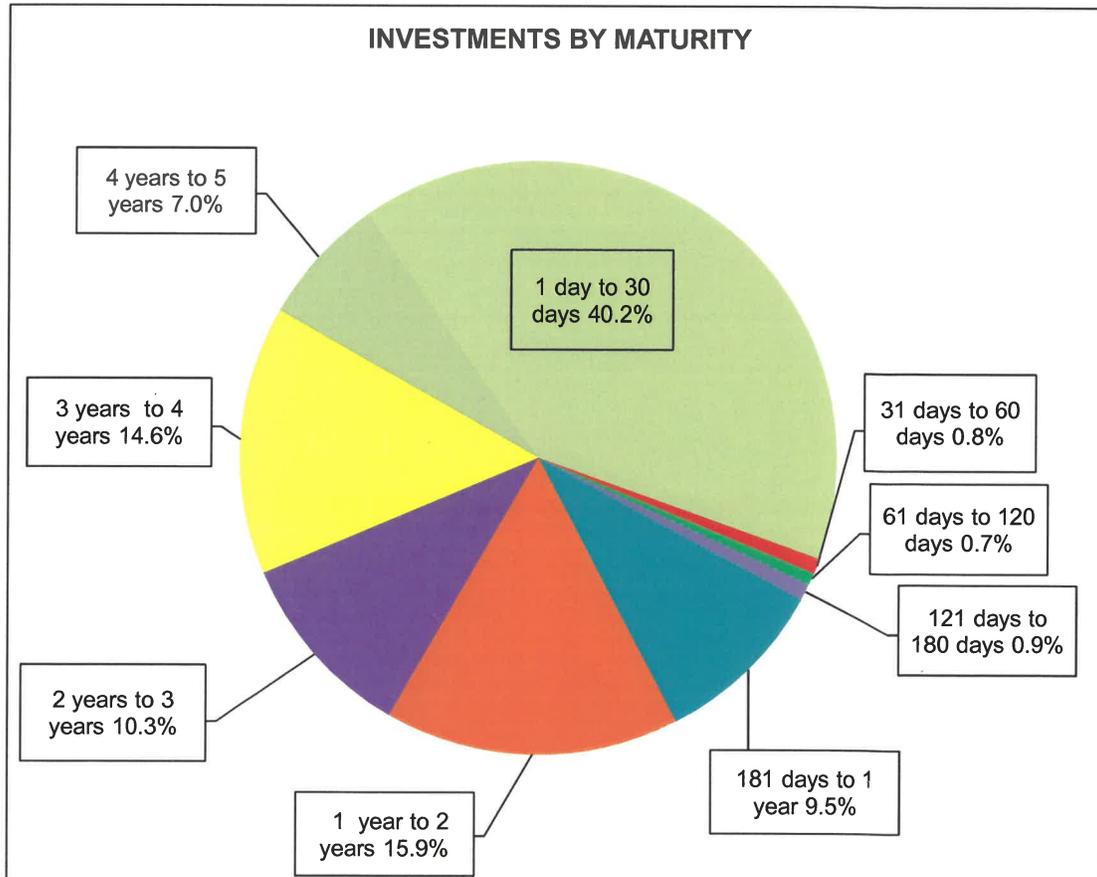
TREASURY REPORT

City of Upland - Successor Agency - Public Financing Authority

**For Period Ended
October 31, 2018**

**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
State Local Agency Investment Fund	11,135	-	-	-	-	-	-	-	-
Bank Accounts and Change Funds	7,979	-	-	-	-	-	-	-	-
ABS	-	-	-	-	-	-	-	-	-
Government Securities	1,499	310	-	199	3,848	8,982	6,084	9,031	4,150
Money Market Fund	6,026	-	-	-	-	-	-	-	-
Corporate Bonds	810	250	250	250	1,828	1,342	988	969	739
US Treasury	-	-	199	174	797	589	-	-	-
Total Cash and Investments	27,449	560	449	623	6,473	10,913	7,072	10,000	4,889
Percentage	40.2%	0.8%	0.7%	0.9%	9.5%	15.9%	10.3%	14.6%	7.0%





STAFF REPORT

ITEM NO. 11.E.

DATE: December 10, 2018
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, ACTING CITY MANAGER
PREPARED BY: ROSEMARY HOERNING, PUBLIC WORKS DIRECTOR
BOB CRITCHFIELD, ENGINEERING MANAGER
SUBJECT: ACCEPTANCE OF WORK FOR PROJECT NO. 7066, CITYWIDE
CONCRETE REPAIRS 2017-2018

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 Project No. 7066, Citywide Concrete Repairs 2017-2018.

GOAL STATEMENT

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

BACKGROUND

On April 23, 2018, the City Council awarded Project No. 7066 to FS Contractors, Inc., and authorized a total expenditure amount of \$550,000. Project No. 7066 consisted of replacing damaged sidewalks, curbs & gutters, driveway approaches, spandrels, cross gutters, and installation of ADA compliant curb ramps at various locations throughout the City in order to address customer related repair requests.

ISSUES/ANALYSIS

The contractor has since satisfactorily completed the required improvements. The City can now accept the work, file the notice of completion, and reduce the Faithful Performance Bond to 10%. The City will retain the Labor Materials Bond for six months and release it thereafter, provided that no liens or stop notices are filed against the project.

FISCAL IMPACTS

The final construction cost of \$546,658.50 is within the original authorized expenditure amount of \$550,000.00. Therefore, no additional appropriation is necessary.

ALTERNATIVES

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

ATTACHMENTS:

NOC for Project 7066

Recording requested by
and when recorded mail to:

City of Upland, City Clerk's Office
P.O. Box 460
Upland, CA 91785

(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 **Citywide Concrete Repairs 2017-2018** for the undersigned City of Upland, a Municipal Corporation, on the 27th day of **November, 2018**.

The City accepted the job on the 10TH day of **December, 2018**.

The Contractor on said job was **F S Contractors, Inc.** of **Sylmar**, California.

The improvement(s) consisted of **removal and replacement of displaced sidewalks, driveway approaches, rock curb & gutter, PCC curb & gutter, cross gutters, ADA curb ramps; and, removal and replacement of asphalt concrete patches;** and the location of the improvements occurred at various locations, in Upland, California.

The surety was **RLI 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 10th day of **December, 2018** at Upland, California.

City of Upland, a Municipal Corporation

Jeannette Vagnozzi, Acting City Manager



STAFF REPORT

ITEM NO. 11.F.

DATE: December 10, 2018
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, ACTING CITY MANAGER
PREPARED BY: JEANNETTE VAGNOZZI, ACTING CITY MANAGER
KERI JOHNSON, DEPUTY CITY CLERK
SUBJECT: RESIGNATION OF TRAFFIC SAFETY ADVISORY COMMITTEE MEMBER

RECOMMENDED ACTION

It is recommended that the City Council accept the resignation from Traffic Safety Advisory Committee Member Jim Stewart.

GOAL STATEMENT

The proposed action supports the City's goal to provide opportunities for the citizenry to participate in local government through service on various committees, commissions, and boards.

BACKGROUND

The Traffic Safety Advisory Committee was formed to advise the Council and staff of community concerns regarding issues of traffic safety and to recommend solutions to those concerns. The Committee consists of 11 members. The Mayor appoints one representative from the Chamber of Commerce and five Citizens at Large. The remaining members consist of a Council Liaison, two staff members and two Upland School District representatives.

ISSUES/ANALYSIS

Mr. Stewart was reappointed to the Traffic Safety Advisory Committee on January 23, 2017 and was nominated by Mayor Stone. The term of the appointment will expire in December 2020.

The resignation creates an unscheduled vacancy, and Government Code Section 54974 requires vacancies be posted for 10 working days before new appointments can be made. The City Clerk's Office received Mr. Stewart's resignation on December 3, 2018 and posted the notice of vacancy.

FISCAL IMPACTS

There are no fiscal impacts associated with this action.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

No Attachments Available



STAFF REPORT

ITEM NO. 11.G.

DATE: December 10, 2018
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, ACTING CITY MANAGER
PREPARED BY: ROSEMARY HOERNING, PUBLIC WORKS DIRECTOR
BOB CRITCHFIELD, ENGINEERING MANAGER
SUBJECT: EMERGENCY PURCHASE AND INSTALLATION OF EQUIPMENT
AND PROFESSIONAL SERVICES FOR WATER SYSTEM
IMPROVEMENTS

RECOMMENDED ACTION

It is recommended that the City Council receive and file the status update.

GOAL STATEMENT

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

BACKGROUND

On October 10, 2016, the City Council adopted a Resolution declaring an emergency condition and approved the Emergency Work Plan Phase 1. Continuing progress update reports have been provided to the City Council. At this time, the City has completed the Well 7A, Reservoir 4, Well 20, temporary measures at the existing 7.5 million gallon reservoir, and the construction documents and entitlement work needed for the replacement reservoir of the Phase I emergency work program.

The remaining involves the implementation of the Replacement Reservoir at the north west corner of 17th Street and Benson Avenue.

ISSUES/ANALYSIS

Reservoir at 17th and Benson Work:

Staff has completed the project plans and specifications for a 7.5 million gallon replacement reservoir; the environmental documentation and Notice of Determination; the property

appraisal; secured the Intent to Purchase a portion of the San Antonio Water Company property; and submitted all of the required documents to the State for the loan request necessary for up to a \$16.5 million Drinking Water State Revolving Loan. The City Attorney's Office and staff are working with the State on the development of the loan agreement. It is anticipated the City will have all of the loan work completed in early 2019.

Once funding is secured it is anticipated the construction will take 12-18 months.

FISCAL IMPACTS

Sufficient funds are available in the FY 2018-19 budget to complete the Phase I emergency work program. Phase II, the construction, is dependent upon receiving the State loan. The FY 2018-19 budget includes sufficient funds to provide construction cash flow and will require fund draws under the loan. The actual amount of the loan will only be the amount of funds required to implement the emergency work.

Staff is also exploring other possible funding opportunities. However, the State loan appears to be the most cost effective funding mechanism.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

No Attachments Available



STAFF REPORT

ITEM NO. 11.H.

DATE: December 10, 2018
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, ACTING CITY MANAGER
PREPARED BY: JEANNETTE VAGNOZZI, ACTING CITY MANAGER
SUBJECT: DISPOSAL OF SURPLUS EQUIPMENT

RECOMMENDED ACTION

It is recommended that the City Council declare the items included on the attached list as surplus, and authorize the Acting City Manager to initiate disposal of the surplus equipment.

GOAL STATEMENT

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

BACKGROUND

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

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

ISSUES/ANALYSIS

The City disposes of surplus items through a public surplus auction website, or directly to vendors if a higher price can be obtained. This is consistent with City Policy and the Upland Municipal Code. The listed items on the attachment that do not appear to have residual or

scrap value, will be disposed. Items that have a residual value will be sold for the highest value.

FISCAL IMPACTS

There is minimal fiscal impact associated with this action.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Equipment to be Declared Surplus

EQUIPMENT TO BE DECLARED SURPLUS

<u>Item</u>	<u>Quantity</u>	<u>Estimated Value</u>
ViewSonic Monitor G700	2	\$0
Dell OptiPlex 745	4	\$0
Dell OptiPlex 620	2	\$0
Dell OptiPlex 755	7	\$0
Dell OptiPlex 760	1	\$0
Dell OptiPlex 920	1	\$0
Dell OptiPlex 980	2	\$0
Dell OptiPlex 780	1	\$0
Dell Monitors	23	\$0
Dell Laptops Latitude 620	3	\$0
Keyboards, mice and mixed cables.		\$0
Cisco Wifi By AT&T	1	\$0
Dell Laptop P216	1	\$0
HP Laserjet 3390	1	\$0
Smart Board	1	\$0

December 4, 2018



STAFF REPORT

ITEM NO. 12.A.

DATE: December 10, 2018
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, CITY MANAGER
PREPARED BY: STEVEN H. DUKETT, DEVELOPMENT SERVICES CONSULTANT
LIZ CHAVEZ, DEVELOPMENT SERVICES MANAGER
SUBJECT: APPROVAL OF THE UPDATE TO THE CITY OF UPLAND'S ANALYSIS
OF IMPEDIMENTS TO FAIR HOUSING CHOICE FY 2019-23

RECOMMENDED ACTION

It is recommended that the City Council 1) adopt a Resolution approving the Update to the City of Upland's Analysis of Impediments to Fair Housing Choice FY 2019-23 (the "AI") as required by the federal Department of Housing and Urban Development (the "HUD"); and, 2) authorize the City Manager or her designee to execute all related documents to effectuate the acceptance of the AI.

GOAL STATEMENT

The proposed action is consistent with the goal of providing decent housing, a suitable living environment and expanded economic opportunities principally for low- and moderate-income persons.

BACKGROUND

The City of Upland is required by HUD as a recipient of Community Development Block Grant (CDBG) funds to certify that it will engage in fair housing planning, namely: i) that the City will conduct an Analysis of Impediments to Fair Housing Choice prior to adopting the City's Consolidated Plan; ii) that the City will carry out actions to overcome the effects of identified impediments; and iii) that the City will maintain records and make available information and reports including the analysis of impediments, to document action undertaken to eliminate identified impediments as well as a five year plan.

Pursuant to federal fair housing law, impediments to fair housing choices are defined as: i) any actions, omissions, or decisions taken because of race, color, national origin, religion, sex, family status, or disability which restrict housing choices or the availability of housing choices; or ii) any actions, omissions, or decisions which have the affect of restricting housing choices or the availability of housing choices on the basis of race, color, national origin, religion, sex, family status, or disability.

The AI for the City of Upland provides an overview of laws, regulations, conditions or other possible obstacles that may affect an individual or a household's access to housing. The AI involves:

- A comprehensive review of an entitlement jurisdiction's laws, regulations, and administrative policies, procedures, and practices;
- An assessment of how those laws, etc., affect the location, availability, and accessibility of housing; and
- An assessment of conditions, both public and private, affecting fair housing choices.

ISSUES/ANALYSIS

Key findings of the AI are:

1. Public transit service is not available in the City north of the 210 Freeway;
2. Discrimination against persons with disabilities continues to be the leading basis of discrimination complaints received by the Inland Fair Housing Mediation Board (IFHMB) from Upland residents; and
3. Lack of Rental Housing opportunities in Northern Upland.

The Key recommendations of the AI are that the:

1. Development Services Department should monitor any residential and commercial developments north of the 210 Freeway that may impact ridership potential for expanded fixed route service north of the 210 freeway; Share information with Omnitrans for consideration in future transit planning.
2. Development Services Department and IFHMB should continue providing educational opportunities such as workshops, public service announcements, literature distribution and the provision of landlord-tenant mediation services to promote greater understanding of the fair housing rights of persons with disabilities; and that the city contract with IFHMB to conduct expanded testing for discrimination; and
3. Development Services Department should encourage the development of affordable rental housing opportunities north of Foothill Boulevard by exploring ways to incorporate multi-family affordable rental housing developments as part of infill projects or as part of specific plans where mixed use and flexible residential uses are currently allowable.

Residents were encouraged to complete a survey regarding fair housing issues within the City and invited to attend community meetings held on September 26th and October 13th to discuss the City's AI. In general, during the meetings, the issues, comments and questions raised by the attendees fell into four (4) general categories, i.e., i) bus transportation; ii) reasonable accommodations; iii) income discrimination; and iv) high-cost of housing. All of these issues have been addressed within the final version of the AI. In addition, the AI was reviewed and approved by the Community Development Block Grant Committee via email on November 9th, 12th, and 15th, 2018.

FISCAL IMPACTS

The AI is a necessary component of the City's participation in the CDBG Program. The City's anticipated CDBG grant allocation for FY 2019-23 is \$612,759.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

**Resolution - Analysis of Impediments
Executive Summary**

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL APPROVING THE
UPDATE TO THE CITY OF UPLAND'S ANALYSIS OF
IMPEDIMENTS TO FAIR HOUSING CHOICE FY 2019-2023

Intent of the Parties and Findings

(i) The City of Upland has been awarded Community Development Block Grant (CDBG) funds by the U.S. Department of Housing and Urban Development (HUD); and

(ii) The City of Upland, by its acceptance of CDBG funds, has committed to "affirmatively further fair housing"; and

(iii) The City of Upland, through the Upland Development Services Department has undertaken an Analysis of Impediments to Fair Housing Choice for FY 2019-2023; and

(iv) The City of Upland has completed the Analysis of Impediments to Fair Housing Choice in compliance with HUD's Fair Housing Planning Guide; and

(v) The City of Upland has made the Analysis of Impediments to Fair Housing Choice available for public review; and

(vi) The City of Upland encouraged residents to complete a survey regarding fair housing issues within the City; and

(vii) The City of Upland conducted community meetings held on September 26th and October 13th, 2018 to receive resident input related to the Analysis of the Impediments to Fair Housing Choice; and

(viii) On November 9th, 12th and 15th, 2018, via email, the Analysis of Impediments to Fair Housing was reviewed and approved by Upland's Community Development Block Grant Committee; and

(ix) The City Council of the City of Upland considered the Analysis of Impediments to Fair Housing Choice at a regularly scheduled public meeting on December 10, 2018.

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

Section 1. The Analysis of Impediments to Fair Housing Choice is necessary and desirable for the development of the community and is consistent with the housing objectives of the General Plan.

Section 2. The Analysis of Impediments to Fair Housing Choice is exempted by CEQA statute, Section 15262 - Planning Studies and therefore exempted from CEQA per the requirements of the California Environmental Quality Act of 1970 as amended, and the City of Upland Local Environmental Processing Guidelines.

Section 3. The Upland City Council does hereby approve the Update to the City of Upland Analysis of Impediments to Fair Housing Choice.

Section 4. This Resolution shall take effect on the date of its adoption.

Section 5. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

ADOPTED AND APPROVED this 10th day of December, 2018.

Debbie Stone, Mayor

I, Keri Johnson, Deputy City Clerk of the City of Upland, do hereby certify that the foregoing Resolution was passed and adopted at a regular meeting of the City Council of the City of Upland held on the 10th day of December, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

ATTEST:

Keri Johnson, Deputy City Clerk

A. Background

Fair housing is a condition in which individuals of similar income levels in the same housing market have like ranges of choice available to them regardless of race, color, national origin, religion, sex, disability, familial status, ancestry, age, marital status, gender, gender identity, gender expression, genetic information, sexual orientation, source of income, or any other arbitrary factor. The Analysis of Impediments to Fair Housing Choice (A.I.) examines local housing conditions, economics, policies and practices in order to ensure that housing choices and opportunities for all residents are available in an environment free from discrimination. The AI assembles fair housing information, identifies existing impediments that limit housing choice, and proposes actions to mitigate those impediments.

Equal access to housing (housing choice) is vital to meeting essential needs and pursuing personal, educational, employment, or other goals. Recognizing this fundamental right, the federal government and the State of California have established fair housing as a right protected by law.

Fair Housing Laws

In an effort to end housing segregation, the United States Congress passed the Civil Rights Act of 1968, making housing discrimination based on race, color, national origin, or religion illegal. In 1974, Congress amended the Fair Housing Act to include sex as a protected category. Then in 1988, Congress again amended the Fair Housing Act by passing the Fair Housing Amendments Act¹, making housing discrimination against families with children and people with disabilities unlawful. The Fair Housing Amendments Act also incorporated accessibility standards for new multi-family units and “reasonable accommodations” for people with disabilities into the Fair Housing Act.

In addition to prohibiting discrimination based on federal laws, the State of California has enacted a number of statutes that mirror and, in certain cases, extend federal fair housing protections. The Unruh Civil Rights Act of 1959² and subsequent court decisions require equal access to the accommodations, advantages, facilities, privileges or services of all business establishments regardless of protected status. The courts have interpreted this Act to prohibit any arbitrary discrimination based in any class distinction, regardless of whether or not that basis is enumerated in the Act.

The Fair Employment and Housing Act of 1963³ is the primary state law that prohibits discrimination in the sale, rental, lease negotiation, or financing of housing based on race, color, religion, sex, marital status, national origin, and ancestry. The California Fair Housing

¹42 U.S. Code §§ 3601 et. seq.

²California Civil Code, §§ 51 and 52

³California Government Code §§ 12900-12906

Act of 1992 brought state laws into conformity with the Federal Fair Housing Act of 1988 and added protections for people with a “mental and physical disability” and “familial status.” The Act also requires that housing providers allow disabled persons to modify their premises to meet their needs.

The Ralph Civil Rights Act of 1976 provides that all persons have the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of their race, color, religion, ancestry, national origin, political affiliation, sexual orientation, sex, age, disability, or position in a labor dispute. The Act prohibits violence or threat of the same in rental housing situations. The Banes Civil Rights Act also forbids interference by force or threat with an individual's constitutional or statutory rights in places of worship, housing, and private property.

The Federal protected classes include:

- Color
- Disability⁴
- Familial status
- National origin
- Race
- Religion
- Sex

The additional State of California protected classes include:

- Age
- Ancestry
- Arbitrary discrimination
- Gender
- Gender identity
- Gender expression
- Genetic information
- Marital status
- Sexual orientation
- Source of income

This report considers impediments to fair housing choice experienced by both federal and State of California protected classes.

⁴ The Fair Housing Act uses the term ‘handicap,’ however, we use the term “person with a disability,” to represent this language of the Act.

Defining Fair Housing and Impediments

In light of fair housing legislation passed at the federal and state levels as well as consultation with the U.S. Department of Housing and Urban Development (HUD) and professionals providing fair housing services, the following definition of fair housing is used for this report:

Fair housing is a condition in which individuals of similar income levels in the same housing market having a like range of housing choice available to them regardless of race, color, national origin, religion, sex, disability, familial status, ancestry, age, marital status, gender, gender identity, gender expression, genetic information, sexual orientation, source of income or any other arbitrary factor.

Within the legal framework of federal and state laws and based on the guidance provided by the U.S. Department of Housing and Urban Development (HUD) Fair Housing Planning Guide, impediments to fair housing choice can be defined as:

Any actions, omissions, or decisions taken because of race, color, national origin, religion, sex, disability, familial status, ancestry, age, marital status, gender, gender identity, gender expression, genetic information, sexual orientation, source of income or any other arbitrary factor which restrict housing choices or the availability of housing choices; or

Any actions, omissions, or decisions which have the effect of restricting housing choices or the availability of housing choices on the basis of race, color, national origin, religion, sex, disability, familial status, ancestry, age, marital status, gender, gender identity, gender expression, genetic information, sexual orientation, source of income or any other arbitrary factor.

To affirmatively promote equal housing opportunity, a community must work to remove or mitigate impediments to fair housing choice. Furthermore, eligibility for federal funding assistance requires the City to comply with federal fair housing laws. Specifically, to receive HUD Community Planning and Development (CPD) formula grants, a jurisdiction must:

- Certify its commitment to actively further fair housing choice;
- Maintain fair housing records; and
- Conduct an analysis of impediments to fair housing.

The City of Upland actively furthers fair housing choice through the preparation of this A.I. and annual funding of a fair housing service provider. The City of Upland is dedicated to providing fair housing opportunities to all residents and ensuring compliance with all applicable laws.

B. Methodology and Citizen Participation

The scope of this A.I. adheres to the recommended content and format included in Volumes 1 and 2 of the “Fair Housing Planning Guide” published by the U.S. Department of Housing and Urban Development’s Office of Fair Housing and Equal Opportunity.

Methodology

HUD requires jurisdictions that receive federal funding for community development activities to assess the status of fair housing in their community. As a direct recipient of Community Development Block Grant (CDBG) funds, Upland is required to update the A.I. every five years and to report the findings and progress in the Consolidated and Performance Evaluation Report (CAPER) submitted to HUD following each program year. The City’s last A.I. was adopted in 2013. This A.I. is a comprehensive update of the 2013-2018 A.I., including a Fair Housing Plan for 2019-2023, covering the Consolidated Plan period of July 1, 2019 through June 30, 2023.

The purpose of this report is to identify impediments to fair and equal housing opportunities in Upland. This A.I. provides an overview of the laws, regulations, conditions or other possible obstacles that may affect access to housing and other services in Upland. The scope, analysis, and format used in this A.I. report adhere to recommendations of the *Fair Housing Planning Guide* published by HUD.

The A.I. contains these six chapters:

1. *Executive Summary*. This chapter provides background on “fair housing,” methodology, citizen participation, and a summary of the findings and recommendations identified within the report.
2. *Community Characteristics*. This chapter provides a brief history of the City, a demographic profile, income profile, employment profile, housing profile, special needs housing profile and key maps to provide the baseline information necessary to form a complete understanding of the City. This chapter provides a broad overview and understanding of the community so that housing needs are clearly defined. Community profile information analyzed in this chapter includes data elements required by HUD in the online Consolidated Plan system (the eCon Planning Suite) from the 1990, 2000, and 2010 Decennial Census, 2012-2016 American Community Survey (ACS) 5-Year Estimates and the Affirmatively Furthering Fair Housing Tool (AFFH-T) data Version 4.
3. *Analysis of Private Sector Impediments*. This chapter provides an overview of the private owner-occupied housing market and the renter-occupied housing market. It examines the private-sector impediments to fair housing.

4. *Analysis of Public Policy Impediments.* This chapter identifies and analyzes a range of public activities that may impede fair housing choice, including governmental land use, development regulations, and community development activities. Potential impediments to fair housing choice are discussed.
5. *Analysis of Current Fair Housing Activity.* This chapter includes the current fair housing education, enforcement and legal status of any pending cases currently underway in the City.
6. *Conclusions and Recommendations.* This chapter provides a summary of major issues and recommendations to further fair housing. This chapter also reports on progress made in implementing the prior A.I. This chapter outlines the City's Fair Housing Plan for 2019-2023 including specific actions to be taken to address identified impediments within designated timeframes.

Citizen Participation

The City values citizen input concerning the investment of federal funds. To solicit public participation for this A.I., the City held two Community Meetings. Both meetings were convened at the Carnegie Library. One of the meetings was held in the evening on a weeknight on Wednesday, September 26, 2018 from 6:00 p.m. to 7:30 p.m. and the other meeting was held on a Saturday morning on October 13, 2018 from 10:00 a.m. to 11:30 a.m. to allow maximum attendance by City residents. In all, fifteen people attended the two meetings and their comments, questions, and concerns were considered in the development of this A.I.

To further understand the current perspectives of fair housing practices in Upland, the City released a "City of Upland – Analysis of Impediments to Fair Housing Choice Survey" to residents in September 2018. The survey consisted of 50 questions related to fair housing issues, community planning needs (such as access to healthcare, transportation, and quality food choices, etc.), questions regarding city schools and questions about the job market. Many of the questions were open-ended, allowing the community to provide additional comments beyond simply answering "yes or no." The survey was published in English and in Spanish with copies available to the public and accessible at City Hall, community meetings, public libraries and other public facilities. Links to the electronic version of the survey were publicized in the public notice for community participation, through email promotions sent by the Inland Fair Housing and Mediation Board as well as through the City's Facebook page. The survey response period was open for approximately 30 days. During that time, 153 responses were received, many of which contained additional feedback via the open-ended questions.

A draft copy of the Analysis of Impediments to Fair Housing Choice was prepared. A notice of availability was published in the Inland Valley Daily Bulletin, City Hall (City Clerk’s Office), Upland Public Library, and the George M. Gibson Senior Center.

The draft A.I. was completed and made available for a 30-day public review period. The draft document was accessible online at https://www.ci.upland.ca.us/#Housing_Reports and was also available in hardcopy form at the George M. Gibson Senior Center, City Clerk’s Office, and the Upland Public Library.

The City Council will formally consider the A.I. at its regular meeting of December 10, 2018. Comments received concerning the Draft A.I. during the public review period or at the public hearing before the City Council will be considered prior to submission of the A.I. to HUD.

C. Status of Prior Impediments and Recommendations

HUD requires the City to analyze past performance with respect to the resolution of impediments to fair housing choice that were identified in prior A.I.s. The 2013-2018 City of Upland Analysis of Impediments to Fair Housing Choice included four impediments to fair housing choice including Transit Access, Definition of “Unrelated Family”, Siting of Emergency Shelter, and Discrimination against Persons with Disabilities. The impediments concerning Transit Access and Discrimination against Persons with Disabilities were not fully addressed and will remain a priority as impediments during the 2019-2023 planning period. The impediments concerning Definition of “Unrelated Family” and Siting of Emergency Shelter were addressed in Zoning Ordinance Amendments during the 2013-2018 planning period as planned.

Transit Access

Transit provides elderly residents, low income residents, youth, and others access to jobs, medical facilities, parks, housing, and public services. Omnitrans, the City’s transit provider, has adopted service standards to ensure an equitable distribution of services. For instance, all areas having a minimum residential density of 3.5 dwelling units per acre or employment density of 10 jobs per acre, as measured over an area of 25 acres, should be provided with a transit service that places 90 percent of residences and jobs within one half mile of a bus stop. The Omnitrans Short-Range Transit Plan indicated that all neighborhoods and employment nodes in Upland are well served. Closer analysis of Upland’s development patterns in the 2013-2018 A.I. revealed a then-underserved area. At that time, Omnitrans did not have any bus routes connecting the Colonies Crossroads commercial development within the Colonies San Antonio Specific Plan area (more specifically the commercial area that includes the Home Depot, LA Fitness, Nordstrom Rack, etc.) to the rest of the City.

2018 Status: Omnitrans Route 83 was modified and now connects with the commercial area, running along Colonies Parkway. However, there is no fixed route service in the City of Upland north of the 210 Freeway.

Recommendation: During the 2019-2023 planning period, monitor any residential and commercial developments north of the 210 Freeway that may impact ridership potential for expanded fixed route service north of the 210 Freeway. If any new developments in this area have the potential to generate ridership, share this information with Omnitrans for consideration in future transit planning.

Definition of “Unrelated Family”

As of 2013, the City of Upland’s definition of “unrelated family” at Municipal Code 17.14.020 was “A group of not more than five persons who need not be related by blood, marriage, or legal adoption (excluding servants) living together as a single housekeeping unit in a dwelling unit.” This definition had the potential to lead to the denial of housing opportunities to those who, because of their non-related relationship, live in a group setting. The 2013 A.I. recommended amending the definition within the Municipal Code to preclude the possibility of discrimination against protected classes as the result of the definition of “unrelated family.”

2018 Status: Resolved. The definition of “family” in the Upland Municipal Code is now consistent with State law.

Siting of Emergency Shelter

State law requires cities to identify adequate sites, appropriate zoning, development standards, and a permitting process to facilitate and encourage development of emergency shelters and transitional housing. The courts have also passed subsequent rulings.⁵ To that end, State Law (SB2) requires jurisdictions to designate a zone and permitting process to facilitate the siting of such uses. If a conditional use permit is required, the process to obtain the conditional use permit may not unduly constrain the siting and operation of such facilities. SB2 also permits the City to apply limited conditions to the approval of ministerial permits for emergency shelters. The identified zone must have sufficient capacity to accommodate at least one year-round shelter. According to the 2013-2018 A.I., the City intended to amend the Zoning Ordinance to address this issue.

2018 Status: Resolved. The City adoption of the new Zoning Ordinance provided for siting of Emergency Shelters by right uses in the following zones: Light Industrial (LI), General Industrial (GI). Emergency Shelters are possible with a

⁵Hoffmaster v. City of San Diego, 55 Cal.App.4th 1098

Conditional Use Permit in the following zones: C/R-MU, B/R-MU, C/O-MU, C/I-MU, Public/Institutional (PB/I).

Discrimination against Persons with Disabilities

Consistent with findings in the 2013-2018 A.I., two-thirds of the discrimination complaints in Upland over the last five years were on the basis of physical or mental disability. In total, there were 138 fair housing complaints surfaced through the work of Inland Fair Housing and Mediation Board in Upland over the last five years, with 92 (two-thirds) of discrimination reported on the basis of physical or mental disability. **Table VI-1** illustrates the number of disability discrimination cases over the five year period of study.

**Table VI-1
Fair Housing Discrimination Cases in Upland**

Basis	2013-2014	2014-2015	2015-2016	2016-2017	2017-2018	Total
Number of Disability Discrimination Cases	15	23	17	21	16	92

Source: Inland Fair Housing Mediation Board (2018).

The high proportion of disability complaints to IFHMB in Upland is consistent with other communities in the area and is also consistent with data at the state and federal level. Fair housing discrimination on the basis of disability demonstrates a lack of understanding in the housing industry of the housing rights of persons with disabilities. Disabled persons are experiencing difficulties when requesting reasonable accommodations or modifications. In particular, persons with cognitive disabilities experience significantly more problems with these accommodations.

2018 Status: This impediment was addressed during the 2013-2018 planning period through fair housing outreach and education; however, given that two-thirds of all fair housing complaints received locally are on the basis of disability, this impediment is considered to have been addressed but remains a priority and will continue to be addressed in the new planning period.

Recommendations: The Upland Development Services Department and IFHMB should continue providing educational opportunities for property owners, property managers, and residents in Upland to provide information concerning the law as it pertains to reasonable accommodations and reasonable modifications. This may be addressed through workshops, public services announcements, literature distribution and the provision of landlord-tenant mediation services.

To that end, it is recommended that the City contract with IFHMB to provide two (2) workshops per year for the next five (5) years in the City, with one (1) workshop per year serving as a general introduction to fair housing laws and possible discrimination, and one (1) workshop each year being specifically focused on housing issues faced by persons with disabilities and on the reasonable accommodation and modification processes.

As matched pair testing, conducted in accordance with federal standards, is the most effective way of determining if discrimination is occurring, it is also recommended that the City contract with IFHMB at least once during the planning period to fund matched pair testing in Upland to address issues of possible discrimination based on disability as well as race, familial status, national origin, disability and other protected categories.

D. New Impediments to Fair Housing Choice and Recommendations

This 2019-2023 A.I. revealed the following new impediment and recommendations:

Lack of Rental Housing Opportunities in Northern Upland

Examination of the General Plan Land Use Map and Zoning Map updates from 2015 and comparison to Affirmatively Furthering Fair Housing Data and Mapping Tool (AFFH-T) maps from 2017 illustrating the tenure of occupied housing units geographically reveals that tenure is consistent with land use and zoning in Upland. In the Census Tracts north of Foothill Boulevard, between 68.4 and 81.43 percent of housing units are owner-occupied. In the Census Tracts north of Baseline Avenue, between 81.43 and 100 percent of housing units are owner occupied. South of Foothill Boulevard, only 33.51 percent of the housing units are owner-occupied in most Census Tracts.

Recommendation: HUD Affirmatively Furthering Fair Housing (AFFH) data suggests that northern Upland is characterized by higher performing schools and relatively less exposure to poverty. To foster and increase a balanced community that provides access to a diverse array of housing opportunities for all Upland residents including members of protected classes, consider addressing the lack of affordable rental housing opportunities north of Foothill Boulevard by exploring ways to incorporate multi-family affordable rental housing developments as part of infill projects or as part of Specific Plans where mixed use and flexible residential uses are currently allowable.



STAFF REPORT

ITEM NO. 14.A.

DATE: December 10, 2018
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, ACTING CITY MANAGER
PREPARED BY: STEVEN H. DUKETT, DEVELOPMENT SERVICES CONSULTANT
JERRY GUARRACINO, CONTRACT PLANNING MANAGER
SUBJECT: ASSIGNMENT AND ASSUMPTION AGREEMENT BETWEEN BRAVEPARK PROPERTY, LLC, TAYLOR MORRISON OF CALIFORNIA, LLC, AND THE CITY OF UPLAND, PERTAINING TO PORTIONS OF PLANNING AREA 3 OF THE SYCAMORE HILLS SPECIFIC PLAN, LOCATED NORTH OF BASELINE ROAD, SOUTH OF THE 1-210 FREEWAY AND WEST OF THE MOUNTAIN SHADOWS HOUSING DEVELOPMENT.

RECOMMENDED ACTION

It is recommended that City Council approve the Assignment and Assumption Agreement by and between Bravepark Property, LLC, a Delaware limited liability company (Bravepark), Taylor Morrison of California, LLC, a California limited liability company (Taylor Morrison), and the City of Upland, pertaining to Planning Area 3 of the Sycamore Hills Specific Plan.

GOAL STATEMENT

The Proposed action supports the City's goal to create high-quality infill development that provides a variety of commercial and residential unit types and infrastructure improvements for the Sycamore Hills Specific Planned area.

BACKGROUND

The City Council adopted Ordinance No. 1902, on February 8, 2016, authorizing execution of a Development Agreement between the City of Upland and Bravepark, pertaining to the development of 42 acres identified as Sycamore Hills, a mixed-use development located north of Baseline Road, south of the 1-210 freeway and west of the Mountain Shadows housing development.

This Development Agreement allows for the development of the Sycamore Hills Specific Plan, consisting of 10 acres of commercial and 32 acres of residential development. The Specific Plan allows for up to 400 residential units in three separate Planning Areas (Planning Areas 1-3). In addition, the Specific Plan provides for open space/recreational uses and public infrastructure. Currently, the Commercial Center (Planning Areas 4 and 5) is mostly constructed with major tenants being 365 Market by Whole Foods and CVS Pharmacy. Residential construction is underway at Westridge at Sycamore Hills (Planning Areas 1 and 2) by Taylor Morrison, who is constructing two distinctive project types with a total of 145 detached single-family homes. Other improvements include underground utilities, Baseline Road improvements including a landscaped median, new City entry monument, installation of new traffic control signals and construction of Parkview Promenade. Work is currently underway to rough grade Planning Area 3 for residential development and fine grading and landscaping of a new linear park on the eastern edge of the Specific Plan.

ISSUES/ANALYSIS

The Development Agreement for Sycamore Hills, approved by the City Council on February 8, 2016, grants certain rights, duties and obligations with respect to the development and improvement of the 42 Acre site. Section 2.4 of the Development Agreement describes the process for assigning certain Development Agreement rights, duties and obligations (see attached Development Agreement).

The Assignee, Taylor Morrison, is acquiring from the assignor, Bravepark, a 16.6 acre portion of the project that has been approved for a maximum of 176, residential dwelling units, consisting of 93 detached single-family condominium units and 83 attached single-family condominium units, within Planning Area 3 (see attached Specific Plan Map). As part of the acquisition, the assignee, desires to accept and assume certain of the assignor's responsibilities contained in the Development Agreement associated with developing Planning Area 3.

The assignor will retain certain rights, duties and obligations as identified in Exhibit B – Assignor retained Obligations and Exhibit C – Depiction of Assignor Retained Obligations of the Assignment and Assumption Agreement, see attached. These rights, duties and obligations generally include installation of various street improvements, street signalization, landscape and lighting improvements, as well as installation of various wet (sewer, storm drain, and water lines), dry utilities (electrical and gas lines) and linear park improvements for the project.

Approval of the Assignment and Assumption Agreement will allow for Taylor Morrison, the current residential builder of Planning Areas 1 and 2, to acquire Planning Area 3, the last remaining residential property within the Specific Plan. The purchase will facilitate the construction of 176 attached and detached single-family residential units in the Sycamore Hills Specific Plan.

FISCAL IMPACTS

Approval of the Assignment and Assumption will have no negative fiscal impacts to the City.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

**Assignment and Assumption Agreement
Development Agreement**

Sycamore Hills Specific Plan Land Use Map

OFFICIAL BUSINESS
Document entitled to free
recording per Government Code
Section 6103 and 27383

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Upland
460 North Euclid Avenue
Upland, CA 91768
Attn: Assistant City Manager

Space Above this Line Reserved for Recorder's Use

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Assignment") is made as of _____, 2018, by and among BRAVEPARK PROPERTY LLC, a Delaware limited liability company ("Assignor"), TAYLOR MORRISON OF CALIFORNIA, LLC, a California limited liability company ("**Assignee**"), and the City of Upland ("**City**").

RECITALS

A. The City adopted Ordinance Number 1902 on February 8, 2016, authorizing entry into a Development Agreement with Assignor, which was recorded April 28, 2016, as Document No. 2016-0163837 in the Official Records of the County Recorder for San Bernardino County, California (the "**Development Agreement**"). The Development Agreement is incorporated herein by this reference as though fully set forth herein. The Development Agreement as used herein shall mean, refer to and include the Development Agreement, as well as any riders, exhibits, addenda, operating memoranda, implementation agreements, amendments and attachments thereto (which are hereby incorporated herein by this reference) as well as other documents expressly incorporated by reference in the Development Agreement. Capitalized terms not defined herein shall have the meanings ascribed to them in the Development Agreement.

B. The Development Agreement grants certain rights, duties and obligations with respect to the development and improvement of the Park View Project ("**Project**") in Upland, California. Assignee is acquiring from Assignor a portion of the property contained within the Project boundaries. The portion being acquired is more particularly described on attached **Exhibit "A"** (the "**Property**").

C. As part of the acquisition and as set forth in this Assignment, Assignor desires to assign to Assignee, and Assignee desires to accept and assume, certain of Assignor's Development Agreement rights, duties and obligations under the Development Agreement (the "**Development Agreement Rights, Duties and Obligations**") as they pertain and relate to the Property in conjunction with the sale of the Property to Assignee pursuant to that certain Purchase and Sale Agreement, between Assignor and Assignee, dated as of April 24, 2018 ("**PSA**").

D. Paragraph 2.4 of the Development Agreement describes the process for assignment of Development Agreement Rights, Duties and Obligations.

E. Pursuant to Paragraph 2.4.1 of the Development Agreement, the assignment or transfer may only be made in conjunction with the transfer or assignment of all or a portion of the project site and the City must be notified of any such transfer or assignment concurrent with or within 30 days after such transfer or assignment.

F. Pursuant to Paragraph 2.4.2 of the Development Agreement, the City must approve the assignment and transfer of Assignor's Development Agreement Rights, Duties and Obligations to Assignee if Assignor is to be released of its obligations as to the property transferred or assigned. Upon such approval by the City and the assumption of certain Development Agreement Rights, Duties and Obligations by Assignee as set forth in this Assignment, effective as of the date of recordation of this Assignment, Assignor will be released from all such Development Agreement Rights, Duties and Obligations with respect to the Property.

G. Assignor is not currently in default under the Development Agreement.

H. Assignee has demonstrated to the satisfaction of the City that it has the expertise and financial ability to perform its assumed Development Agreement Rights, Duties and Obligations for the Property.

I. Following closing of Assignee's acquisition of the Property pursuant to the PSA, Assignor will no longer have a fee interest in the Property.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignment. Effective as of the date of recordation of this Assignment, Assignor hereby assigns all of the Development Agreement Rights, Duties and Obligations relating or pertaining to the Property, except those obligations under the Development Agreement that are being retained by Assignor as identified on attached **Exhibit "B"** and depicted on attached **Exhibits "C-1"** and **"C-2"** (collectively the "**Assignor Retained Obligations**"). Among the Development Agreement Rights, Duties and Obligations assigned to Assignee are the Impact Fee Credits up to the amounts identified on attached **Exhibit "D"** ("**Transferred Impact Fee Credits**"). Any Impact Fee Credits in excess of the Transferred Impact Fee Credits shall be retained by Assignor.

2. Acceptance and Assumption. Effective as of the date of recordation of this Assignment, Assignee hereby accepts the foregoing assignment of the Development Agreement Rights, Duties and Obligations from Assignor and assumes all of the Development Agreement Rights, Duties and Obligations pertaining or relating to the Property arising from and after the date of recordation of this Assignment, except with respect to the Assignor Retained Obligations. Assignor and Assignee acknowledge that such assignment and acceptance shall relieve Assignor of its duty to comply with the Development Agreement Rights, Duties and Obligations with respect to the Property, except with respect to the Assignor Retained Obligations. Assignee expressly and unconditionally assumes all the Development Agreement Rights, Duties and

Obligations of Assignor with respect to the Property, except with respect to the Assignor Retained Obligations, and Assignee agrees to be bound thereby in accordance with the terms thereof and to perform all of the Development Agreement Duties and Obligations with respect to the Property, except with respect to the Assignor Retained Obligations.

3. Seller Retained Rights and Obligations. Seller hereby retains all rights and obligations under the Development Agreement that pertain to Planning Area 4.

4. Consent to Assignment and Assumption. In reliance upon the assumption by Assignee of the Development Agreement Rights, Duties and Obligations with respect to the Property, except with respect to the Assignor Retained Obligations, the City does hereby consent to and approves of the assignment of such Development Agreement Rights, Duties and Obligations by Assignor to Assignee and thereby releases Assignor from all such Development Agreement Rights, Duties and Obligations, except with respect to the Assignor Retained Obligations.

5. Recordation of Agreement. This Agreement shall not be recorded, and thus become effective, until after closing of the sale of the Property pursuant to the terms of the PSA and shall not be recorded prior to becoming effective.

6. Assignee Address. The principal address of Assignee for purposes of the Development Agreement is as follows:

Taylor Morrison of California, LLC
100 Spectrum Center Drive, Suite 1450
Irvine, California 92618-4220
Attention: Division President
Telephone: (949) 341-1200

7. Miscellaneous.

(a) This Assignment shall be determined in accordance with and governed by the laws of the State of California.

(b) This Assignment may be executed in counterparts, each of which shall be deemed an original and which, when taken together, shall constitute a complete instrument.

(c) Each party agrees to perform any further acts, and to execute and deliver any further documents that may be reasonably necessary or required to carry out the intent and provisions of this Assignment and the transactions contemplated hereby.

(d) This Assignment shall bind and inure to the benefit of the respective heirs, personal representatives, grantees, successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Assignment to be signed by their duly authorized officers as of the day and year first written above.

ASSIGNOR:

BRAVEPARK PROPERTY, LLC
a Delaware limited liability company

By: _____
Name: _____
Title: _____

ASSIGNEE:

TAYLOR MORRISON OF CALIFORNIA,
LLC
a California limited liability company

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Date: _____

CITY OF UPLAND

By: _____
Mayor

ATTEST:

City Clerk

**REVIEWED AND APPROVED AS TO
FORM:**

City Attorney

By: _____
City Attorney
James L. Markman

EXHIBIT "A"

THE PROPERTY

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

[UPDATED LEGAL DESCRIPTION OF THE PROPERTY TO BE INSERTED
FOLLOWING RECORDATION OF THE FINAL TRACT MAP NO. 20045 (TT 16-03)]

EXHIBIT "B"

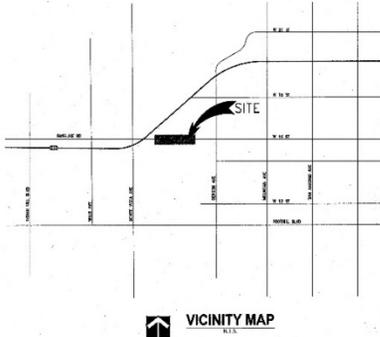
ASSIGNOR RETAINED OBLIGATIONS

1. Installation of street improvements contained within the plans in for City review and generally identified as Tract Map No. 18707 Street Improvement Plans for Park View Promenade Tract Map No. 18707. (Section 3.7.3 of the Development Agreement ("DA"), Exhibit F "Off Site Public Improvements").
2. Installation and certification of the traffic signal improvements contained within the plans in for City review and generally identified as Tract Map No. 18707 Traffic Signal Modification Plan Baseline Road (16th Street) At Park View Promenade. (Section 4.4 of the DA).
3. Installation of Off Site dry utility facilities (SCE Rule 15). (Section 3.7.3 of the DA, Exhibit F "Off Site Public Improvements").
4. Undergrounding of that portion of Rule 20 conduit distribution lines that is not located on the Property in accordance with plans approved by the utility provider for the conduit installed components and for the live components. (Section 3.7.3 of the DA, Exhibit F "Off Site Public Improvements").
5. Installation of the water line contained within the plans in for City review and generally identified as Tract Map No. 18707 Off-Site Improvement Plan Water Line A + B. (Section 3.7.3 of DA, Exhibit F "Off Site Public Improvements")
6. Installation of the reclaimed water line contained within the plans in for City review and generally identified as Tract Map No. 18707 Recycled Water Improvement Plans Water Line A + B. (Section 3.7.3 of DA, Exhibit F "Off Site Public Improvements")
7. Installation of the sewer line contained within the plans in for City review and generally identified as Sanitary Sewer Plans for Tract Map No. 18707 Baseline Road (16th Street) Line "A", Line "B". (Section 3.7.3 of DA, Exhibit F "Off Site Public Improvements")
8. Installation of the storm drain improvements contained within the plans in for City review and generally identified as Storm Drain Plans for Tract Map No. 18707 Baseline Road (16th Street) and Park View Promenade.
9. Installation of the storm drain improvements contained within the plans in for City review and generally identified as Project No. 9640 Pit #3 Storm Drain Improvements. (Section 3.7.3 of DA, Exhibit F "Off Site Public Improvements")
10. Completion of sewer line and laterals for a portion of Tract 18707 as shown on Seller's off-site sewer plans generally identified as Sanitary Sewer Plans for Tract Map No. 18707 Baseline Road (16th Street) Line "A", Line "B". (Section 3.7.3 of DA, Exhibit F "Off Site Public Improvements")
11. Completion of public landscaping improvements as shown on Seller's landscaping plans identified as Sycamore Hills Tract 18707 Landscape Improvement Plans for Median, Parkway and Linear Park (Section 3.7.2 of DA).

SYCAMORE HILLS TR:18707

LANDSCAPE IMPROVEMENT PLANS FOR MEDIAN, PARKWAY AND LINEAR PARK

CITY OF UPLAND



VICINITY MAP



HOLD HARMLESS & INDEMNIFICATION CLAUSE
CONTRACTOR AGREES TO HOLD HARMLESS AND INDEMNIFY THE CITY OF UPLAND FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, THAT MAY BE ASSERTED AGAINST THE CITY OF UPLAND OR ANY OF ITS OFFICIALS, EMPLOYEES, AGENTS OR CONTRACTORS AS A RESULT OF THE CONTRACTOR'S NEGLIGENCE OR WILLFUL OR WANTON NEGLIGENCE IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THIS CONTRACT. THIS AGREEMENT SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES THAT MAY BE AWARDED BY A COURT OF LAW OR BY ANY STATUTE, RULE OF COURT OR OTHER LEGAL INSTRUMENT. THIS AGREEMENT SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES THAT MAY BE AWARDED BY A COURT OF LAW OR BY ANY STATUTE, RULE OF COURT OR OTHER LEGAL INSTRUMENT.

NOTE

APPROVAL OF THESE PLANS BY THE CITY OF UPLAND IS NECESSARY FOR THE CITY TO OBTAIN A PERMIT TO CONSTRUCT THE PROJECT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF UPLAND AND THE CALIFORNIA DEPARTMENT OF WATER RESOURCES.

GENERAL NOTES

1. ALL PROPOSED IMPROVEMENTS IN THE PUBLIC RIGHT-OF-WAY ARE SUBJECT TO APPROVAL BY THE CITY OF UPLAND. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF UPLAND AND THE CALIFORNIA DEPARTMENT OF WATER RESOURCES.

INDEX MAP

GENERAL NOTES

- 1. ALL PROPOSED IMPROVEMENTS IN THE PUBLIC RIGHT-OF-WAY ARE SUBJECT TO APPROVAL BY THE CITY OF UPLAND. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF UPLAND AND THE CALIFORNIA DEPARTMENT OF WATER RESOURCES.
- 2. ALL WORK SHALL BE IN ACCORDANCE WITH THE STANDARD SPECIFICATIONS FOR PUBLIC WORKS, LATEST EDITION, AS ADOPTED BY THE CITY OF UPLAND.
- 3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF UPLAND AND THE CALIFORNIA DEPARTMENT OF WATER RESOURCES.

STATEMENT OF THE CITY ENGINEER

I, the undersigned, being a duly licensed Professional Engineer in the State of California, do hereby certify that the above-mentioned plans were prepared by me or under my direct supervision and that I am a duly licensed Professional Engineer in the State of California.

PROJECT TEAM

- OWNER:** BRAVEPARK PROPERTY, LLC
JOE CEBIUN
218 W. 16TH STREET
MILWAUKEE, WI 53233
(978) 432-0018
- LANDSCAPE ARCHITECT:** DAVID EVANS & ASSOCIATES, INC.
CHRIS GANNON, L.A. #2787
4141 E. BLAINE AVENUE, SUITE 200
INTEGRA, CALIFORNIA 91764
(951) 484-3700 FAX: (951) 484-0379
- CIVIL ENGINEER:** DAVID EVANS & ASSOCIATES, INC.
GLENN W. CHANG, P.E. #27744
7200 E. 17TH STREET, SUITE 200
MILWAUKEE, WI 53222
(714) 655-4500 FAX: (714) 655-4051
- ELECTRICAL ENGINEER:** MRC ENGINEERING, INC.
MARCUS L. FORT
3400 GARDEN DRIVE, SUITE 100
PAIN AVENUE, CA 92571
(762) 340-9086

INDEX OF SHEETS (TOTAL 44 SHEETS)

SHEET TITLE	SHEET NO.	DESCRIPTION
CV	1	COVER SHEET
LI-0	2	IRRIGATION LEGEND
LI-1 - LI-11	3 - 13	IRRIGATION PLAN
LI-12	14	IRRIGATION CALCULATIONS
LI-15	15	IRRIGATION SCHEDULING
ID-1 - ID-2	16 - 17	IRRIGATION DETAILS
LP-0	18	PLANTING LEGEND
LP-1 - LP-11	19 - 29	PLANTING PLAN
PD-1	30	CONSTRUCTION DETAILS
PD-2	31	PLANTING DETAILS
E-1 - E-11	32 - 42	ELECTRICAL PLANS
LS-1 - LS-2	43 - 44	LANDSCAPE SPECIFICATIONS

DATE/TIME: 12/12/2016 8:15 AM
PROJECT REFERENCE NUMBER: BRVPROJ-007 - SYCAMORE HILLS - MEDIANS
DESIGN PROFESSIONAL'S STATEMENT: THE PLANS WERE PREPARED UNDER MY DIRECT SUPERVISION AND I AM A DULY LICENSED PROFESSIONAL ENGINEER IN THE STATE OF CALIFORNIA. I AM NOT PROVIDING ANY GUARANTEE OR WARRANTY FOR THE ACCURACY OF THE INFORMATION PROVIDED IN THESE PLANS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF UPLAND AND THE CALIFORNIA DEPARTMENT OF WATER RESOURCES.

SURVEY MONUMENT NOTE:

THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF UPLAND AND THE CALIFORNIA DEPARTMENT OF WATER RESOURCES.

CONTRACTOR'S RESPONSIBILITY FOR SAFETY:

THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF UPLAND AND THE CALIFORNIA DEPARTMENT OF WATER RESOURCES.

THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF UPLAND AND THE CALIFORNIA DEPARTMENT OF WATER RESOURCES.

ENGINEERS NOTICE TO CONTRACTOR

THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF UPLAND AND THE CALIFORNIA DEPARTMENT OF WATER RESOURCES.

UNDERGROUND UTILITY NOTES:

THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY OF UPLAND AND THE CALIFORNIA DEPARTMENT OF WATER RESOURCES.

APPLICABLE CODE YEARS:

2012 CALIFORNIA CIVIL
2012 CALIFORNIA ELECTRICAL
2012 CALIFORNIA MECHANICAL
2012 CALIFORNIA PLUMBING



REVISIONS

MARK	DATE	INITIALS	DESCRIPTION	MARK	DATE



DAVID EVANS & ASSOCIATES, INC.
1441 E. INLAND EMPIRE, SUITE 200
ONTARIO, CALIFORNIA 91764
PHONE: 951.481.8700

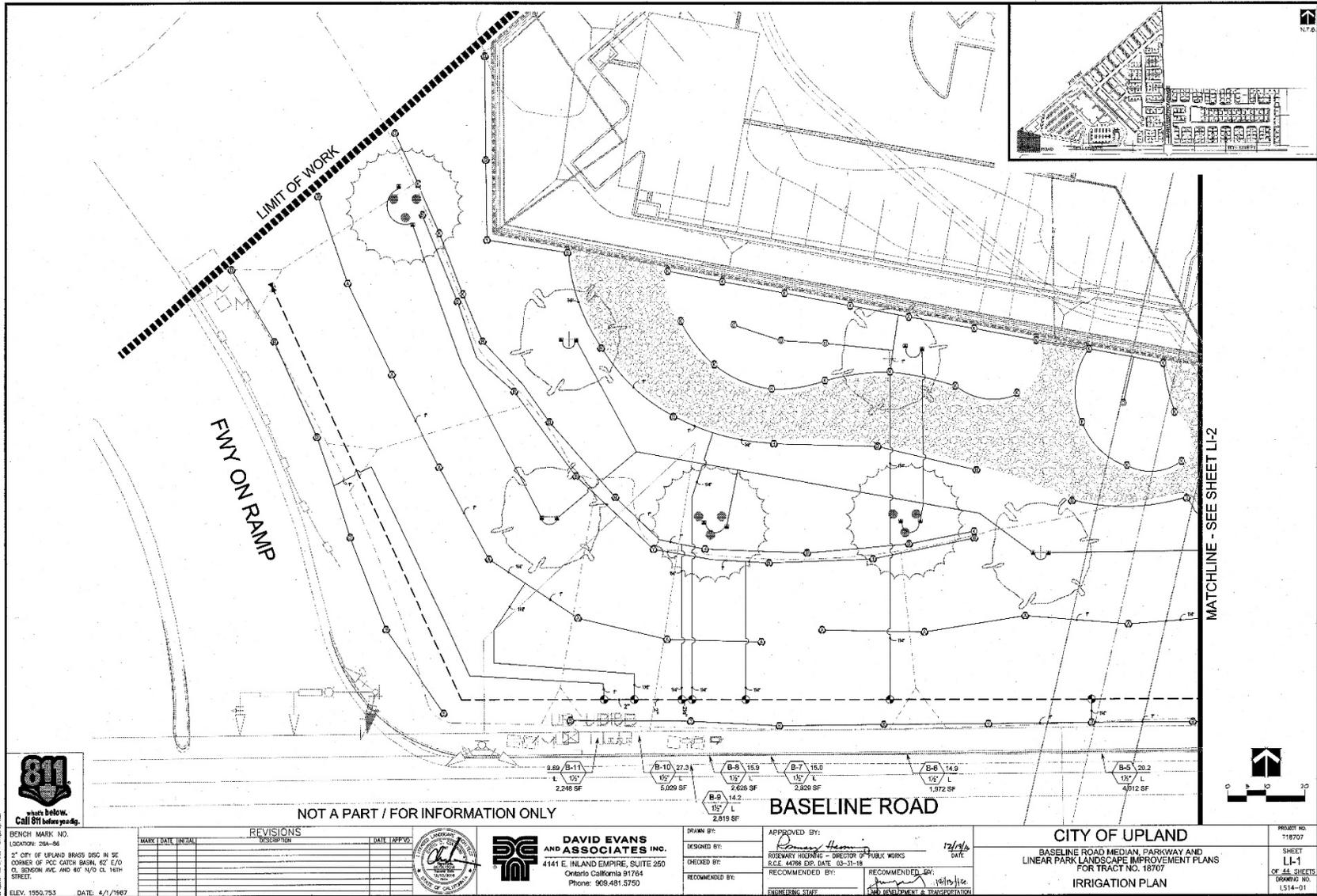
FORM 811

ISSUED BY:	APPROVED BY:
PREPARED BY: [Signature]	[Signature]
DRAWN BY: [Signature]	[Signature]
RECOMMENDED BY: [Signature]	[Signature]
ENGINEERING STAFF	

CITY OF UPLAND
BASELINE ROAD MEDIAN, PARKWAY AND
LINEAR PARK LANDSCAPE IMPROVEMENT PLANS
FOR TRACT NO. 18707
COVER SHEET

PROJECT NO. 18707
SHEET NO. 01 OF 44 SHEETS
DATE 12/12/2016

EXHIBIT "C-2"
DEPICTION OF ASSIGNOR RETAINED OBLIGATIONS



BENCH MARK NO.
LOCATION: 206-96
2" CITY OF UPLAND BRASS DISC IN SE CORNER OF POC CATCH BASIN, R2 E/O O. BENSON AVE. AND 80' N/O CL. 16TH STREET.
ELEV. 1550.733 DATE: 4/2/1967

NOT A PART / FOR INFORMATION ONLY

BASELINE ROAD

B-89 8-11 12" L 2,248 SF	B-10 27.0 12" L 5,009 SF	B-9 15.9 12" L 2,606 SF	B-7 15.8 12" L 2,309 SF	B-6 14.9 12" L 1,872 SF	B-5 20.2 12" L 4,812 SF
--------------------------------	--------------------------------	-------------------------------	-------------------------------	-------------------------------	-------------------------------

MARK	DATE	INITIAL	REVISIONS	DATE	APP'VD



DAVID EVANS AND ASSOCIATES INC.
4141 E. INLAND EMPIRE, SUITE 250
Ontario California 91764
Phone: 909.481.3750

DESIGNED BY: [Signature]
CHECKED BY: [Signature]
RECOMMENDED BY: [Signature]
ENGINEERING STAFF: [Signature]

APPROVED BY: [Signature]
ROBERTA HESTER - DIRECTOR OF PUBLIC WORKS
R.C.E. 44196 EXP. DATE: 03-31-18
DATE: 12/1/16

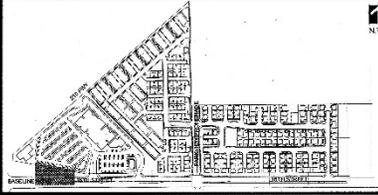
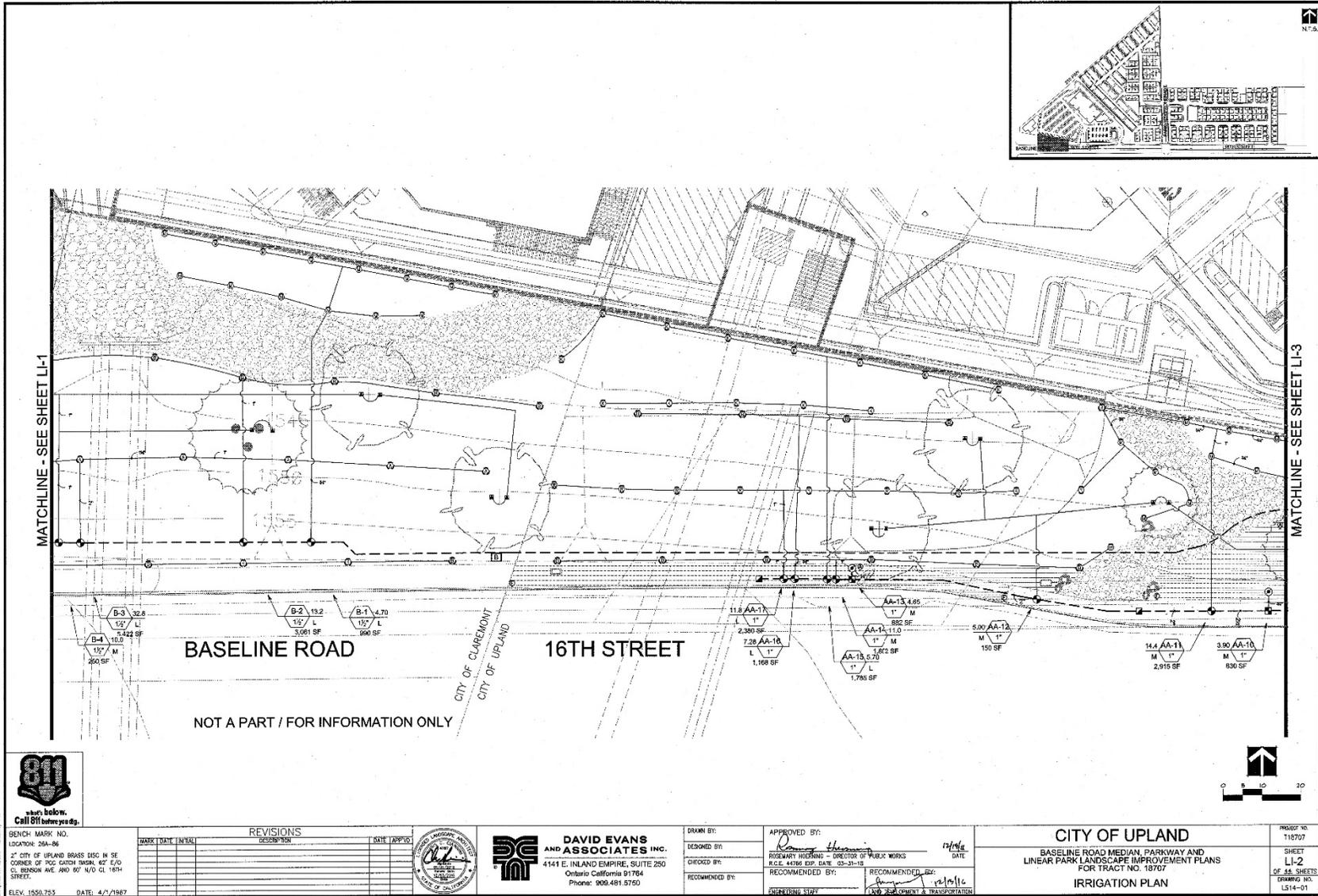
RECOMMENDED BY: [Signature]
DATE: 10/19/16
LAND DEVELOPMENT & TRANSPORTATION

CITY OF UPLAND
BASELINE ROAD MEDIAN, PARKWAY AND
LINEAR PARK LANDSCAPE IMPROVEMENT PLANS
FOR TRACT NO. 18707
IRRIGATION PLAN

PROJECT NO.
118707

SHEET
LI-1
OF 44 SHEETS
DRAWING NO.
LS14-01

PROJECT NO. 118707 PLAN NO. LS14-01



BENCH MARK NO.
LOCATION: 254-86
1/4" CITY OF UPLAND BEAR DISC IN SE CORNER OF 700' CATCH BASIN, 40' E/O CL, BRADON AVE. AND 60' N/O CL 1614 STREET.
ELEV. 1550.753 DATE: 4/1/1987

DATE	BY	REVISIONS DESCRIPTION	DATE	APP'D



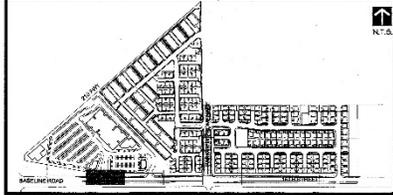
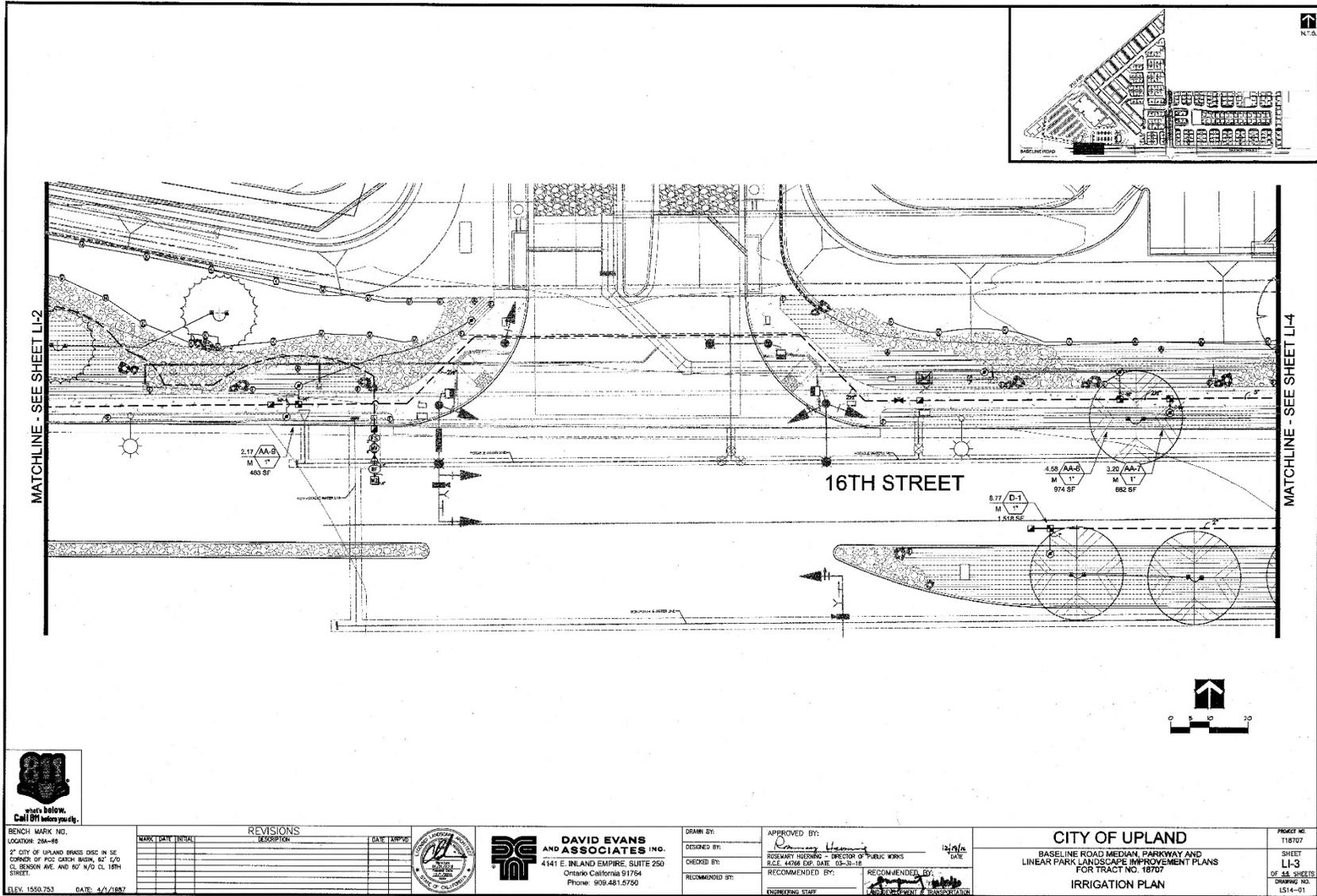
DAVID EVANS AND ASSOCIATES INC.
4141 E. INLAND EMPIRE, SUITE 250
Ontario California 91784
Phone: 909.481.5750

DRAWN BY:	APPROVED BY:
DESIGNED BY:	ROSEMARY HEDRANS - DIRECTOR OF PUBLIC WORKS R.H.E. #1966 EXP. DATE: 02-28-18
CHECKED BY:	RECOMMENDED BY:
RECOMMENDED BY:	DATE: 12/16/16

CITY OF UPLAND
BASELINE ROAD MEDIAN, PARKWAY AND
LINEAR PARK LANDSCAPE IMPROVEMENT PLANS
FOR TRACT NO. 18707
IRRIGATION PLAN

PROJECT NO.
118707
SHEET
LI-2
OF 44 SHEETS
DRAWING NO.
LS14-01

PROJECT NO. 118707 PLAN NO. LS14-01



C-1: Provided by David Evans and Associates, Inc. for the City of Upland. All rights reserved. No part of this drawing may be reproduced without the written permission of David Evans and Associates, Inc.



BENCH MARK NO.
LOCATION: 284-49
2" CITY OF UPLAND BEANS DISC IN SE CORNER OF POC CATCH BASIN, 62' E/O CL BEASON AVE. AND 80' N/O CL 18TH STREET.
ELEV. 1550.753 DATE: 4/1/1987

MARK	DATE	INITIAL	REVISIONS DESCRIPTION	DATE	APP'D



DAVID EVANS AND ASSOCIATES INC.
4141 E. INLAND EMPIRE, SUITE 250
Ontario California 91764
Phone: 909.481.5750

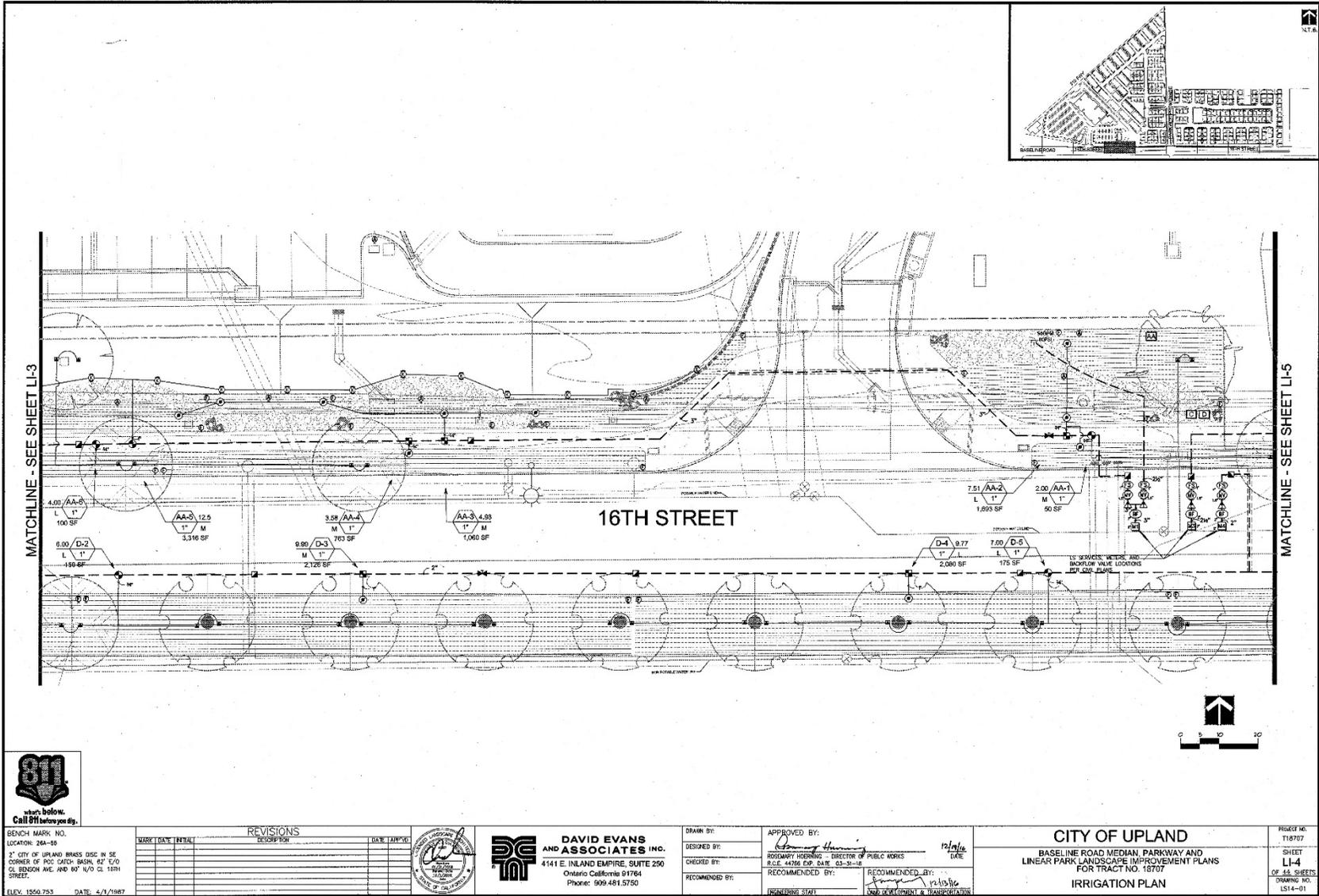
DRAWN BY:
DESIGNED BY:
CHECKED BY:
RECOMMENDED BY:

APPROVED BY:
Rosemary Huisman
ROSEMARY HUISMAN - DIRECTOR OF PUBLIC WORKS
P.L.C.E. MARKING DATE: 03-23-18
DATE: 12/18/18
RECOMMENDED BY:
[Signature]
ENGINEERING STAFF

CITY OF UPLAND
BASELINE ROAD MEDIAN, PARKWAY AND LINEAR PARK LANDSCAPE IMPROVEMENT PLANS FOR TRACT NO. 18707
IRRIGATION PLAN

PROJECT NO.: 118707
SHEET: LI-3
OF 44 SHEETS
DRAWING NO.: 1514-01

PROJECT NO. 118707 PLAN NO. 1514-01



BENCH MARK NO.
LOCATION: 26A-55
3" CITY OF UPLAND BRASS DISC IN SE CORNER OF POC CATCH BASIN, 82' E/O OS, BENSON AVE. AND 87' N/O CL. 15TH STREET.
ELEV. 1540.753 DATE: 4/7/1987

MARK	DATE	INITIAL	REVISIONS DESCRIPTION	DATE	APP'D



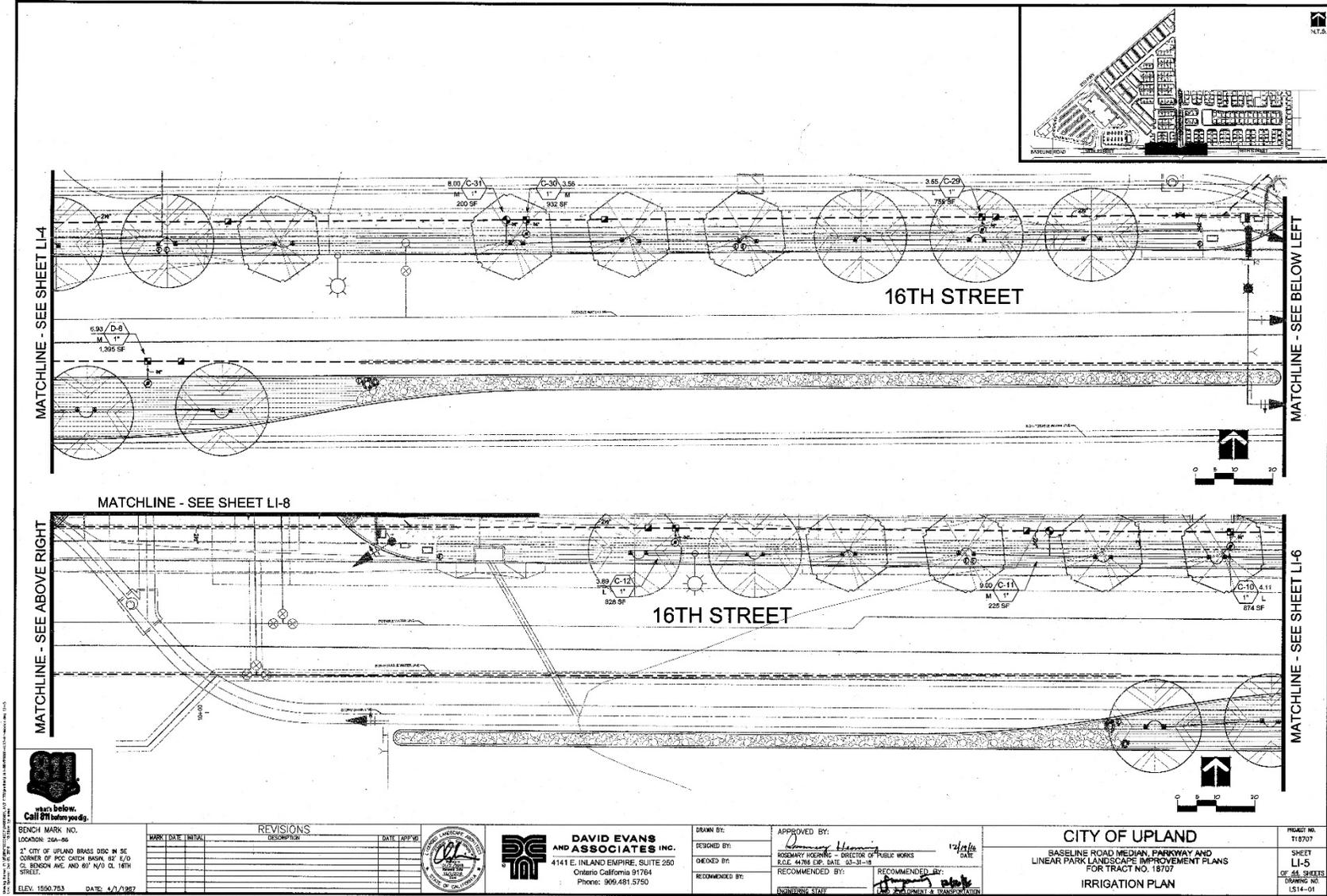
DAVID EVANS AND ASSOCIATES INC.
4141 E. INLAND EMPIRE, SUITE 250
Ontario, California 91764
Phone: 909-481-5750

DRAWN BY: DESIGNED BY: CHECKED BY: RECOMMENDED BY:	APPROVED BY: ROSEMARY HORNING - DIRECTOR OF PUBLIC WORKS R.O.C.E. 44766 EXP. DATE 03-30-18 RECOMMENDED BY: LAND DEVELOPMENT & TRANSPORTATION
---	--

CITY OF UPLAND
BASELINE ROAD MEDIAN, PARKWAY AND
LINEAR PARK LANDSCAPE IMPROVEMENT PLANS
FOR TRACT NO. 15707
IRRIGATION PLAN

PROJECT NO. T18707
SHEET LI-4
OF 14 SHEETS
DRAWING NO. LSI4-01

PROJECT NO. T18707 PLAN NO. LSI4-01



Check below.
Call 911 before you dig.

BENCH MARK NO.
LOCATION: 26A-66
2" CITY OF UPLAND BRASS DISC IN SE CORNER OF FCC CATCH BASIN 8'2" E/O CL BEDFORD AVE AND 60' N/O CL 16TH STREET.
ELEV. 1550.783 DATE: 4/1/2017

MARK	DATE	INITIALS	REVISIONS	DATE	APP'G



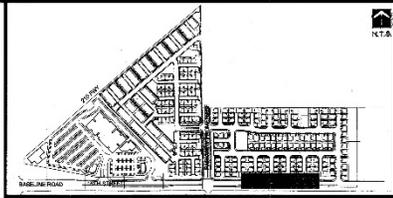
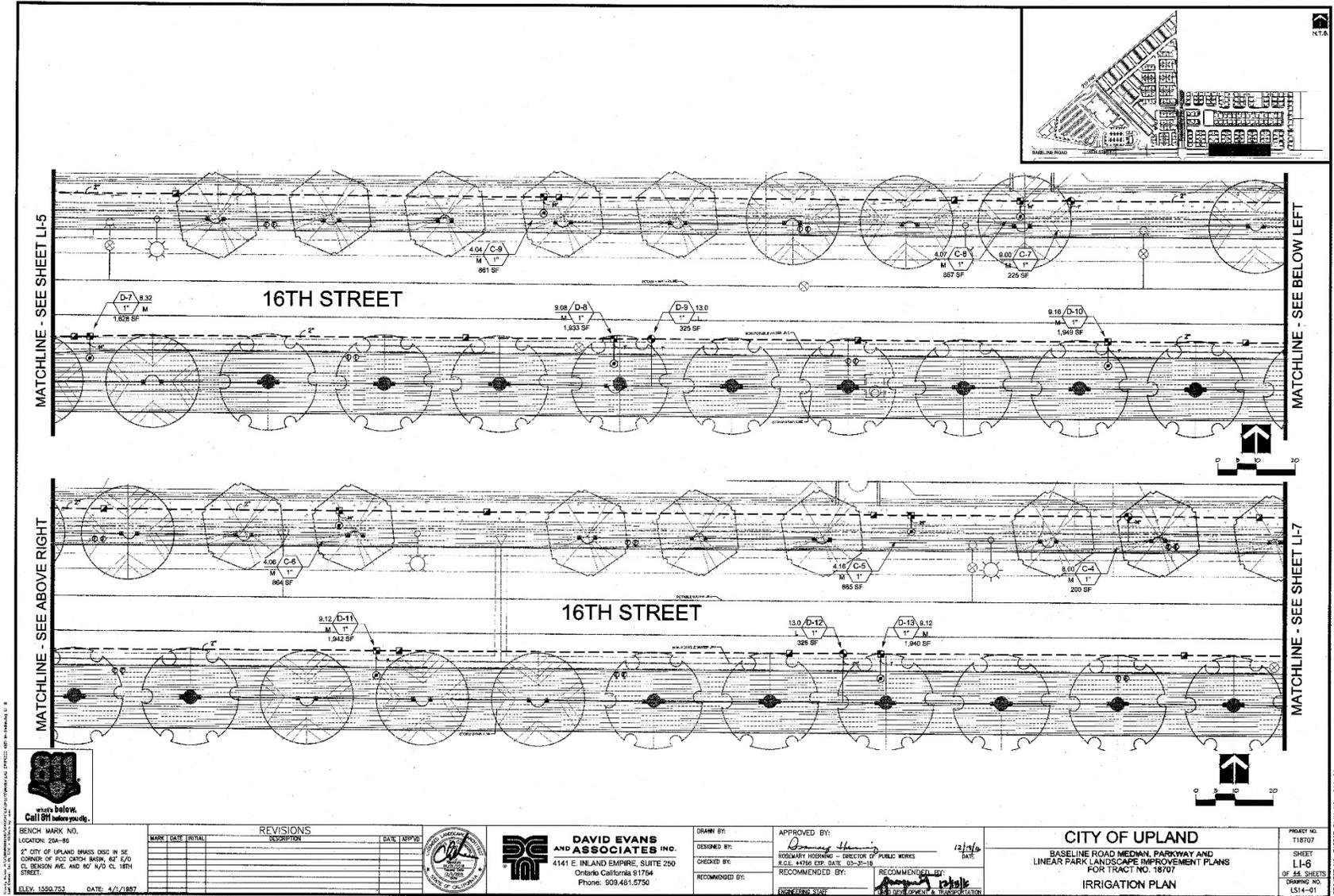
DAVID EVANS AND ASSOCIATES INC.
4141 E. INLAND EMPIRE, SUITE 250
Ontario California 91764
Phone: 909.481.5750

DESIGN BY: *David Evans*
CHECKED BY: *David Evans*
RECOMMENDED BY: *David Evans*
APPROVED BY: *David Evans*
ROOSEVELT HOUSING DIRECTOR OF PUBLIC WORKS
P.L.C. 44788 EXP. DATE: 03-31-19
RECOMMENDED BY: *David Evans*
ENGINEERING STATE: *California*

CITY OF UPLAND
BASELINE ROAD MEDIAN, PARKWAY AND
LINEAR PARK LANDSCAPE IMPROVEMENT PLANS
FOR TRACT NO. 18707
IRRIGATION PLAN

PROJECT NO. T18707
SHEET
LI-5
OF 58 SHEETS
DRAWING NO.
LS14-01

PROJECT NO. T18707 PLAN NO. LS14-01



BENCH MARK NO.
LOCATION: 264-90
CITY OF UPLAND BRASS DISC IN SE CORNER OF PCD CATCH BASIN, 62' 0" CL BENSON AVE. AND 80' 0" CL 16TH STREET
ELEV. 1550.753 DATE: 4/2/1987

REVISIONS			
MARK	DATE	INITIAL	DESCRIPTION

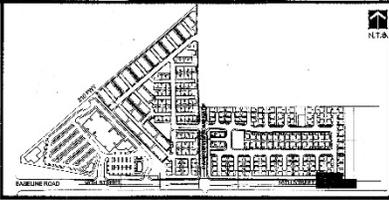
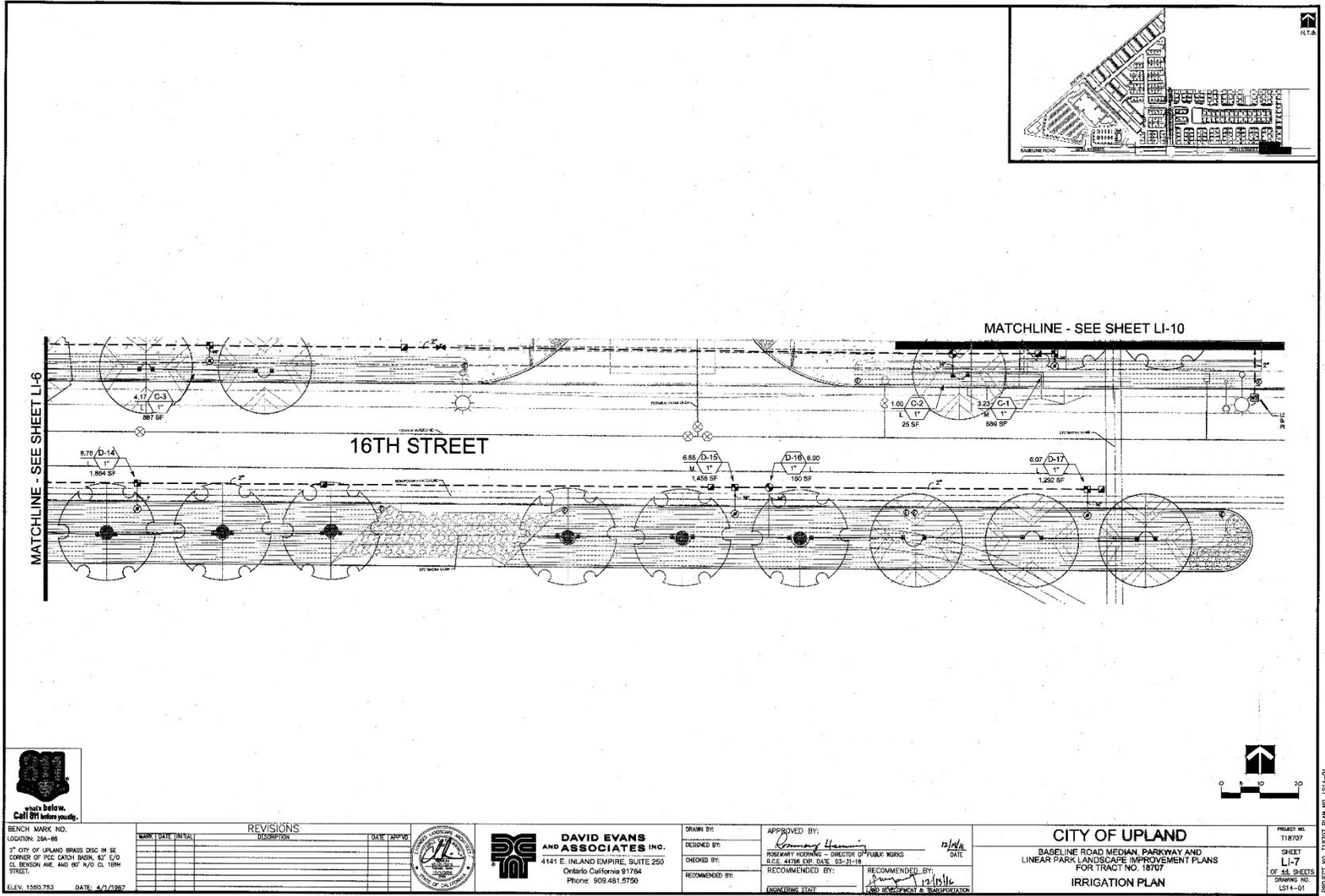


DAVID EVANS AND ASSOCIATES INC.
4141 E. INLAND EMPIRE, SUITE 250
Ontario California 91764
Phone: 909.481.5750

DRAWN BY:
DESIGNED BY:
CHECKED BY:
RECOMMENDED BY:
APPROVED BY: *Donna H...*
ROSEMARY HERNIMAN - DIRECTOR OF PUBLIC WORKS
R.E. DATE FOR DATE: 03-22-18
RECOMMENDED BY: *John Chalk*
DATE: 12/9/16
ENGINEERING STAFF
LEAD ENGINEER & TRANSPORTATION

CITY OF UPLAND
BASELINE ROAD MEDIAN, PARKWAY AND
LINEAR PARK LANDSCAPE IMPROVEMENT PLANS
FOR TRACT NO. 18707
IRRIGATION PLAN

PROJECT NO. 118707 PLAN NO. LS14-01
SHEET LI-6 OF 14 SHEETS
DRAWING NO. LS14-01



what's below. Call off before you dig.

BENCH MARK NO.
LOCATION: 26A-86

2" CITY OF UPLAND BRASS DISC IN SE CORNER OF FCC CANYON BRINK AC 5/0 CL BENSON AVE. AND 80' N/O CL 18TH STREET.

ELEV. 1350.753 DATE: 4/1/1987

MARK	DATE	INITIAL	REVISIONS DESCRIPTION	DATE	APPROV



DAVID EVANS ASSOCIATES INC.
4141 E. INLAND EMPIRE, SUITE 250
Ontario California 91754
Phone: 509.481.5750

DRAWN BY: _____
DESIGNED BY: _____
CHECKED BY: _____
RECOMMENDED BY: _____
ENGINEERING SIZE: _____

APPROVED BY: *Dorothy Heenan*
ROSEMARY HEENAN - DIRECTOR OF PUBLIC WORKS
P.C.E. 44736 EXP. DATE: 02-31-19
RECOMMENDED BY: *Dorothy Heenan*
LAND DEVELOPMENT & TRANSPORTATION

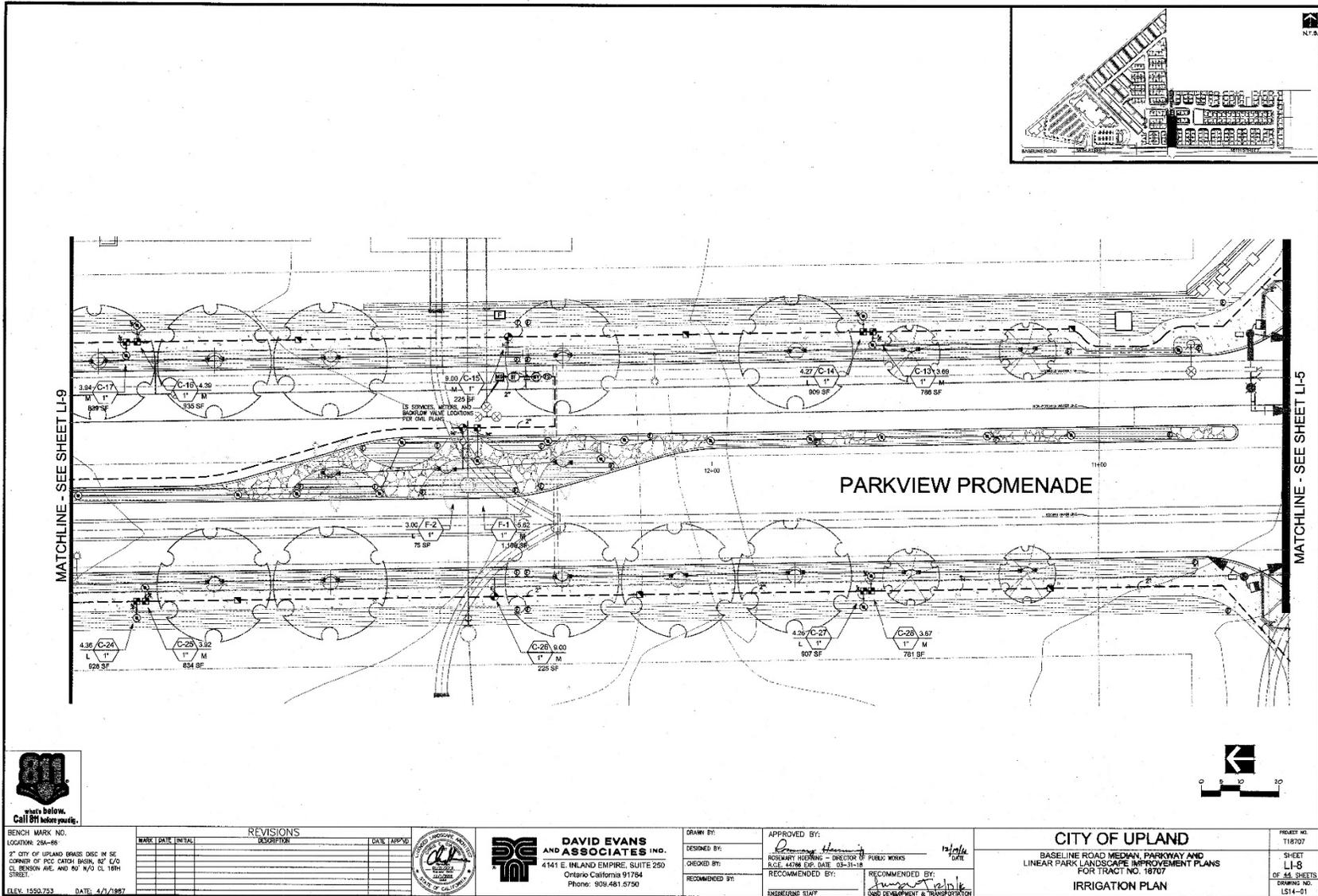
DATE: 12/16

CITY OF UPLAND
BASELINE ROAD MEDIAN, PARKWAY AND LINEAR PARK LANDSCAPE IMPROVEMENT PLANS FOR TRACT NO. 18707

IRRIGATION PLAN

PROJECT NO. T18707
SHEET LI-7
OF 88 SHEETS
DRAWING NO. LS14-01

PROJECT NO. T18707 PLAN NO. LS14-01



BENCH MARK NO.
 LOCATION: 284-89
 2" CITY OF UPLAND BRASS DISC IN SE CORNER OF PCC CATCH BASIN, 82' E/O CL, BENSON AVE. AND 80' N/O CL 18TH STREET.
 ELEV. 1550.753 DATE: 4/7/1987

NO.	DATE	INITIALS	REVISIONS	DATE	APPROVED

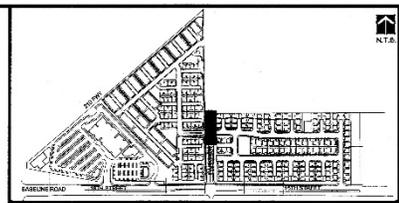
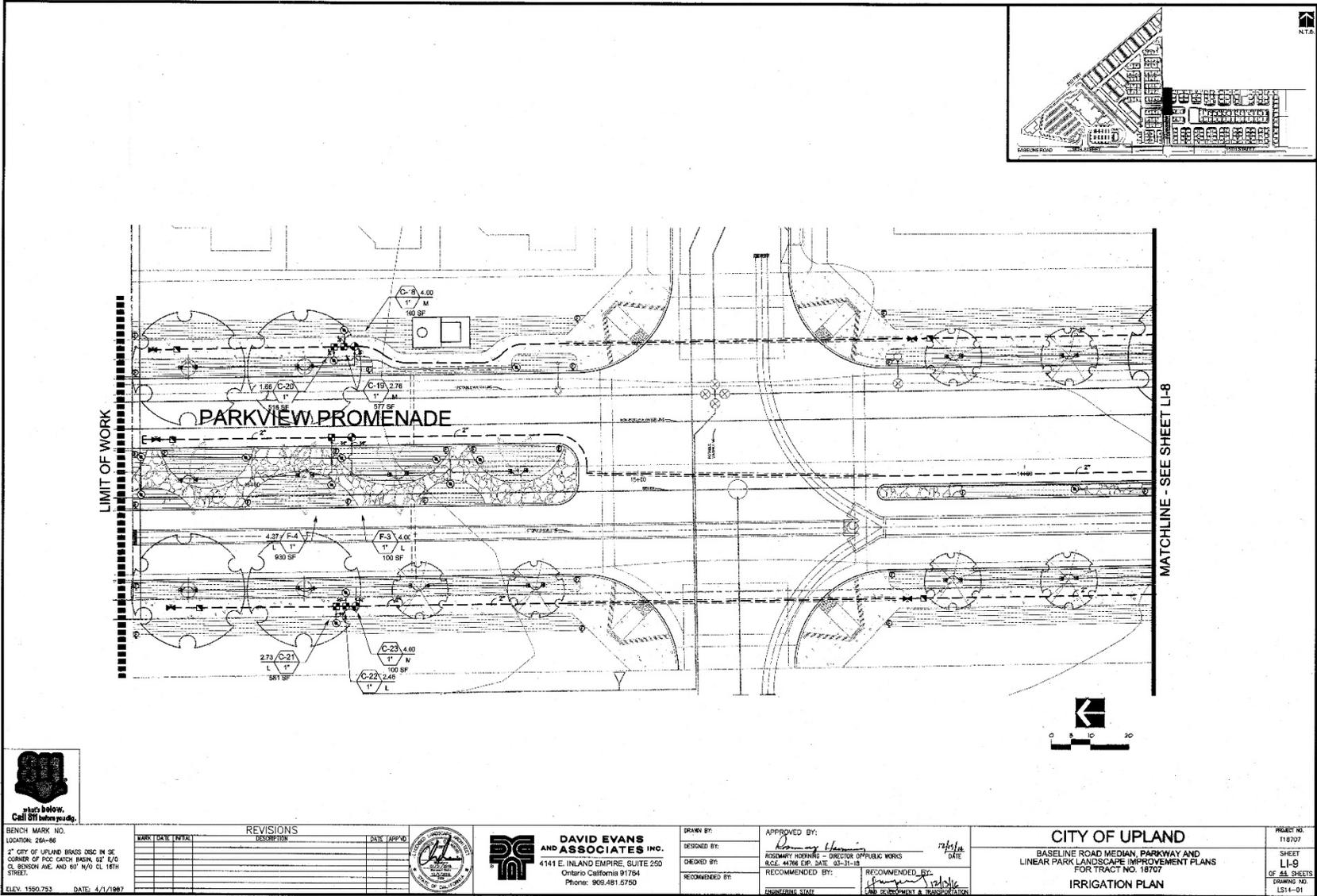


DAVID EVANS AND ASSOCIATES INC.
 4141 E. INLAND EMPIRE, SUITE 250
 Ontario California 91764
 Phone: 908.481.5700

DRAWN BY: DESIGNED BY: CHECKED BY: RECOMMENDED BY:	APPROVED BY: ROSSBARY HERRING - DIRECTOR OF PUBLIC WORKS S.C.E. 44766 EXP. DATE 03-31-18 RECOMMENDED BY: ENGINEERING STAFF	PUBLIC WORKS DATE RECOMMENDED BY: USES EQUIPMENT & CONSTRUCTION
---	--	--

CITY OF UPLAND
 BASELINE ROAD MEDIAN, PARKWAY AND
 LINEAR PARK LANDSCAPE IMPROVEMENT PLANS
 FOR TRACT NO. 18707
IRRIGATION PLAN

PROJECT NO. T18707 PLAN NO. L514-01
 SHEET
 L1-8
 OF 44 SHEETS
 DRAWING NO.
 L514-01



What's below. Call 911 before you dig.

BENCH MARK NO.
LOCATION: 26A-86
2" CITY OF UPLAND BRASS DISC IN SE CORNER OF PCC CATCH BASIN, 67' 2/3' CL BENSIGN AVE. AND 60' N/O CL 16TH STREET.
ELEV. 1350.753 DATE: 4/1/1997

MARK	DATE	REVISIONS	DATE	APP'VD



DAVID EVANS AND ASSOCIATES INC.
4141 E. INLAND EMPIRE, SUITE 250
Ontario California 91764
Phone: 909.481.5780

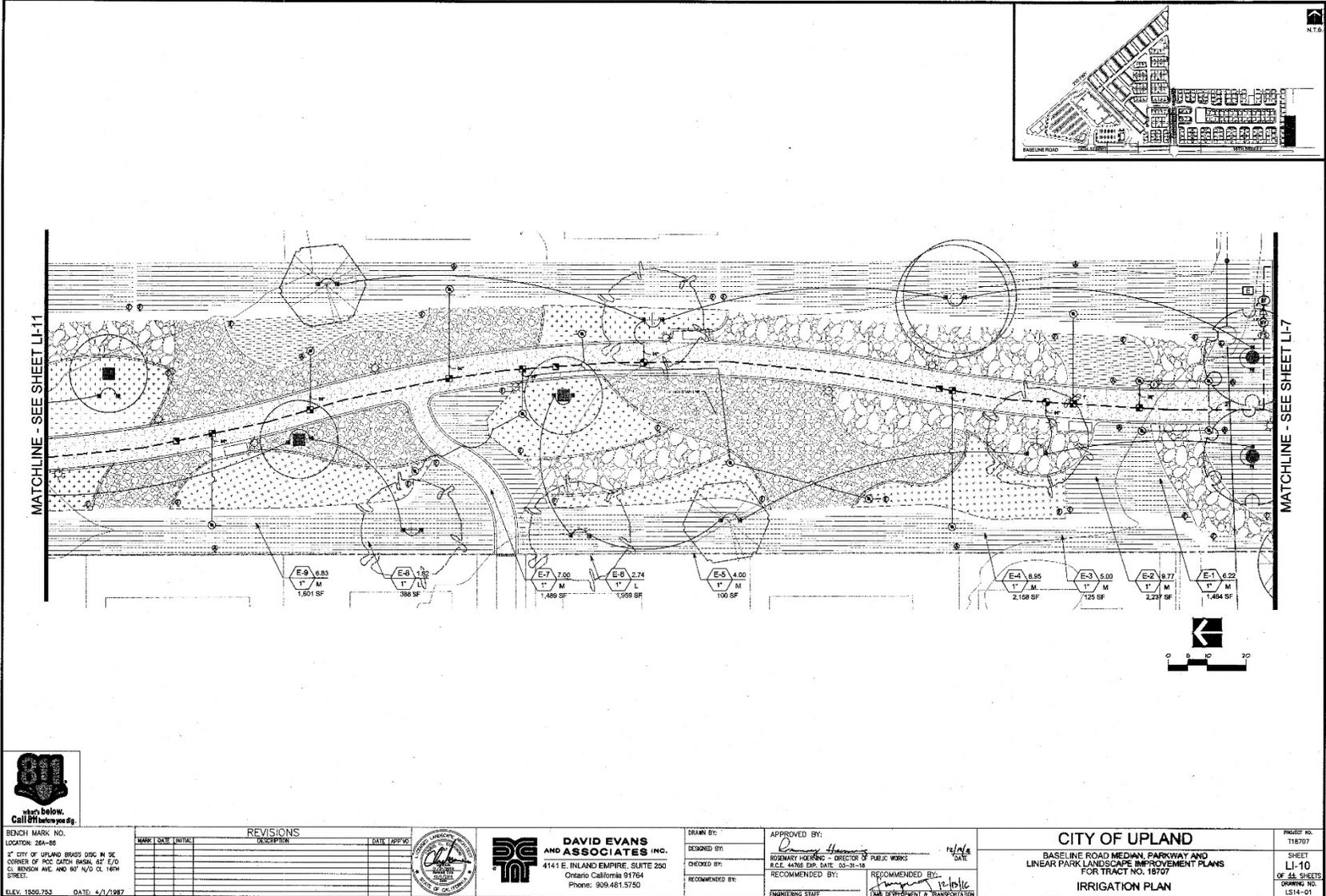
DRAWN BY:
DESIGNED BY:
CHECKED BY:
RECOMMENDED BY:

APPROVED BY:
Rosemary Hordning
ROSEMARY HORDNING - DIRECTOR OF PUBLIC WORKS
REG. #4786 EXP. DATE: 03-31-18
DATE: 7/26/18
RECOMMENDED BY:
Sharon Redolke
SHARON REDOLKE
LAND DEVELOPMENT & TRANSPORTATION

CITY OF UPLAND
BASELINE ROAD MEDIAN, PARKWAY AND
LINEAR PARK LANDSCAPE IMPROVEMENT PLANS
FOR TRACT NO. 18707
IRRIGATION PLAN

PROJECT NO.
118707
SHEET
L1-8
OF 24 SHEETS
DRAWING NO.
L114-01

PROJECT: TRACT 18707 FROM PLAN L114-01



why below.
Call 877-826-7669

BENCH MARK NO.
LOCATION: 38A-88
2" CITY OF UPLAND BRASS DISC IN SE CORNER OF FOC CATCH BASIN 82 E/O
61 WINDCH AVE. AND 607 N/O CL 16TH STREET.
ELEV. 1550.753 DATE: 4/1/1987

MARK	DATE	INITIAL	REVISIONS	DESCRIPTION	DATE	APP'D



DAVID EVANS AND ASSOCIATES INC.
4141 E. INLAND EMPIRE, SUITE 200
Ontario California 91764
Phone: 909.481.5750

DRAWN BY:
DESIGNED BY:
CHECKED BY:
RECOMMENDED BY:

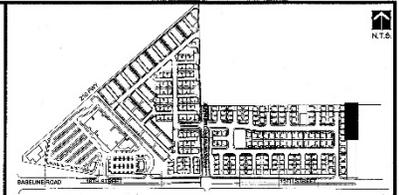
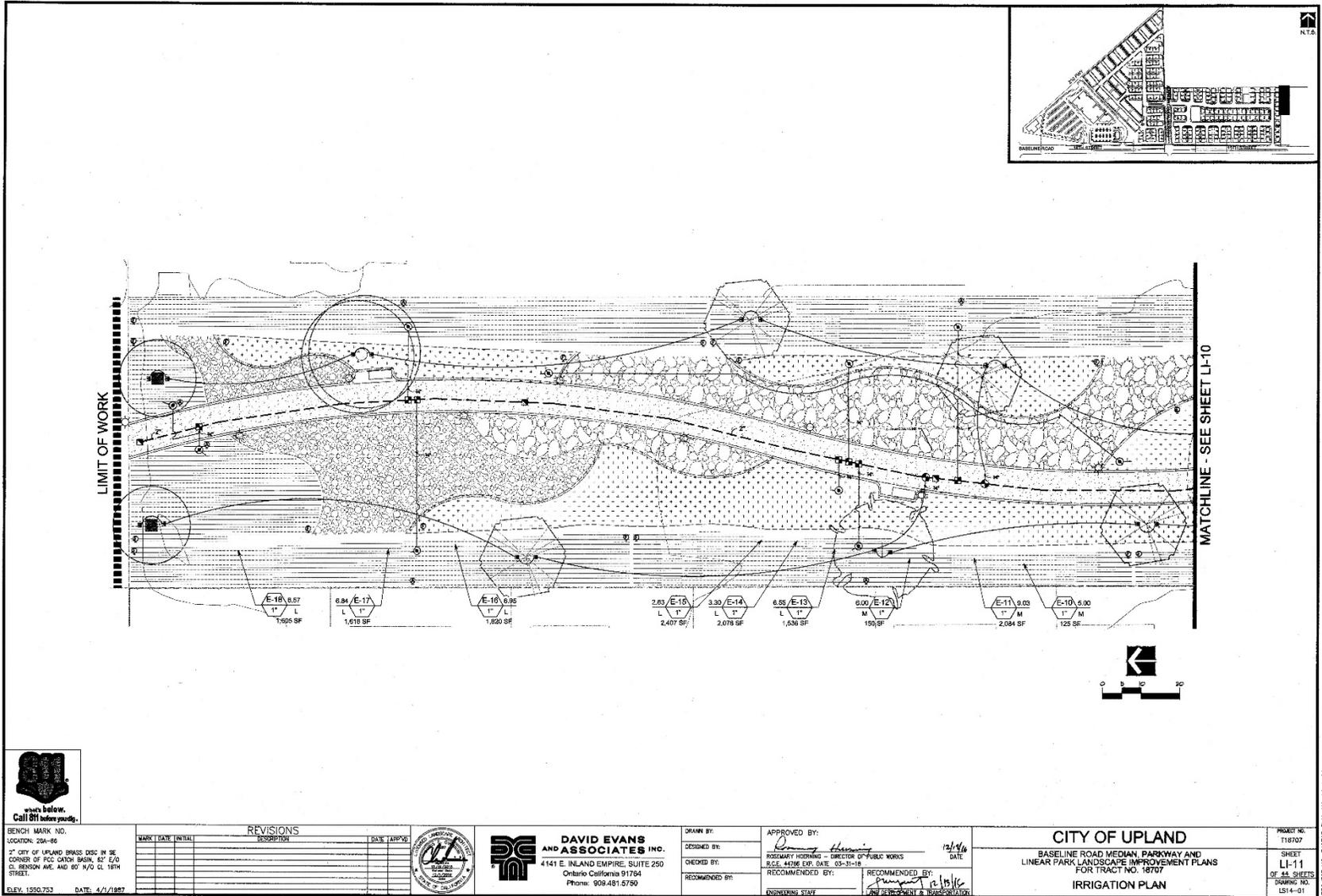
APPROVED BY:
ROSEMARY HICKMAN - DIRECTOR OF PUBLIC WORKS
P.C.E. MARKING DATE: 05-29-18

RECOMMENDED BY:
FOR RECOMMENDATION & REPRODUCTION

CITY OF UPLAND
BASELINE ROAD MEDIAN, PARKWAY AND
LINEAR PARK LANDSCAPE IMPROVEMENT PLANS
FOR TRACT NO. 18707
IRRIGATION PLAN

PROJECT NO. 118707 PLAN NO. 1514-01
SHEET
LI-10
OF 44 SHEETS
DRAWING NO.
1514-01

PROJECT NO. 118707 PLAN NO. 1514-01



BENCH MARK NO.
LOCATION: 254-46
2" CITY OF UPLAND BRASS DISC IN SE CORNER OF PCC CATCH BASIN, 82' E/O CL, HENSON AVE. AND 80' N/O CL 16TH STREET.
ELEV. 1550.753 DATE: 4/1/1997

MARK	DATE	INITIAL	REVISIONS	DESCRIPTION	ISS.	APP'D.



DAVID EVANS AND ASSOCIATES INC.
4141 E. INLAND EMPIRE, SUITE 250
Ontario California 91704
Phone: 908.481.5790

DESIGNED BY: [Signature]
CHECKED BY: [Signature]
RECOMMENDED BY: [Signature]
APPROVED BY: [Signature]
ROSEMARY HERRING - DIRECTOR OF PUBLIC WORKS
R.G.C. 4576 EXP. DATE: 03-31-18
DATE: 12/1/16
RECOMMENDED BY: [Signature]
DATE: 12/1/16
ENGINEERING STAFF: [Signature]

CITY OF UPLAND
BASELINE ROAD MEDIAN, PARKWAY AND
LINEAR PARK LANDSCAPE IMPROVEMENT PLANS
FOR TRACT NO. 18707
IRRIGATION PLAN

PROJECT NO.: 176707
SHEET: LI-11
OF 44 SHEETS
DRAWING NO.: 1514-01

PROJECT NO. 18937 PLAN NO. 1514-01

EXHIBIT "D"

TRANSFERRED IMPACT FEE CREDITS

General Development Fees up to \$6,015 (6+ units x \$993); and

Storm Drain Fees up to \$245,948 (85+ units x \$2,856)

RECORDING REQUESTED BY
Fran Meyer, City of Upland
AND WHEN RECORDED MAIL DOCUMENT TO:

NAME City of Upland
STREET ADDRESS 460 N. Euclid Ave
CITY, STATE & ZIP CODE Upland, CA 91786

Recorded In Official Records, County of San Bernardino



BOB DUTTON
ASSESSOR - RECORDER - CLERK

P Counter

4/28/2016
3:02 PM
CA
SAN

Doc#: 2016-0163837



Titles: 1 Pages: 85
Fees 0.00
Taxes 0.00
Other 0.00
PAID \$0.00

SPACE ABOVE FOR RECORDER'S USE ONLY

Exempt from recording fees pursuant to Government Code 27383

Park View Specific Plan Development Agreement

Title of Document

**THIS AREA FOR
RECORDER'S
USE ONLY**

THIS COVER SHEET ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION
(\$3.00 Additional Recording Fee Applies)

RECORDING REQUESTED BY:

Clerk, City Council
City of Upland

WHEN RECORDED MAIL TO:

City of Upland
460 N. Euclid Ave.
Upland, CA 91786
Attn: City Clerk

Exempt from Filing Fees Gov. Code Section 6103

**PARK VIEW UPLAND
DEVELOPMENT AGREEMENT**

between

**CITY OF UPLAND,
a California municipal corporation
("CITY")**

and

**BRAVEPARK PROPERTY LLC
A Delaware Limited Liability Company
("DEVELOPER")**

PARK VIEW UPLAND DEVELOPMENT AGREEMENT

This Park View Specific Plan Development Agreement ("Agreement") is entered into effective on the date it is recorded with the San Bernardino County Recorder (hereinafter the "Effective Date") by and between the City of Upland ("CITY"), and Bravepark Property LLC (hereinafter "DEVELOPER").

RECITALS

WHEREAS, CITY is authorized to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property, pursuant to Section 65864, *et seq.* of the Government Code; and

WHEREAS, DEVELOPER owns the real property consisting of approximately 42 acres, 39.6 of which is located in the City of Upland, California, and 2.4 of which is located in Claremont, California together commonly known as the Park View Specific Plan Project (the "PVSP"), a community marketed as Sycamore Hills. The 39.6 acre portion in the City of Upland is referred to in the PVSP as Development Area A while the 2.4 acre portion in the City of Claremont is referred to in the PVSP as Development Area B. This Agreement is limited to Development Area A (the "Property") which is legally described and depicted in Exhibit "A," attached hereto and incorporated herein by reference; and

WHEREAS, prior to execution of this Agreement, CITY issued the approvals (hereinafter, "Existing Development Approvals") that are listed in Exhibit "B" and incorporated herein by reference. Among those approvals was Chapter 1 of the PVSP which addressed the Property. All conditions of approval for Development of the Property and the Mitigation Monitoring Program ("MMP") previously approved by the City (collectively, the "Project Conditions of Approval"), are attached hereto as Exhibit "C," and incorporated herein by reference. Subsequent to adoption of the Existing Development Approvals by the City, Claremont adopted Chapter 2 of the PVSP; and

WHEREAS, DEVELOPER has requested CITY to enter into a development agreement and proceedings have been taken in accordance with Section 68564, *et seq.* of the Government Code and the rules and regulations of CITY; and

WHEREAS, all of the rights and benefits granted to DEVELOPER in this Agreement shall inure to the benefit of the Property and DEVELOPER and DEVELOPER'S successors-in-interest; and

WHEREAS, all of the duties and obligations of DEVELOPER shall remain the duties and obligations of DEVELOPER and DEVELOPER'S successors-in-interest except as otherwise provided for herein; and

WHEREAS, by electing to enter into this Agreement, CITY shall bind future City Councils of CITY by the obligations specified herein and limit the future exercise of certain governmental and proprietary powers of CITY; and

WHEREAS, the terms and conditions of this Agreement have undergone extensive review by CITY and the City Council and have been found to be fair, just and reasonable; and

WHEREAS, the best interests of the citizens of the City of Upland and the public health, safety and welfare will be served by entering into this Agreement; and

WHEREAS, all of the procedures of the California Environmental Quality Act have been met with respect to the Project and this Agreement through the certification of that certain Environmental Impact Report SCH No. 2006011124 ("EIR"), certified by the City of Upland March 10, 2008 and, therefore, there is no need to prepare any additional environmental documentation under the California Environmental Quality Act in order to approve the Agreement; and

WHEREAS, this Agreement and the Project are consistent with the PVSP and the Upland General Plan; and

WHEREAS, the Project consists of up to 400 detached and attached single family homes on 32 acres (Planning Areas 1, 2 and 3) and up to 100,000 square feet of commercial uses on the remaining 10 acres (Planning Areas 4 and 5) along with open space/recreational uses and public infrastructure (the "Project"). The referenced 10 acres includes 7.6 acres within the Property (Planning Area 4) and 2.4 acres in the City of Claremont (Planning Area 5), and;

WHEREAS, all actions taken and approvals given by CITY, precedent to approval of this Agreement by Ordinance No. 1902, have been duly taken or approved in accordance with all applicable legal requirements for notice, public hearings, findings, votes, and other procedural matters; and

WHEREAS, development of the Property in accordance with this Agreement will provide substantial benefits to CITY and will further important policies and goals of CITY; and

WHEREAS, this Agreement will eliminate uncertainty in planning and provide for the orderly development of the Property, ensure progressive installation of necessary improvements, provide for public services appropriate to the development of the Project, and generally serve the purposes for which development agreements under Sections 65864, *et seq.* of the Government Code are intended; and

WHEREAS, DEVELOPER has incurred and will in the future incur substantial costs in excess of the generally applicable requirements in order to assure vesting of legal rights to develop the Property in accordance with this Agreement; and

WHEREAS, on December 16, 2015, following a duly noticed and conducted public hearing, the City Planning Commission found this Agreement consistent with the General Plan, and the Baseline Road Master Plan, and recommended that the City Council approve this Agreement; and

WHEREAS, on January 25, 2016, following a duly noticed and conducted public hearing and pursuant to CEQA, the City Council concluded that the previously certified EIR adequately addressed all issues related to the Agreement, that the provisions of this Agreement are

consistent with the City's General Plan and PVSP, and introduced Ordinance No. 1902 approving and authorizing the execution of this Agreement; and

WHEREAS, on February 8, 2016, the City Council adopted Ordinance No. 1902 approving and authorizing the execution of this Agreement. A copy of the ordinance is on file at the office of the City Clerk, with adopted findings and conditions pertaining thereto, including those relating to the environmental documentation for the Project.

COVENANTS

NOW, THEREFORE, in consideration of the above recitals and of the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS AND EXHIBITS.

1.1 Definitions. The following terms when used in this Agreement shall be defined as follows:

1.1.1. "Agreement" means this Development Agreement.

1.1.2. "CITY" means the City of Upland, a municipal corporation and general law CITY.

1.1.3. "City Council" means the City Council of the CITY.

1.1.4. "Development" means the improvement of the Property for the purposes of completing the structures, improvements and facilities comprising the Project including, but not limited to: grading; the construction of infrastructure and public and private facilities related to the Project whether located within or outside the Property; the construction of buildings and structures; and the installation of landscaping. "Development" includes the maintenance, repair, reconstruction or redevelopment of any building, structure, improvement or facility after the construction and completion thereof.

1.1.5. "Developer" means Bravepark Property LLC, a Delaware limited liability company, and its successors and assigns to all or any part of the Property.

1.1.6. "Development Approvals" means all site-specific (meaning specifically applicable to the Project only and not generally applicable to some or all other properties within the City) plans, maps, permits, and entitlements agreed to in writing by DEVELOPER that have been approved by CITY or other entity with jurisdiction over the Project. Development Approvals may include, but are not limited to, general plan amendments, specific plans, specific plan amendments, site plans, tentative and final subdivision maps, design guidelines, variances, zoning designations, conditional use permits, grading, building, and other similar permits, the site-specific provisions of general plans and any amendments, addendum or modifications to those plans, maps, permits, assessments and entitlements approved by CITY. "Development Approvals" include the Existing Development Approvals, and Subsequent Development Approvals.

1.1.7. "Development" or "Develop" means all of the following, if made pursuant to the Development Approvals and Project Conditions of Approval: (i) the improvement of the Property for the purposes of developing a residential community with accompanying commercial uses in general accordance with the Development Approvals, (ii) completing the structures, improvements and facilities comprising the Project including, but not limited to: grading the construction of specified road, water and sewer and flood control infrastructure directly related to the Project whether located within or outside the Property; (iv) the construction of buildings, structures, and other related facilities, (v) the installation of landscaping and other facilities and improvements necessary or appropriate for the Project.

1.1.8. "Development Exaction" means any requirement of CITY in connection with or pursuant to any Land Use Regulation or Development Approval for the dedication of land, the construction of improvements or public facilities, or the payment of fees in order to lessen, offset, mitigate or compensate for the impacts of development on the environment or other public interests.

1.1.9. "Development Impact Fee" means a monetary exaction other than a tax or special assessment, whether established for a broad class of projects by legislation of general applicability or imposed on a specific project on an ad hoc basis, that is charged by a local agency to the applicant in connection with approval of a development project, for the purpose of defraying all or a portion of the cost of public facilities related to the development project, but does not include fees specified in Government Code Section 66477, fees for processing applications for governmental regulatory actions or approvals, fees collected under development agreements adopted pursuant to Article 2.5 (commencing with Section 65864 of Chapter 4 of the Government Code). "Development Impact Fee" expressly excludes processing fees and charges of every kind and nature imposed by CITY to cover the estimated actual costs to CITY of processing applications for Development Approvals or for monitoring compliance with any Development Approvals granted or issued, including, without limitation, fees for zoning variances; zoning changes; use permits; building inspections; building permits; filing and processing applications and petitions filed with the local agency formation commission or conducting preliminary proceedings or proceedings under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Division 3 (commencing with Section 56000) of Title 5 of the Government Code. For purposes of this Agreement, Development Impact Fees include those fees listed in Exhibit "D" attached hereto, which shall be adjusted by the actual number of units constructed.

1.1.10. "Development Plan" means the Existing Development Approvals and the Existing Land Use Regulations applicable to Development of the Property provided that, to the extent any Existing Development Approvals by their terms supersede any Existing Land Use Regulations, "Development Plan" shall mean the superseding Existing Development Approvals.

1.1.11. "Effective Date" means the date that this Agreement is recorded with the San Bernardino County Recorder.

1.1.12. "Existing Development Approvals" means all Development Approvals approved or issued by CITY prior to or contemporaneously with CITY'S approval of this

Agreement. The Existing Development Approvals include, without limitation, the approvals incorporated herein as Exhibit B.

1.1.13. "Existing Land Use Regulations" mean all Land Use Regulations in effect on the Effective Date. Existing Land Use Regulations include the Regulations incorporated herein as Exhibit "E" and any other regulation that is effective as of the Effective Date.

1.1.14. "Land Use Regulations" mean all ordinances, resolutions, codes, rules, regulations and official written policies of CITY governing the development and use of land, including, without limitation, the permitted use of land, the intensity of use, subdivision requirements, the maximum height and size of proposed buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards' and specifications applicable to the development of the property, as modified or supplemented by the Existing Development Approvals. "Land Use Regulations" does not include any CITY ordinance, resolution, code, rule, regulation or official policy, governing:

- (a) the conduct of businesses, professions, and occupations;
- (b) taxes and assessments;
- (c) the control and abatement of nuisances;
- (d) the granting of encroachment permits and the conveyance of rights and interests that provide for the use of or the entry upon public property; or
- (e) the exercise of the power of eminent domain.

1.1.15. "Mortgagee" means a mortgagee of a mortgage, a beneficiary under a deed of trust or any other security-device lender, and their successors and assigns

1.1.16. "Project" means the Development of the Property contemplated by the Development Plan as such Plan may be further defined, enhanced or modified pursuant to the provisions of this Agreement.

1.1.17. "Project Conditions of Approval" means all of the conditions of approval contained in the Existing Development Approvals and the MMP.

1.1.18. "Property" means the real property described and depicted on Exhibit "A" of this Agreement, as well as any adjacent real property that DEVELOPER may elect in its sole discretion, from time to time during the term of this Agreement, to annex to the Project.

1.1.19. "Public Improvements" means the improvements listed in Exhibit "F".

1.1.20. "Reservations of Authority" means the rights and authority excepted from the assurances and rights provided to DEVELOPER under this Agreement and reserved to CITY under Section 3.6 of this Agreement.

1.1.21. "Subsequent Development Approvals" means all Development Approvals approved by CITY subsequent to the Effective Date directly relating to and contemplated by this agreement.

1.1.22. "Subsequent Land Use Regulations" means any change in or addition to the Existing Land Use Regulations adopted or becoming effective after the Effective Date of this Agreement.

1.1.23. "Term" means the period of time from the Effective Date until the termination of this Agreement as provided in Section 2.6, unless earlier terminated or further extended as provided in this Agreement.

1.2 Exhibits. The following documents are attached to, and by this reference made a part of, this Agreement:

Exhibit "A"	Legal Description and Depiction of Property
Exhibit "B"	Existing Development Approvals
Exhibit "C"	Project Conditions of Approval
Exhibit "D"	Development Impact Fee Schedule
Exhibit "E"	Existing Land Use Regulations
Exhibit "F"	Public Improvements
Exhibit "G"	Project Phasing Plan
Exhibit "H"	Public and Private Access and Open Space Areas
Exhibit "I"	Storm Drain Credit Schedule

2. GENERAL PROVISIONS.

2.1 Binding Effect of Agreement. This Agreement shall become operative on the Effective Date. The Property is hereby made subject to this Agreement. From and following the Effective Date, actions by CITY and DEVELOPER with respect to the Development of the Property, including actions by CITY on applications for Subsequent Development Approvals affecting the Property, shall be subject to the terms and provisions of this Agreement. Notwithstanding the foregoing, nothing contained in this Agreement shall be deemed to be a covenant to develop or construct the Project or any portion of the Project; provided, however, that to the extent that any phase of the Project is developed, DEVELOPER shall be obligated to construct the Public Improvements required herein related to that phase of development.

2.2 Ownership. DEVELOPER represents and covenants that DEVELOPER has a legal or equitable interest in the Property and thus DEVELOPER is qualified to enter into and be a Party to this Agreement under the Development Agreement Law, California Government Code Section 65864, *et seq.*

2.3 Term. The initial Term of this Agreement shall commence on the Effective Date and shall continue for a period of ten (10) years thereafter. The term shall be automatically extended for five (5) additional years provided DEVELOPER completes all of the following before expiration of the 10 year term: (i) the Off Site Public Improvements to the reasonable satisfaction of the City; and (ii) the mass grading of areas defined by the limits of Phases 1 – 4 shown on Exhibit G.

2.3.1 Tolling. DEVELOPER will have the right to toll commencement of the Term and any obligations of DEVELOPER under the Agreement if either (1) any party other than DEVELOPER initiates litigation that challenges the Project or the Existing Development Approvals; or (2) any action or inaction by the City or other public agency that regulates land use, development or the provision of services to the land prevents, which prohibits or unreasonably delays the use of the Development Approvals or construction of the Project. The tolling shall start upon receipt by the City of written notice from DEVELOPER lawfully invoking this right to tolling. The tolling for litigation shall terminate at the first instance of any of the following: (i) a final order is issued in said litigation that upholds the Project and the Existing Development Approvals; (ii) the litigation is dismissed with prejudice by all Parties; (iii) the 10 year term has not been extended and 15 years have passed from the Effective Date; or (iv) the 10 year term was extended for the 5 additional years and 20 years has passed from the Effective Date. The maximum tolling period for governmental delays shall be the period of time during which any action or inaction by the City or other public agency that regulates land use, development or the provision of services to the land, prevents, prohibits, or unreasonably delays the use of the Development Approvals or construction of the project. Notwithstanding any other language in this subsection to the contrary, in no event shall tolling apply to standard governmental delays.

2.4 Assignment.

2.4.1 Right to Assign. DEVELOPER shall have the right to sell, transfer or assign the Property in whole or in part (provided that no such partial transfer shall violate the Subdivision Map Act, Government Code Section 66410, *et seq.*) to any person, partnership, joint venture, firm or corporation at any time during the term of this Agreement; provided, however, that any such sale, transfer or assignment shall include the assignment and assumption of the rights, duties and obligations arising under or from this Agreement, with regard to the whole or part of the Property assigned (except to the extent that obligations of the entire Project cannot be segregated, in which case such obligations shall apply jointly and severally to each party which is sold, transferred, or assigned any portion of the Property), and be made in strict compliance with the following conditions precedent:

(a) No sale, transfer or assignment of any right or interest under this Agreement shall be made unless made together with the sale, transfer or assignment of all or a part of the Property.

(b) Concurrent with any such sale, transfer or assignment, or within 30 business days thereafter, DEVELOPER shall notify CITY, in writing, of such sale, transfer or assignment and shall provide CITY with a copy of an executed agreement by the purchaser, transferee or assignee and providing therein that the purchaser, transferee or assignee expressly and unconditionally assumes all the duties and obligations of DEVELOPER under this Agreement with regard to the whole or portion of the Property being transferred, except to the extent that obligations of the entire Project cannot be segregated, in which case such obligations shall apply jointly and severally to each party which is sold, transferred, or assigned any portion of the Property.

Any sale, transfer or assignment not made in compliance with the foregoing conditions shall constitute a default by DEVELOPER under this Agreement. Notwithstanding the failure of any purchaser, transferee or assignee to execute the agreement required by Paragraph (b) of this Subsection 2.4.1, the burdens of this Agreement shall be binding upon such purchaser, transferee or assignee, but the benefits of this Agreement shall not inure to such purchaser, transferee or assignee until and unless such agreement is executed.

2.4.2 Release of Transferring DEVELOPER. Notwithstanding any sale, transfer or assignment, DEVELOPER shall continue to be obligated under this Agreement as to that portion of the Property sold, transferred or assigned, unless DEVELOPER is given a release in writing by CITY authorized by the City Council. The City Council has the option, but not the obligation to, provide a written release if the following conditions are met to the reasonable satisfaction of the City Council:

(a) DEVELOPER no longer has a legal or equitable interest in all or any part of the whole or portion of the Property sold, transferred or assigned.

(b) DEVELOPER is not then in default under this Agreement.

(c) DEVELOPER has provided CITY with the notice and executed agreement required under paragraph (b) of subsection 2.4.1 above.

(d) The purchaser, transferee or assignee demonstrates to the satisfaction of the City that it has the expertise and financial ability to perform its assumed obligations regarding the Project under this Agreement.

Thereafter, a default under this Agreement by DEVELOPER, with respect to the Property, or portion thereof, not transferred, shall not be considered or acted upon by the City as a default by the transferee and shall not affect the transferee's rights or obligations hereunder. Likewise, a default by a transferee relating to the transferred property shall not be considered or acted upon by the City as a default by DEVELOPER and shall not affect DEVELOPER's rights and obligations hereunder. Any and all successors, assigns and transferees of DEVELOPER shall have all of the same rights, benefits and obligations of DEVELOPER as used in this Agreement and the term "Developer" as used in this Agreement shall refer to any such successors, assigns and transferees unless expressly provided herein to the contrary.

2.4.3 Partial Termination. DEVELOPER shall have the right to request (but not require) CITY to approve a Partial Termination of the Agreement, to release a portion(s) of the Property from the Agreement's obligations and benefits. A Partial Termination may be approved by CITY, in its unfettered discretion if DEVELOPER demonstrates to the City that the portion of the Property to be released from the Agreement obligations is not needed to satisfy any of the obligations established in the Agreement, and if City is satisfied that DEVELOPER has provided City adequate financial assurances that the obligations of the agreement will be fulfilled. If the City makes such a determination, such released Property shall not be subject to any of the obligations created in this Agreement, and similarly, will not receive any of the benefits created in this Agreement. Further, upon completion of any phase of development of the Project, CITY has the option (but not the obligation) to release that completed phase from any further

obligations and benefits of this Agreement if City is satisfied that DEVELOPER has provided City adequate financial assurances that the obligations of the agreement will be fulfilled and to the extent that such burdens are segregable from the rest of the Project.

2.4.4 Subsequent Assignment. Any subsequent sale, transfer or assignment after an initial sale, transfer or assignment shall be made only in accordance with and subject to the terms and conditions of this Section.

2.5 Amendment or Cancellation of Agreement. This Agreement may be amended or cancelled in whole or in part only by written mutual consent of all parties or their respective successors or assigns with respect to their respective portions of the Property in the manner provided for in Government Code Section 65868. This provision shall not limit any remedy for default of CITY or DEVELOPER as provided by this Agreement.

2.6 Termination. This Agreement shall be deemed terminated and of no further effect upon the occurrence of any of the following events:

- (a) Expiration of the stated term of this Agreement as set forth in Section 2.3.
- (b) Entry of a final judgment setting aside, voiding or annulling the adoption of the ordinance approving this Agreement.
- (c) The adoption of a referendum measure overriding or repealing the ordinance approving this Agreement.
- (d) Completion of the Project in accordance with the terms of this Agreement, including, without limitation, issuance of all required occupancy permits and acceptance by CITY or applicable public agency of all required dedications, completion of all improvements for the Project, and implementation of all of DEVELOPER's obligations hereunder.

Termination of this Agreement shall not constitute termination of any other land use entitlements approved for the Property including but not limited to, all conditions and mitigation measures imposed as part of such entitlements prior to the date of termination. Upon the termination of this Agreement, no party shall have any further right or obligation hereunder except with respect to any obligation to have been performed prior to such termination or with respect to any default in the performance of the provisions of this Agreement that has occurred prior to such termination or with respect to any obligations that are specifically set forth as surviving this Agreement.

2.7 Notices.

- (a) As used in this Agreement, "notice" includes, but is not limited to, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder.
- (b) All notices shall be in writing and shall be considered given either: (i) when delivered in person to the recipient named below; or (ii) on the date of delivery shown on the return receipt, after deposit in the United States mail in a sealed envelope as either registered

or certified mail with return receipt requested, and postage and postal charges prepaid, and addressed to the recipient named below; or (iii) on the date of electronic mail delivery shown to the recipient named below. Electronic mail notice shall be followed by notice sent by regular United States mail. All notices shall be addressed as follows:

If to CITY:

City of Upland
460 N. Euclid Ave.
Upland, CA 91786
Attn: City Manager

With a copy to:

Upland City Attorney
Attn: Scott E. Porter
Jones & Mayer
3777 N. Harbor Blvd.
Fullerton, CA 92835

If to DEVELOPER:

Bravepark Property LLC
c/o LStar Management, LLC
516 N West Street, Raleigh, NC 27603
Attn.: Steve Vining

with a copy to:

Allen Matkins Leck Gamble Mallory & Natsis
Attn.: William R. Devine
1900 Main Street, 5th Floor
Irvine, CA 92614

(c) Either party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or representative of a party, or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

2.8 Consideration. Without limiting the effect of any other provision in this Agreement, and in addition to the covenants, obligations and warranties provided by Developer herein, the specific consideration for this Agreement is the implementation of the City's General Plan and the provision of a Project that provides economic stimulus and housing opportunities to the City, and the Public Benefits and Improvements identified below and in the Mitigation Monitoring Program.

3 DEVELOPMENT OF THE PROPERTY.

3.1 Rights to Develop. Subject to the terms of this Agreement including the Reservations of Authority, DEVELOPER shall have a vested right to develop the Property in accordance with, and to the extent of, the Development Plan and this Agreement. The Project shall remain subject to all Subsequent Development Approvals required to complete the Project as contemplated by the Development Plan. Except as otherwise provided expressly in this Agreement, the permitted uses of the Property, the intensity of use, the maximum height and size of proposed buildings, the design, improvement, and construction standards applicable to development of the Property, and provisions for reservation and dedication of land for public purposes and Development Exactions shall be those set forth in the Development Plan. Notwithstanding the foregoing, nothing contained in this Agreement shall be deemed to be a covenant to develop or construct the Project or any portion of the Project; provided, however, that to the extent that any phase of the Project is developed, DEVELOPER shall be obligated to construct the public improvements required herein related to that phase of development.

3.2 Effect of Agreement on Land Use Regulations. Except as otherwise provided expressly under the terms of this Agreement including the Reservations of Authority, the rules, regulations and official policies of CITY governing permitted uses of the Property, the intensity of use of the Property, the maximum height and size of proposed buildings, and the design, improvement and construction standards and specifications applicable to development of the Property shall be the Existing Land Use Regulations. In connection with any Subsequent Development Approval, CITY shall exercise its discretion, not to be unreasonably withheld, in accordance with the Development Plan, and as provided by this Agreement including, but not limited to, the Reservations of Authority. With the exception of the items set forth in Section 3.5 and 3.6, CITY shall accept for processing, review and action all complete applications for Subsequent Development Approvals in accordance with its standard procedure for processing such matters.

3.3 Timing of Development. The parties acknowledge that DEVELOPER cannot at this time predict when or the rate at which phases of the Property will be developed. Such decisions depend upon numerous factors that are not within the control of DEVELOPER, such as market orientation and demand, interest rates, absorption, completion and other similar factors. Since the California Supreme Court held in Pardee Construction Co. v. City of Camarillo (1984) 37 Cal.3d 465, that the failure of the parties therein to provide for the timing of development resulted in a later adopted initiative restricting the timing of development to prevail over such parties' agreement, it is the parties' intent to cure that deficiency by acknowledging and providing that DEVELOPER shall have the right to develop the Property in such order and at such rate and at such times as DEVELOPER, in its sole and absolute discretion deems appropriate, subject only to any timing or phasing requirements set forth in the Development Plan or the Phasing Plan referred to in Section 3.4.

3.4 Phasing Plan. Development of the Property shall be subject to all timing and phasing requirements established by the Project Phasing Plan attached hereto as Exhibit "G". In addition, DEVELOPER shall not be permitted to receive from CITY (i) any Certificates of Occupancy prior to substantially completing the following Off Site Public Improvements: Street Improvements on Baseline Road and Parkview Promenade Street per City approved Improvement Plans (SI 14-01); Traffic Signal Improvements per City approved Improvement Plans (TS 14-01 and TS 16-01); Storm Drain Improvements per City approved Improvement

Plans (SD 14-01); and Storm Drain Improvements per City approved Improvement Plans (SD 9640), Street Lighting Improvements per City approved Improvement Plans (SL 14-01); and Landscaping Improvements per City approved Improvement Plans (LS 14-01), (ii) any more than 50 Certificates of Occupancy prior to substantially completing the following Off Site Public Improvements: Sewer Improvements per City approved Improvement Plans (SS 14-01); Water Improvements City per City approved Improvement Plans (W 14-01); and Reclaimed Water Improvements per City approved Improvement Plans (RW 14-01); and shall not be permitted to receive Certificates of Occupancy for more than 80% of the units or square footage within a Planning Area prior to completing the on-site Public Improvements referenced in attached Exhibit F for that Planning Area. Notwithstanding the foregoing, DEVELOPER shall maintain landscaping and perimeter walls around the perimeter of each construction phase area which shall be maintained in good condition at all times during construction. The permanent structural perimeter retaining walls and associated wall landscaping shall be installed during rough grading for the defined area/phase that is under construction per the Phasing Plan contained in Exhibit G before the model units are constructed within that Phase area.

3.5 Changes and Amendments. The parties acknowledge that refinement and further development of the Project will require Subsequent Development Approvals and may demonstrate that changes are appropriate and mutually desirable in the Existing Development Approvals. During the term of this Agreement, in the event DEVELOPER finds that a change in the Existing Development Approvals is necessary or appropriate, DEVELOPER shall apply for a Subsequent Development Approval to effectuate such change and CITY shall process and act on such application in accordance with the Existing Land Use Regulations, except as otherwise provided by this Agreement, including, without limitation, the Reservations of Authority. If approved, any such change in the Existing Development Approvals shall be attached to this Agreement as an addendum to Exhibit "B", and may be further changed from time to time as provided in this Section. Minor changes to the Existing Development Approvals to accommodate design changes, engineering changes, and other refinements related to the details of the Parties' performance shall not require an amendment to this Agreement; but instead require only the approval of CITY'S Manager. "Minor Changes" shall mean changes to the Project that are otherwise substantially consistent with the Development Plan, and which do not result in a change in the type of use, an increase in density or intensity of use, significant new or increased environmental impacts that cannot be mitigated, or violations of any applicable health and safety regulations in effect at the time of the proposed change; provided, however, that CITY determines, in its reasonable discretion all of the following:

(a) The change sought in the Existing Development Approvals does not delete a requirement for the reservation or dedication of land for public purposes within the Property as a whole or modify the Development Exactions; and

(b) The change sought in the Existing Development Approvals does not constitute a project requiring a subsequent or supplemental environmental impact report pursuant to Section 21166 of the Public Resources Code.

In addition, no such approval shall do any of the following:

(a) Alter the permitted uses of the Property; or

- (b) Increase the density or intensity of use of the Property.

3.6 Reservations of Authority

3.6.1 Limitations, Reservations and Exceptions. Notwithstanding any other provision of this Agreement, the following Subsequent Land Use Regulations shall apply to the development of the Property.

- (a) Processing fees and charges of every kind and nature imposed by CITY to cover the estimated actual costs to CITY of processing applications for Development Approvals or for monitoring compliance with any Development Approvals granted or issued.

- (b) Procedural regulations relating to hearing bodies, petitions, applications, notices, findings, records, hearings, reports, recommendations, appeals and any other matter of procedure.

- (c) Regulations governing construction standards and specifications including, without limitation, CITY'S Building Code, Plumbing Code, Mechanical Code, Electrical Code, Fire Code and Grading Code that are applied uniformly and on a city-wide basis to all development projects of a similar type as the Project.

- (d) Regulations that are not in conflict with the Development Plan but that are reasonably necessary to protect the public health and safety of the residents of the Project or the immediate community. To the extent possible, any such regulations shall be applied and construed so as to provide DEVELOPER with all of the rights and assurances provided under this Agreement. Any regulation, whether adopted by initiative or otherwise, limiting the rate or timing of development of the Property shall be deemed to conflict with the Development Plan and shall therefore not be applicable to the development of the Property.

- (e) Regulations that are in conflict with the Development Plan provided DEVELOPER has given written consent to the application of such regulations to development of the Property.

3.6.2 Subsequent Development Approvals. This Agreement shall not prevent CITY, in acting on Subsequent Development Approvals, from applying Subsequent Land Use Regulations that do not conflict with the Development Plan, nor shall this Agreement prevent CITY from denying or conditionally approving any Subsequent Development Approval on the basis of the Existing Land Use Regulations or any Subsequent Land Use Regulation not in conflict with the Development Plan. Upon approval of any Subsequent Development Approval, such Subsequent Development Approval shall be deemed vested pursuant to the provisions of this Agreement, without any further action by CITY or DEVELOPER being required.

3.6.3 Modification or Suspension by State or Federal Law. In the event any State or Federal law or regulation that is enacted or adopted after the Effective Date of this Agreement, or any other action of any governmental entity that is not under CITY'S control, prevents or precludes compliance with any provision of this Agreement, then that provision of this Agreement shall be modified or suspended only to the extent and for the time necessary to achieve compliance with that law, regulation or other governmental action and the remaining

provisions of this Agreement shall continue in full force and effect and the parties shall negotiate in good faith for such amendments to this Agreement as may be necessary to achieve its intent, notwithstanding the existence of such law or regulation or other governmental action. Upon the repeal of any such law, regulation or other governmental action or on the occurrence of any other circumstance that removes the effect of the same on this Agreement, provided this Agreement is otherwise still in effect, the provisions of this Agreement shall be automatically restored to their full original effect and any amendment to this Agreement that the parties have entered into as a result of any such law, regulation or other governmental action, shall terminate.

3.6.4 Entitlement Processing. City shall use its reasonable efforts to have all departments complete initial review of development plans no later than four weeks from submittal.

3.6.5 Plan Check Processing. The City shall endeavor to meet the following plan check times: first check, 15 calendar days; second plan check 10 calendar days, third plan check 7 calendar days. In the event that DEVELOPER seeks to have accelerated or expedited plan check for any part of its Project, CITY will endeavor to accommodate DEVELOPER through use of city or contracted plan checkers, for which DEVELOPER shall pay an expedited plan check fee to reimburse CITY's costs.

3.6.6 Intent. The parties acknowledge and agree that CITY is restricted in its authority to limit its police power by contract and that the foregoing limitations, reservations and exceptions are intended to reserve to CITY all of its police power that cannot be so limited. This Agreement shall be construed, contrary to its stated terms if necessary, to reserve to CITY all such power and authority that cannot be restricted by contract.

3.7 Public Works. DEVELOPER shall construct all Public Improvements and other improvements related to the Project in accordance with CITY'S or other applicable public agency's then applicable public works engineering standards. For public utilities, the DEVELOPER shall design and construct all public utility facilities within the public rights-of-way and/or public easements in the PVSP boundary as required by the public utility purveyors, including those related to cable/telephone or related communication transmission facilities, energy transmission facilities, fiber optic, electric, gas to service the property. The CITY shall determine whether the DEVELOPER shall dedicate said public utility facilities and the public access easements thereto and the entities to whom those dedications shall be made. DEVELOPER shall cause the installation by Public Utility providers for electrical or communication appurtenances (such as transformers) underground unless said appurtenance is a service pedestal for electrical, phone, traffic signal control cabinets, or irrigation control devices. DEVELOPER shall underground all power lines (except high voltage power lines), within the PVSP, that are related to the Development, as approved by the City Engineer.

3.7.1 On Site Public Improvements. All On Site Public Improvements listed in Exhibit F shall be constructed to City standards and offered for dedication as part of the Project subdivision maps. These improvements include all potable water mains, sewer mains and storm water collection facilities intended to serve the Property.

3.7.2 Public and Private Open Space. DEVELOPER shall provide 1.86 acres of

Private Open Space with Development of the Project (“Private Open Space”) and the park improvements on an adjacent 0.9 acres of City property (“Public Open Space”) as generally shown on Exhibit H. City agrees to provide DEVELOPER with a credit against any applicable Parkland or Quimby Act impact fees equal to 100% for the improvements for the Public Open Space. The estimated cost for such improvements is \$222,380. The actual, verifiable cost shall be determined following completion of the improvements and the credit shall be that amount. Perpetual public access easements shall be recorded on the property for the Public Open Space. Such access shall be consistent with Upland Municipal Code requirements.

3.7.3 Off Site Public Improvements. DEVELOPER shall construct the Off Site Public Improvements listed in Exhibit F, which will be offered for dedication, and accepted by the CITY or other public agencies upon satisfactory completion. DEVELOPER, to the extent required by the CITY, shall dedicate to CITY all on-site rights of way and easements deemed necessary by the CITY for public improvements. DEVELOPER shall also cause the provision and maintenance of security to ensure construction of all Public Improvements and improvements listed in the Project Conditions of Approval to the satisfaction of the City Engineer.

3.8 Provision of Real Property Interests by CITY. In any instance where DEVELOPER is required to construct any public improvement on land not owned by DEVELOPER, DEVELOPER shall at its sole cost and expense provide or cause to be provided, the real property interests necessary for the construction of such public improvements. DEVELOPER shall exercise reasonable and diligent good faith efforts to acquire the real property interests necessary for the construction of such public improvements at a cost and upon terms acceptable to the owner of the real property and approved by CITY. If, despite such efforts, DEVELOPER is unable to acquire such property after one-hundred eighty days (180), at DEVELOPER’s request and upon DEVELOPER’S provision of adequate security for costs CITY incurs, CITY shall negotiate the purchase of the necessary real property interests to allow DEVELOPER to construct the public improvements as required by this Agreement. If necessary, in accordance with the procedures established by law, the CITY may use its power of eminent domain to acquire such required real property interests. DEVELOPER shall pay all costs associated with any such negotiation or condemnation proceedings. This Section 3.8 is not intended by the parties to impose upon the DEVELOPER an enforceable duty to acquire land or construct any public improvements on land not owned by DEVELOPER, except to the extent that the DEVELOPER elects to proceed with the development of the Project. Notwithstanding the foregoing, DEVELOPER hereby waives the time limit contained in Government Code section 66462.5, subdivision (a); provided, however, that CITY agrees to use good faith diligent efforts to attempt to negotiate the purchase of the necessary real property interests and, if necessary, to present to CITY’s governing body, the necessity of considering the use of its power of eminent domain to acquire such real property interests.

3.9 Moratoria. Except as specifically set forth in this section, CITY agrees that no moratorium imposed by the CITY directly regulating subdivision/tract maps, grading or building permits, occupancy certificates, or other entitlements to use approved, issued, or granted within the CITY, after the Effective Date of this Agreement, shall apply to the Project during the term of this Agreement. DEVELOPER acknowledges and agrees that the provisions hereof shall not preclude the application to the Project of a moratorium or other similar limitation (of the type

described in the preceding sentence) enacted in order to protect an imminent threat to the public health or safety.

3.10 Future Voter Actions. Notwithstanding any other provision of this Agreement to the contrary, during the term of this Agreement, any general plan amendment, specific plan amendment, zoning ordinance or regulation, or any other law, policy, or procedure adopted by the voters of the CITY after the Effective Date of this Agreement ("Voter Measures"), shall not apply in whole or in part to the Property, the Development, and/or the Project. Any and all Voter Measures shall not impede the vested right DEVELOPER has to develop the Project pursuant to the terms of this Agreement.

3.11 Regulation by Other Public Agencies. It is acknowledged by the parties that other public agencies not within the control of CITY possess authority to regulate aspects of the development of the Property separately from or jointly with CITY and this Agreement does not limit the authority of such other public agencies.

3.12 Covenants, Conditions & Restrictions. Prior to the issuance of building permits for the residential portion of the project, the DEVELOPER shall provide Residential Covenants, Conditions and Restrictions ("RCC&Rs") to the CITY in a form and substance acceptable to the Community Development Director and City Attorney's office. The RCC&Rs shall provide that the Home Owners Association ("HOA") shall be responsible to maintain all common and open space areas. Prior to the issuance of building permits for the commercial portion of the project, the DEVELOPER shall provide Commercial Covenants, Conditions and Restrictions ("CCC&Rs") to the CITY in a form and substance acceptable to the Community Development Director and City Attorney's office. The CCC&Rs shall provide that the Business Property Owners Association ("BPOA") shall be responsible to maintain all common and open space areas. The final RCC&Rs and CCC&R shall be recorded with the San Bernardino Clerk Recorder's Office before the City issues the related certificate of occupancy.

3.13 Mitigation Monitoring Program. CITY shall oversee DEVELOPER'S compliance with the Mitigation Monitoring Program, as contained in Exhibit "C", by use of its own staff or consultants to be selected by CITY. DEVELOPER shall bear all costs and expenses related to such oversight.

4 PUBLIC BENEFITS.

4.1 Intent. The parties acknowledge and agree that development of the Property will result in public needs that will not be fully met by the Development Plan and further acknowledge and agree that this Agreement confers private benefits on DEVELOPER that should be balanced by commensurate public benefits. Accordingly, the parties intend to provide consideration to the public to balance the private benefits conferred on DEVELOPER by providing more fully for the satisfaction of the public needs resulting from the Project.

4.2 Development Impact Fees. In general, DEVELOPER shall pay to CITY all Development Impact Fees and pass through fees at the same time and in the same amount as would have been required to be paid by Developer but for this Agreement. The amount of such fees shall be the then-current fees applicable at the time plan check is completed and building

permits are issued. By way of historical reference, the Development Impact Fees and pass through fees as of December 8, 2015 for a hypothetical 1,000 square foot residential structure is listed in Exhibit "D". Notwithstanding the foregoing, if, within 24 months of the Effective Date DEVELOPER has (i) completed plan check for certain structures, and (ii) paid for building permits for those structures; then DEVELOPER has the option to pay the Development Impact Fees (but not the pass-through fees) at the rates specified in Exhibit D rather than the then-current Development Impact Fees.

4.3 Development Agreement Fee. DEVELOPER agrees to pay to CITY \$150,000 as a Development Agreement Fee within 12 months of the Effective Date. After CITY has received said payment, all building permits that are issued within the PVSP shall receive a credit for fire impact fees that would have otherwise been payable as part of the issuance of any building permit, until a total of \$150,000 has been allocated toward fire impact fees. Within two and a half years of the CITY's receipt of the \$150,000, CITY shall use such funds towards the purchase of fire equipment.

4.4 Credit for DEVELOPER Financed/Constructed Public Improvements. DEVELOPER shall be entitled to receive credits toward its traffic Development Impacts Fees for (i) the cost DEVELOPER incurs for construction of the east bound improvements to Baseline Road pursuant to the Baseline Road and Parkview Promenade Street City approved Improvement Plans (SI 14-01); and (ii) 13% of the cost DEVELOPER incurs for the construction of the Traffic Signal Modification City pursuant to the Traffic Signal Modification City Approved Plans (TS-14-01). The estimated costs for such improvements are \$66,570 and \$29,250, respectively. The actual, verifiable cost shall be determined following completion of the improvements and the credit shall be that amount.

4.5 Design and Construction of Improvements. All improvements constructed by DEVELOPER as set forth in this Section 4, shall be designed and constructed by DEVELOPER in accordance with the phasing schedule contained in Exhibit "G".

4.6 Construction of Improvements by Others. In the event that, at the time DEVELOPER would otherwise be required to construct improvements as set forth in this Paragraph 4, such improvements have been constructed by others, DEVELOPER'S obligation to construct such improvements shall be deemed satisfied and DEVELOPER shall not receive credit against Development Impact Fees or reimbursement for the cost of such improvements.

4.7 Reimbursement of DEVELOPER Costs for Public Improvements. CITY and DEVELOPER agree that DEVELOPER shall be constructing the Public Improvements described in Exhibit "F" and CITY will work with DEVELOPER to enter into an agreement whereby DEVELOPER will be reimbursed for such expenses to the extent that parties other than DEVELOPER are benefitting from DEVELOPER's expenditures and DEVELOPER had not received offsetting credits or payments.

4.8 Reimbursement of CITY Costs. DEVELOPER shall pay all costs incurred by CITY in connection with the Development Approvals sought to be granted related to the Project. DEVELOPER shall pay all costs of any private financing for the Project, including all of CITY's costs therefor. Costs to be paid by DEVELOPER include, but are not limited to, CITY fees due

for processing of all applications, CITY's attorneys' fees incurred in connection with negotiation and preparation of this Agreement and all Development Approvals, review and revision to proposed Covenants, Conditions and Restrictions for the Project, CITY's, costs reasonably borne for staff time related to the Project and this Agreement, including all administrative and staff costs, and any out of pocket costs incurred by CITY in connection with this Agreement, Development Approvals, and consulting, permits, noticing, and environmental evaluation and mitigation, including overseeing the Mitigation Monitoring Program. A reimbursement schedule and a reimbursement process for all such costs which have not been reimbursed directly to CITY by DEVELOPER shall be mutually agreed upon prior to the issuance of building permits. CITY shall require DEVELOPER to submit a deposit against which such costs will be billed.

4.9 City Storm Drain Construction and Credits. DEVELOPER shall construct the City Storm Drain (SD-9640) from Holliday Rock Pit to the City Park per City approved Improvement Plans. Developer shall receive a credit to be applied against applicable storm drain development impact fees for 100% of the cost for that portion of the City Storm Drain that benefits the CITY and not the DEVELOPER and a pro-rated cost for that portion that benefits both CITY and DEVELOPER pursuant to the Schedule set forth in attached Exhibit I. To the extent the actual, verifiable construction costs deviate from that indicated on Exhibit I, there shall be a reconciliation following completion of construction and the actual credit amount shall be calculated using the fair share percentages in Exhibit I.

5 PUBLIC FINANCING.

5.1 Financing. At DEVELOPER's expense, CITY and DEVELOPER already cooperated in the formation of a community facilities district ("Project CFD") to pay for the construction and/or maintenance and operation of Public Improvements required as part of the Development Plan and/or payment of any Development Impact Fees.

6 REVIEW FOR COMPLIANCE.

6.1 Periodic Review.

The Community Development Director shall review this Agreement annually, on or before the anniversary of the Effective Date, in order to ascertain the good faith compliance by DEVELOPER with the terms of the Agreement. DEVELOPER shall submit an annual monitoring report ("Annual Monitoring Report"), in a form acceptable to the Community Development Director, within 30 days after written notice from the Planning Manager demonstrating DEVELOPER's good faith compliance with all the material terms of this Agreement. The Annual Monitoring Report shall be accompanied by an annual review and administration fee sufficient to defray the estimated costs of review and administration of the Agreement during the succeeding year. The amount of the annual review and administration fee shall be set annually by resolution of the City Council. Upon completion of a periodic review, the Community Development Director shall submit a report to the City Council setting forth the evidence concerning good faith compliance by DEVELOPER with the terms of this Agreement and his or her recommended finding on that issue. If the City Council finds that DEVELOPER has not complied in good faith with the terms and conditions of this Agreement, the City Council

may modify or terminate this Agreement as provided in Section 6.3 and 6.4, or in the alternative, at CITY's sole election, pursuant to Section 8.4.

6.2 Special Review. Notwithstanding anything to the contrary contained in this Agreement, the City Council of CITY may order a special review of compliance with this Agreement at any time by giving written notice to DEVELOPER. The notice for Special Review must describe in detail the specific issues which caused the CITY to question DEVELOPER'S good faith compliance and the evidence the CITY believes is necessary for the review. Within thirty (30) days following receipt of such notice, DEVELOPER shall submit evidence to the CITY of DEVELOPERs good faith compliance with this Agreement FOR such review and determination.

If the CITY makes a preliminary finding that DEVELOPER has not complied in good faith with the terms and conditions of this Agreement, the CITY may modify or terminate this Agreement as provided in Sections 6.3 and 6.4 or, in the alternative, at CITY's sole election, proceed pursuant to the requirements of Section 8.4.

6.3 Proceedings upon Modification or Termination. If upon a finding under Section 6.1 or 6.2, CITY determines to proceed with modification or termination of this Agreement, CITY shall give written notice to DEVELOPER of its intention so to do. The notice shall be given at least twenty (20) calendar days prior to the scheduled hearing and shall contain:

- (a) The time and place of the hearing;
- (b) A statement as to whether or not CITY proposes to terminate or to modify the Agreement; and,
- (c) Such other information as is reasonably necessary to inform DEVELOPER of the nature of the proceeding.

6.4 Hearing on Modification or Termination. At the time and place set for the hearing on modification or termination, DEVELOPER shall be given an opportunity to be heard. DEVELOPER shall be required to demonstrate good faith compliance with the terms and conditions of this Agreement. The burden of proof on this issue shall be on DEVELOPER. If the City Council finds, based upon substantial evidence, that DEVELOPER has not complied in good faith with the terms or conditions of the Agreement, the City Council may terminate this Agreement or modify this Agreement and impose such conditions as are reasonably necessary to protect the interests of CITY. The decision of the City Council shall be final, subject only to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

6.5 Certificate of Agreement Compliance. If, at the conclusion of a periodic review, DEVELOPER is found to be in compliance with this Agreement, CITY shall, upon request by DEVELOPER, issue a Certificate of Agreement Compliance ("Certificate") to DEVELOPER stating that after the most recent periodic or special review and based upon the information known or made known to the Community Development Director and City Council that (1) this Agreement remains in effect and (2) DEVELOPER is not in default. The Certificate shall be in recordable form, shall contain information necessary to communicate constructive record notice of the finding of compliance, shall state whether the Certificate is issued after a periodic or

special review and shall state the anticipated date of commencement of the next periodic review. DEVELOPER may record the Certificate with the San Bernardino County Recorder.

Whether or not the Certificate is relied upon by assignees or other transferees or DEVELOPER, CITY shall not be bound by a Certificate if a default existed at the time of the periodic or special review, but was concealed from or otherwise not known to the Community Development Director or City Council.

7 PREVAILING WAGES.

7.1 Public Works Determination. DEVELOPER has been alerted to the requirements of California Labor Code section 1770, *et seq.*, including, without limitation S.B. 975, which require the payment of prevailing wage rates and the performance of other requirements if it is determined that the Project or any portion of the Project constitutes a public work. It shall be the sole responsibility of DEVELOPER to determine whether to pay prevailing wages for any or all work required for the Project. As a material part of this Development Agreement, DEVELOPER agrees to assume all risk of liability arising from any decision not to pay prevailing wages for work required for the Project.

7.2 Indemnification. As a further material part of this Development Agreement, DEVELOPER agrees to indemnify, defend and hold harmless CITY, its officials, officers, employees, consultants and agents from any and all claims, liability, loss, costs, damages, expenses, fines and penalties, of whatever the or nature, including all costs of defense and attorneys' fees, arising from any alleged failure of the DEVELOPER or DEVELOPER'S contractors to comply with the prevailing wage laws of the State of California. If CITY or any of the other indemnified parties is named as a party in any dispute arising from the failure of DEVELOPER or DEVELOPER'S contractors to pay prevailing wages, DEVELOPER agrees that CITY and those other indemnified parties may appoint their own independent counsel, and DEVELOPER agrees to pay all attorneys' fees and defense costs of CITY and the other indemnified parties as billed, in addition to all other damages, fines, penalties, and losses incurred by CITY and those other indemnified parties as a result of the action.

8 DEFAULT AND REMEDIES.

8.1 Remedies in General. It is acknowledged by the parties that neither party would have entered into this Agreement if it were to be liable in damages under this Agreement, or with respect to this Agreement or the application thereof. In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement, except that neither party shall be liable in damages to the other party, or to any successor in interest of such party, or to any other person, and each party covenants not to sue for damages or claim any damages:

(a) For any breach of this Agreement or for any cause of action that arises out of this Agreement; or

(b) For the taking, impairment or restriction of any right or interest conveyed or provided under or pursuant to this Agreement; or

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

8.2 Specific Performance. The parties acknowledge that money damages and remedies at law generally are inadequate and specific performance and other non-monetary relief are particularly appropriate remedies for the enforcement of this Agreement and should be available to all parties for the following reasons:

(a) Money damages are unavailable against CITY or DEVELOPER as provided in Section 8.1 above; provided nothing in this Agreement precludes CITY from exercising its rights to enforce bonds or other security furnished by DEVELOPER to CITY as required in the Development Plan, or from enforcing its right to indemnification from DEVELOPER as set forth herein and requiring DEVELOPER to pay money damages for failure to do so.

(b) Due to the size, nature and scope of the Project, it may not be practical or possible to restore the Property to its natural condition once implementation of this Agreement has begun. After such implementation, DEVELOPER may be foreclosed from other choices it may have had to utilize the Property or portions thereof. DEVELOPER has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing even more significant time and resources in implementing the Project in reliance upon the terms of this Agreement, and it is not possible to determine the sum of money that would adequately compensate DEVELOPER for such efforts.

8.3 Release. Except for non-damage remedies, including the remedy of specific performance as provided in Section 8.2, and judicial review as provided for in Section 6.4, DEVELOPER, for itself, its successors and assignees, hereby releases CITY, its officials, officers, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, including, but not limited to, any claim or liability, based or asserted, pursuant to Article I, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution, or any other law or ordinance that seeks to impose any other liability or damage, whatsoever, upon CITY because it entered into this Agreement or because of the terms of this Agreement.

8.4 Default of DEVELOPER. CITY may terminate or modify this Agreement for any failure of DEVELOPER to perform any material duty or obligation of DEVELOPER under this Agreement, or to comply in good faith with the terms of this Agreement (hereinafter referred to as "default"); provided, however, CITY shall first provide written notice to DEVELOPER of default setting forth the nature of the default and demanding the DEVELOPER to cure such default. If DEVELOPER fails to cure such default within 30 days after the service of such notice or, in the event that such default cannot be cured within such 30 day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such 30 day period and to diligently proceed to complete such actions and cure such default, CITY may proceed as set forth in section 6.4 hereof.

8.5 Termination of Agreement for Default of CITY. DEVELOPER may terminate this Agreement only in the event of a default by CITY in the performance of a material term of

this Agreement and only after providing written notice to CITY of default setting forth the nature of the default and the actions, if any, required by CITY to cure such default and, where the default can be cured, CITY has failed to take such actions and cure such default within 60 days after the effective date of such notice or, in the event that such default cannot be cured within such 60 day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such 60 day period and to diligently proceed to complete such actions and cure such default.

9 THIRD PARTY LITIGATION.

9.1 General Plan Litigation. CITY has determined that this Agreement is consistent with its General Plan, herein called General Plan, including the PVSP, and that the General Plan meets all requirements of law. DEVELOPER has reviewed the General Plan and concurs with CITY'S determination. CITY shall have no liability in damages under this Agreement for any failure of CITY to perform under this Agreement or the inability of DEVELOPER to develop the Property as contemplated by the Development Plan of this Agreement as the result of a judicial determination that on the Effective Date, or at any time thereafter, the General Plan, or portions thereof are invalid or inadequate or not in compliance with law.

9.2 Third Party Litigation Concerning Agreement. DEVELOPER shall defend, at its expense, including attorneys' fees, indemnify, and hold harmless CITY, its agents, officials, officers, independent contractors, subcontractors, and employees, from any claim, action or proceeding against CITY, its agents, officials, officers, independent contractors, subcontractors, or employees to attack, set aside, void, or annul the approval of this Agreement or the approval of any Subsequent Development Approval granted pursuant to this Agreement. CITY shall promptly notify DEVELOPER of any such claim, action or proceeding, and CITY shall cooperate in the defense.

9.3 Indemnity By DEVELOPER. In addition to the provisions of 9.2 above, DEVELOPER shall indemnify and hold CITY, its officials, officers, agents and employees free and harmless from any liability whatsoever, based or asserted upon any act or omission of DEVELOPER, its officers, agents, employees, subcontractors and independent contractors, for property damage, bodily injury, or death (DEVELOPER'S employees included) or any other element of damage of any kind or nature, relating to or in any way connected with or arising from the activities contemplated hereunder, including, but not limited to, the study, design, engineering, construction, completion, failure or conveyance of the public improvements, save and except claims for damages to the extent arising through the gross active negligence or willful misconduct of CITY. DEVELOPER shall defend, at its expense, including attorneys' fees, CITY, its officers, officials, agents and employees in any action or proceeding based upon such alleged acts or omissions. CITY may, in its discretion, participate in the defense of any such action or proceeding.

9.4 Environmental Assurances. DEVELOPER shall indemnify and hold CITY, its officers, officials, agents and employees free and harmless from any liability, based or asserted, upon any act or omission of DEVELOPER, its officers, agents, employees, subcontractors, predecessors in interest, successors, assigns and independent contractors for any violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene or to

environmental conditions on, under or about the Property, including, but not limited to, soil and groundwater conditions, and DEVELOPER shall defend and indemnify, at its expense, including attorneys' fees, CITY, its officers, officials, agents and employees in any action based or asserted upon any such alleged act or omission. CITY may, in its discretion, participate in the defense of any such action.

9.5 Reservation of Rights. With respect to Sections 9.2, 9.3 and 9.4 herein, CITY reserves the right to either (1) approve the attorney(s) that DEVELOPER selects, hires or otherwise engages to defend CITY hereunder, which approval shall not be unreasonably withheld, or (2) conduct its own defense, provided, however, that DEVELOPER shall reimburse CITY forthwith for any and all expenses incurred for such defense, including attorneys' fees, upon billing and accounting therefor. In the event CITY chooses Option (2), then DEVELOPER shall also be entitled to participate in the proceedings that are the subject of Sections 9.2, 9.3 or 9.4 herein.

9.6 Survival. The provisions of this Sections 9.1 through 9.6, inclusive, shall survive the termination of this Agreement.

10 MORTGAGEE PROTECTION.

The parties hereto agree that this Agreement shall not prevent or limit DEVELOPER, in any manner, at DEVELOPER'S sole discretion, from encumbering the Property or any portion thereof or any improvement thereon by any mortgage, deed of trust or other security device securing financing with respect to the Property. CITY acknowledges that Mortgagees providing such financing may require certain Agreement interpretations and modifications and agrees upon request, from time to time, to meet with DEVELOPER and representatives of such Mortgagees to negotiate in good faith any such request for interpretation or modification. CITY will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement. Any Mortgagee of the Property shall be entitled to the following rights and privileges:

(a) Neither entering into this Agreement nor a breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any mortgage on the Property made in good-faith and for value, unless otherwise required by law.

(b) The Mortgagee of any mortgage or deed of trust encumbering the Property, or any part thereof, which Mortgagee has submitted a request in writing to CITY in the manner specified herein for giving notices, shall be entitled to receive written notification from CITY of any default by DEVELOPER in the performance of DEVELOPER'S obligations under this Agreement.

(c) If CITY timely receives a request from a Mortgagee requesting a copy of any notice of default given to DEVELOPER under the terms of this Agreement, CITY shall provide a copy of that notice to the Mortgagee within 10 days of sending the notice of default to DEVELOPER. The Mortgagee shall have the right, but not the obligation, to cure the default during the remaining cure period allowed such party under this Agreement.

(d) Any Mortgagee who comes into possession of the Property, or any part thereof, pursuant to foreclosure of the mortgage or deed of trust, or deed in lieu of such foreclosure, shall take the Property, or part thereof, subject to the terms of this Agreement. Notwithstanding any other provision of this Agreement to the contrary, no Mortgagee shall have an obligation or duty under this Agreement to perform any of DEVELOPER'S obligations or other affirmative covenants of DEVELOPER hereunder, or to guarantee such performance; provided, however, that to the extent that any covenant to be performed by DEVELOPER is a condition precedent to the performance of a covenant by CITY, the performance thereof shall continue to be a condition precedent to CITY'S performance hereunder, and if further provided that any sale, transfer or assignment by any Mortgagee in possession shall be subject to the provisions of Section 2.3 of this Agreement.

11 MISCELLANEOUS PROVISIONS.

11.1 Recordation of Agreement. This Agreement and any amendment or cancellation thereof shall be recorded with the San Bernardino County Recorder by the City Clerk within the period required by Section 65868.5 of the Government Code.

11.2 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements that are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement.

11.3 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement. Notwithstanding the foregoing, the provision of the public benefits set forth in Section 4 of this Agreement, including the payment of the fees set forth therein, are essential elements of this Agreement and CITY would not have entered into this Agreement but for such provisions, and therefore in the event such provisions are determined to be invalid, void or unenforceable, this entire Agreement shall be null and void and of no force and effect whatsoever.

11.4 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

11.5 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

11.6 Singular and Plural. As used herein, the singular of any word includes the plural.

11.7 Joint and Several Obligations. If at any time during the term of this Agreement the Property is owned, in whole or in part, by more than one DEVELOPER (collectively the "Obligors"), all obligations of such Obligors under this Agreement shall be joint and several, and the default of any such Obligors shall be the default of all such Obligors. Notwithstanding the foregoing, no Obligors of a single Lot that has been finally subdivided, or of a Condominium unit in a Condominium Plan that has been approved by CITY, and such Lot or Condominium unit sold to a member of the general public or other ultimate user, shall have any further obligation under this Agreement with respect to such Lot or Condominium unit except as provided under Section 4 hereof.

11.8 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

11.9 Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

11.10 No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

11.11 Force Majeure. Neither party shall be deemed to be in default where failure or delay in performance of any of its obligations under this Agreement is caused by floods, earthquakes, other acts of God, fires, wars, riots or similar hostilities, strikes and other labor difficulties beyond the party's control, (including the party's employment force), government regulations, court actions (such as restraining orders or injunctions), or other causes beyond the party's control. If any such events shall occur, the term of this Agreement and the time for performance by either party of any of its obligations hereunder may be extended by the written agreement of the parties for the period of time that such events prevented such performance, provided that the term of this Agreement shall not be extended under any circumstances for more than 5 years.

11.12 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

11.13 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. All provisions of this Agreement shall be enforceable as equitable servitudes and constitute covenants running with the land. Each covenant to do or refrain from doing some act hereunder with regard to development of the Property: (a) is for the benefit of and is a burden upon every portion of the Property; (b) runs with the Property and each portion thereof; and, (c) is binding upon each party and each successor in interest during ownership of the Property or any portion thereof.

11.14 Counterparts. This Agreement may be executed by the parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

11.15 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and tried in the Superior Court of the County of San Bernardino, State of California, and the parties hereto waive all provisions of law providing for the filing, removal or change of venue to any other court.

11.16 Project as a Private Undertaking. It is specifically understood and agreed by and between the parties hereto that the development of the Project is a private development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between CITY and DEVELOPER is that of a government entity regulating the development of private property and the DEVELOPER of such property.

11.17 Further Actions and Instruments. Each of the parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement. Upon the request of either party at any time, the other party shall promptly execute, with acknowledgment or affidavit if reasonably required, and file or record such required instruments and writings and take any actions as may be reasonably necessary under the terms of this Agreement to carry out the intent and to fulfill the provisions of this Agreement or to evidence or consummate the transactions contemplated by this Agreement.

11.18 Eminent Domain. No provision of this Agreement shall be construed to limit or restrict the exercise by CITY of its power of eminent domain.

11.19 Agent for Service of Process. In the event DEVELOPER is not a resident of the State of California or it is an association, partnership or joint venture without a member, partner or joint venturer resident of the State of California, or it is a foreign corporation, then in any such event, DEVELOPER shall file with the Community Development Director, upon its execution of this Agreement, a designation of a natural person residing in the State of California, giving his or her name, residence and business addresses, as its agent for the purpose of service of process in any court action arising out of or based upon this Agreement, and the delivery to such agent of a copy of any process in any such action shall constitute valid service upon DEVELOPER. If for any reason service of such process upon such agent is not feasible, then in such event DEVELOPER maybe personally served with such process out of San Bernardino County and such service shall constitute valid service upon DEVELOPER. DEVELOPER is amenable to the process so served, submits to the jurisdiction of the Court referenced in Section 11.15 so obtained and waives any and all objections and protests thereto. DEVELOPER for itself, assigns and successors hereby waive the provisions of the Hague Convention (Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil or Commercial Matters, 20 U.S.T. 361, T.I.A.S. No. 6638).

11.20 Authority to Execute. The person or persons executing this Agreement on behalf of DEVELOPER warrants and represents that he or she or they has/have the authority to execute this Agreement on behalf of such corporation, partnership or business entity and warrants and represents that he or she or they has/have the authority to bind DEVELOPER to the performance of its obligations hereunder.

11.21 Conflict with Specific Plan. Notwithstanding any other provision of this Agreement, in the event of any conflict between any provision of this Agreement and any provision of the PVSP, the conflicting provision of this Agreement shall supersede and control. In addition, in the event of any amendment of the PVSP, from and after the date of amendment, any reference in this Agreement to the PVSP shall be deemed to be a reference to the PVSP, as amended.

11.22 Compelling Public Necessity. Notwithstanding any other provision of this Agreement, CITY and DEVELOPER acknowledge and agree that CITY is restricted in its authority to limit its police power by contract and that the limitations in this Agreement are intended to reserve to CITY all of its police powers that cannot be so limited. This Agreement shall be construed, contrary to its stated terms if necessary, to reserve to CITY all police power that cannot be restricted by contract including, without limitation, the power to respond to compelling public necessity where failure to do so would place residents of CITY in a condition dangerous to their health or safety or both.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year set forth below.

[SIGNATURES FOLLOW]

“DEVELOPER”

BRAVEPARK LLC
a Delaware limited liability company

By: 
Name: _____
Title: Manager **Steven Vining**
Operating Member
Representative

By: _____
Name: _____
Title: Manager

Attest:


CITY CLERK

“CITY”

THE CITY OF UPLAND,
a municipal corporation

By: 
Name: Ray M. Musser
Title: Mayor

By: 
Title: City Manager - Rod B. Butler

APPROVED AS TO FORM:

By: 
City Attorney

ACKNOWLEDGMENT

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

State of ~~California~~ North Carolina)
County of Wake)

On March 3, 2016, before me, SALLY KENNEDY, Notary Public, personally appeared Steven Vuong, 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~~ North Carolina that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Sally Kennedy

My Commission Expires: 8-3-2020



ACKNOWLEDGMENT

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

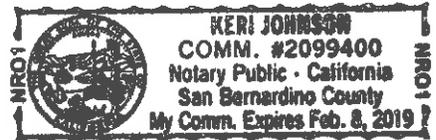
State of California
County of San Bernardino)

On March 9, 2016 before me, Keri Johnson, Notary Public
(insert name and title of the officer)

personally appeared Ray M. Musser,
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 Keri Johnson (Seal)

ACKNOWLEDGMENT

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

State of California
County of San Bernardino)

On March 14, 2016 before me, Keri Johnson, Notary Public
(insert name and title of the officer)

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

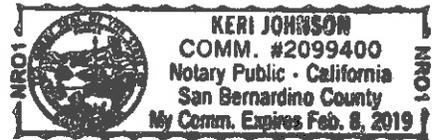
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)



ACKNOWLEDGMENT

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

State of California)
County of _____)

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

ACKNOWLEDGMENT

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

State of California)
County of _____)

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

ACKNOWLEDGMENT

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

State of California)
County of _____)

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT A

LEGAL DESCRIPTION AND DEPICTION OF PROPERTY

LEGAL DESCRIPTION:

The land referred to in this Commitment is situated in the City of Upland, County of San Bernardino, State of California, (as to Parcels One, Two and Three).

PARCEL ONE:

LOT 27 OF TRACT NO. 1836, MAP OF EUCLID WATER COMPANY TRACT, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, PER MAP RECORDED IN BOOK 26, PAGE 60 OF MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

EXCEPTING THEREFROM ALL OIL, GAS AND MINERALS, AS RESERVED IN THE DEED FROM EUCLID WATER COMPANY OF UPLAND, RECORDED FEBRUARY 10, 1932 IN BOOK 788, PAGE 163, OFFICIAL RECORDS.

TOGETHER WITH THAT PORTION VACATED BY DOCUMENT RECORDED FEBRUARY 14, 1984, INSTRUMENT NO. 84-034845, OFFICIAL RECORDS.

EXCEPTING THOSE PORTIONS AS CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED MAY 14, 1997, INSTRUMENT NO. 97-171165, OFFICIAL RECORDS.

A WAIVER OF SURFACE RIGHTS RECORDED JUNE 27, 2011, AS INSTRUMENT NO. 2011-0258498, OFFICIAL RECORDS.

PARCEL TWO:

LOT 28 OF THE EUCLID WATER COMPANY'S TRACT, TRACT NO. 1836, IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 26 OF MAPS, PAGE 60, RECORDS OF SAID COUNTY.

EXCEPTING THEREFROM THE SOUTH 11 FEET OF LOT 28 OF TRACT NO. 1836 IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 26 OF MAPS, PAGE 60, RECORDS OF SAID COUNTY, AS GRANTED TO THE STATE OF CALIFORNIA IN GRANT DEED RECORDED FEBRUARY 1, 1996 AS INSTRUMENT NO. 19960037542, OFFICIAL RECORDS.

PARCEL THREE:

THAT CERTAIN PARCEL OF LAND AS DESCRIBED IN THE CERTIFICATE OF COMPLIANCE CC-04-01, RECORDED ON MARCH 30, 2005 AS INSTRUMENT NO. 2005-218618 MORE FULLY DESCRIBED AS FOLLOWS:

THAT PORTION OF THE EAST ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF SECTION 35, TOWNSHIP 1 NORTH, RANGE 8 WEST, SAN BERNARDINO BASE AND MERIDIAN, IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND ON FILE IN THE DISTRICT LAND OFFICE, DESCRIBED AS FOLLOWS:

BOUNDED ON THE NORTH BY THE SOUTH LINE OF THE LAND CONVEYED TO THE STATE OF CALIFORNIA (PARCEL 14368-1) RECORDED DECEMBER 30, 1999 AS INSTRUMENT NO. 19990535100

OF OFFICIAL RECORDS, IN THE OFFICE OF COUNTY RECORDER OF SAN BERNARDINO COUNTY, BOUNDED ON THE EAST BY THE EAST LINE OF SAID SOUTHWEST ONE QUARTER OF SECTION 35, BOUNDED ON THE SOUTH BY THE NORTH LINE OF THE LAND CONVEYED TO THE STATE OF CALIFORNIA BY DEED RECORDED MARCH 11, 1997, AS INSTRUMENT NO. 97-083819 OF OFFICIAL RECORDS IN THE OFFICE OF THE COUNTY RECORDER SAN BERNARDINO COUNTY AND ALSO (PARCEL 75566-2) OF DEED RECORDED DECEMBER 30, 1999 INSTRUMENT NO. 99-2405862, IN THE OFFICE OF THE COUNTY RECORDER OF LOS ANGELES COUNTY, AND BOUNDED ON THE WEST BY THE LOS ANGELES AND SAN BERNARDINO COUNTY LINE.

SEE EXHIBIT A (1 OF 2)

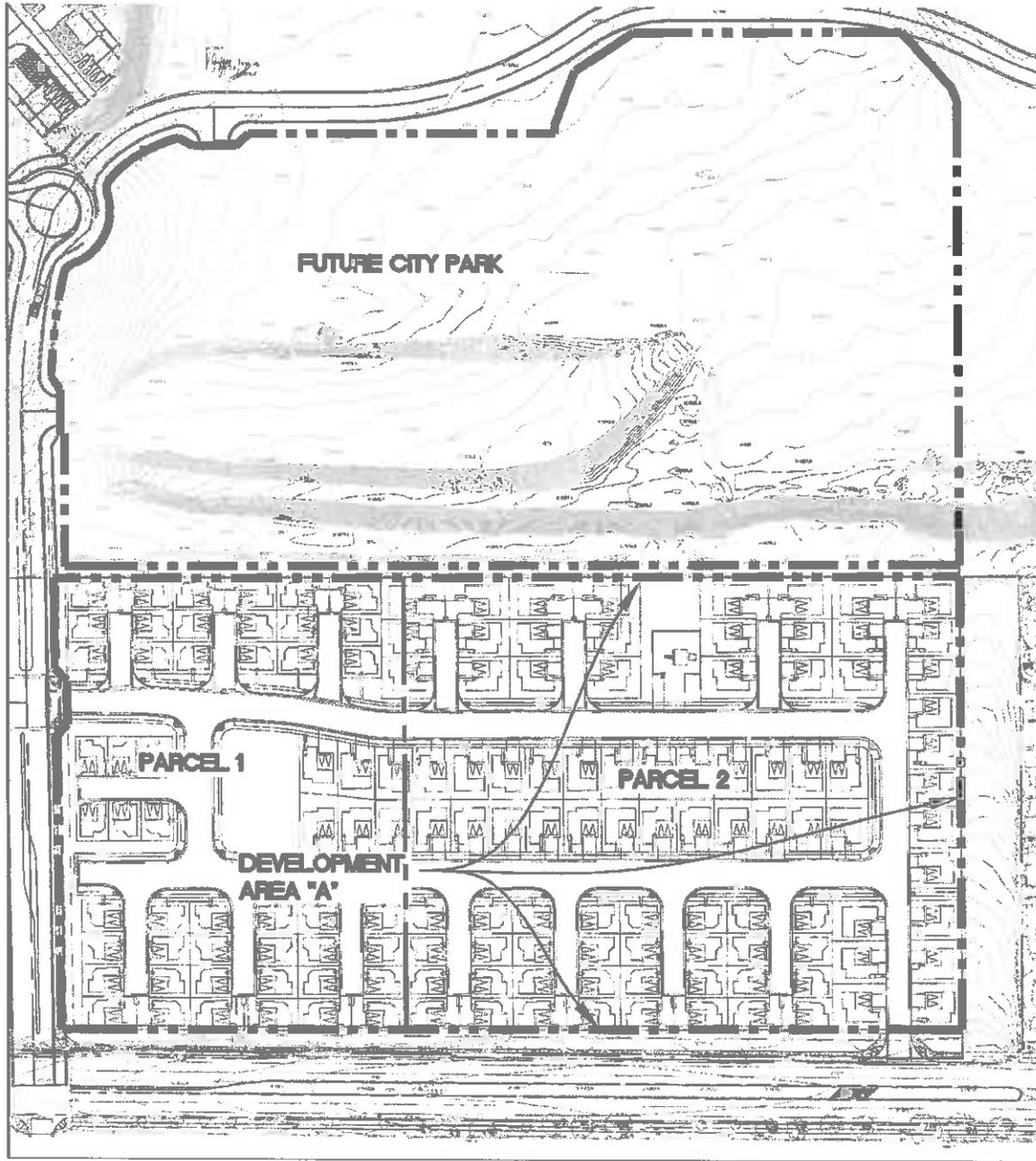


EXHIBIT A (2 OF 2)



**DEVELOPMENT
AREA 'B'**

PARCEL 4

PARCEL 5

20 FREEWAY

PARCEL 3

**DEVELOPMENT
AREA 'A'**

BASELINE ROAD

SEE EXHIBIT A (2 OF 2)

EXHIBIT A (1 OF 2)



EXHIBIT B

EXISTING DEVELOPMENT APPROVALS

1. Park View Specific Plan No. SPR-14
2. General Plan Amendment No. GPA-07-01 from Open Space to SPR-14
3. Zone Change No. ZC-07-01
4. Environmental Impact Report "Baseline Road Master Plan" EIR-1460
5. Site Plan No. SP-07-11
6. Airport Land Use Committee Findings & Conditions
7. Tentative Tract Map No. TT-18707

TYPICAL SINGLE FAMILY DETACHED ENLARGEMENT
(SEE DETAIL ON EXHIBIT C - SHT 4)

TYPICAL COTTAGE SINGLE FAMILY ENLARGEMENT
(SEE DETAIL ON EXHIBIT C - SHT 4)

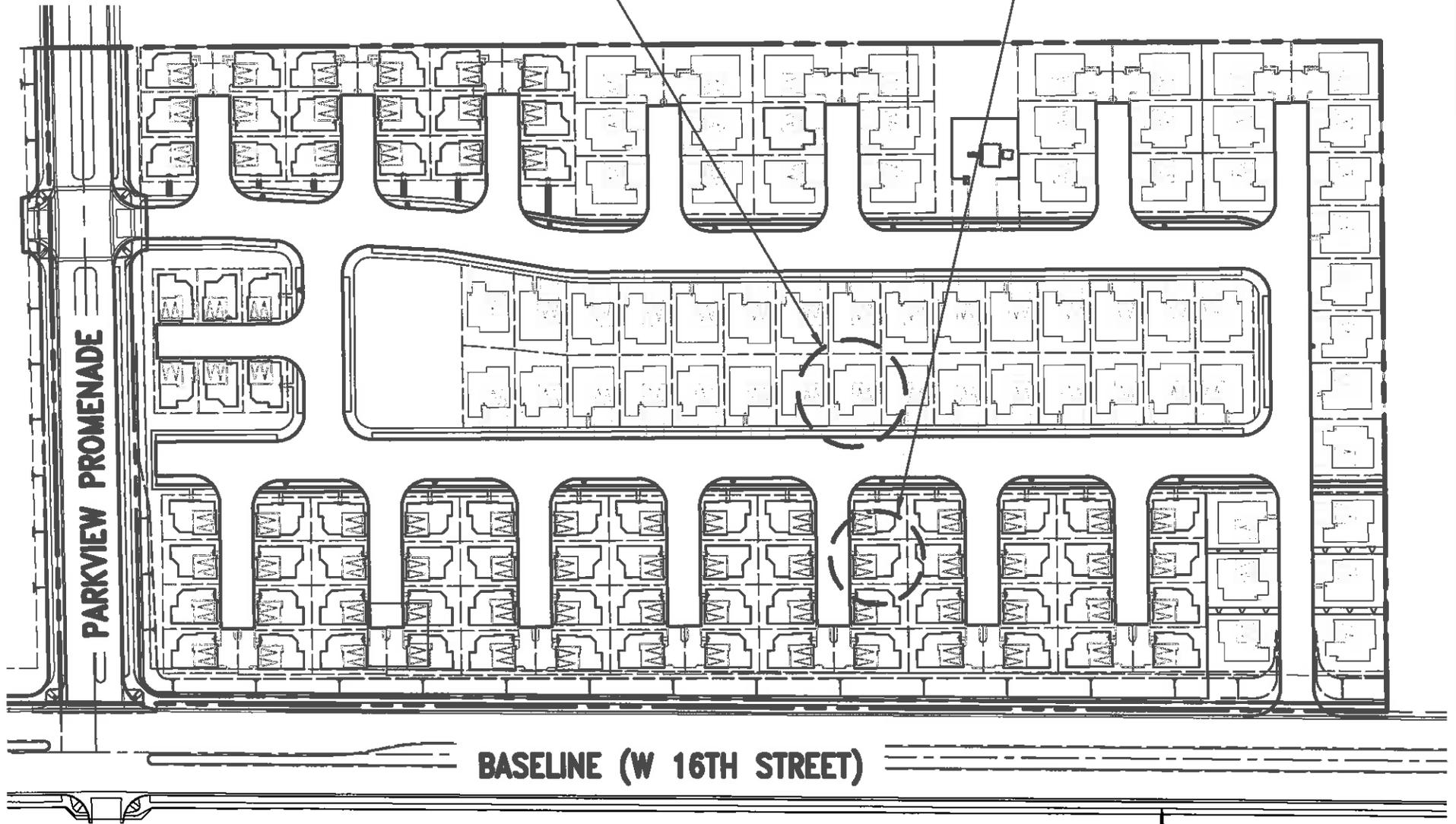
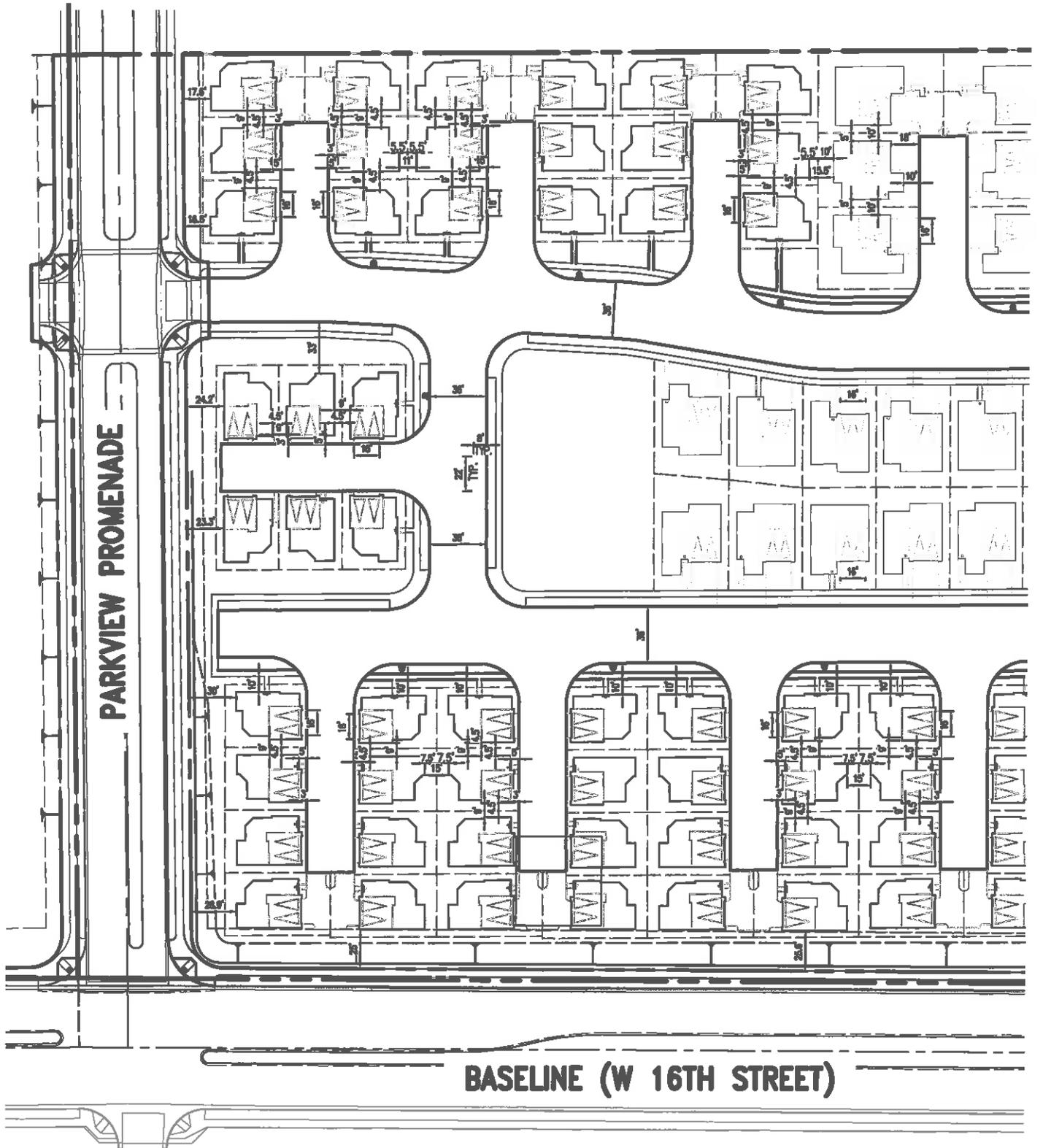


EXHIBIT C

SHEET 1 OF 5



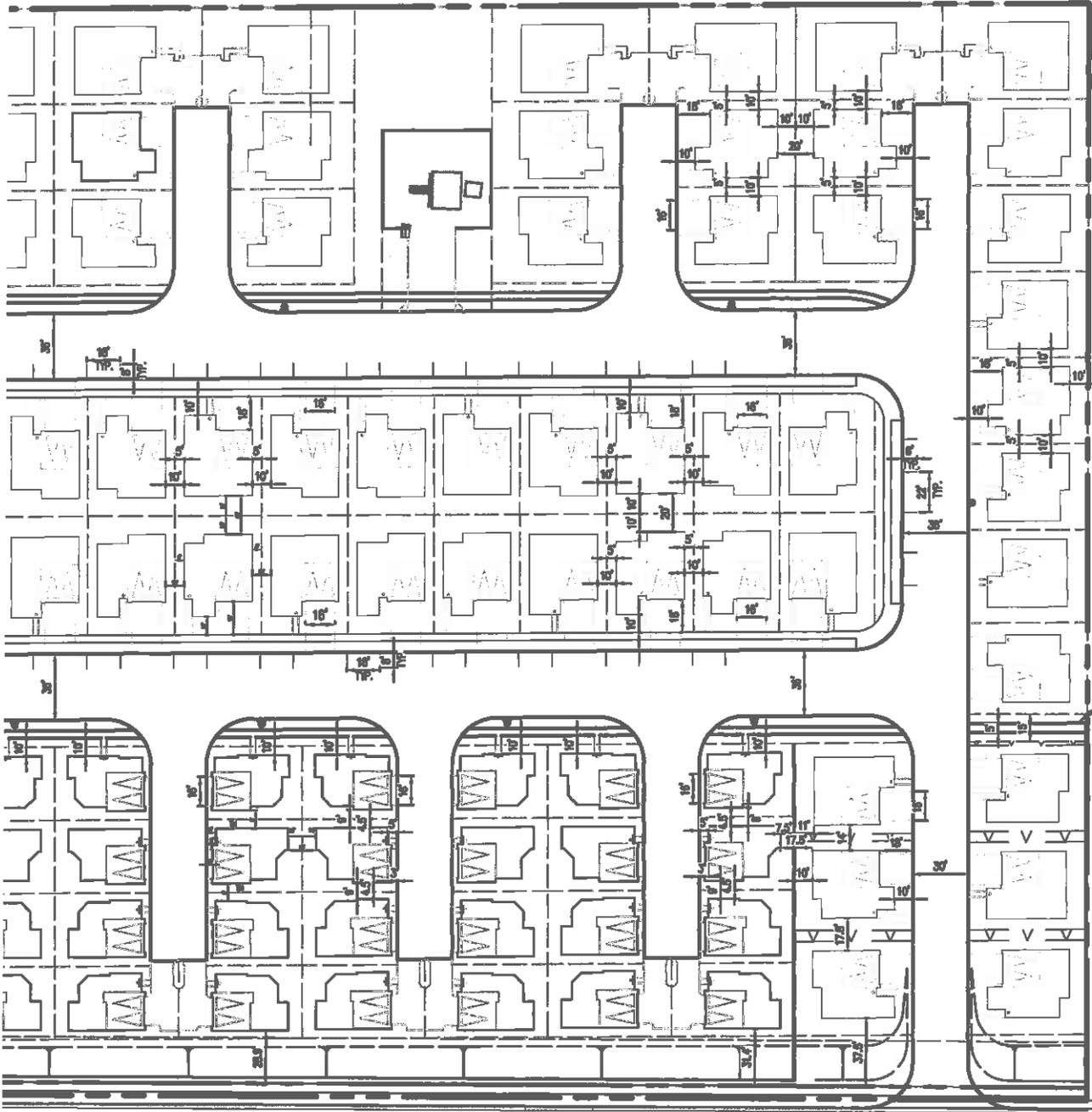
PARKVIEW PROMENADE

BASELINE (W 16TH STREET)



EXHIBIT C

SHEET 2 OF 5



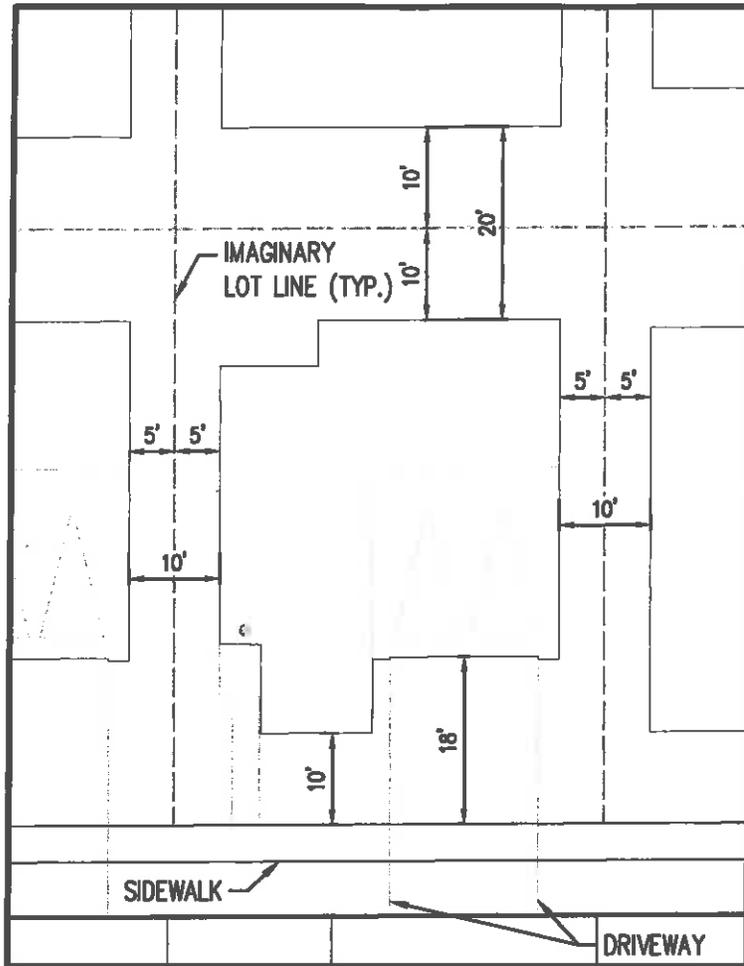
BASELINE (W 16TH STREET)

SIDEWALK CONNECTION TO
LINEAR PARK SIDEWALK
(ACCESS TO BASELINE RD.
AND FUTURE PARK)



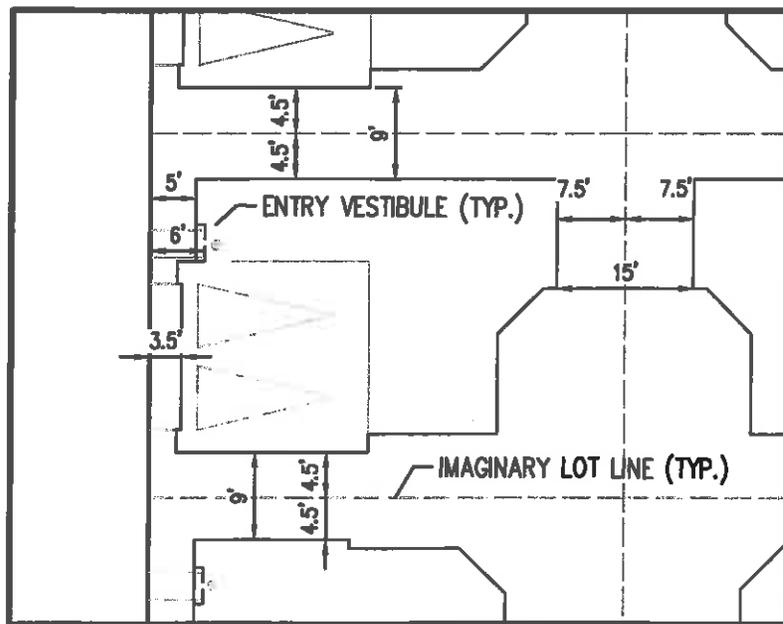
EXHIBIT C

SHEET 3 OF 5



TYPICAL SINGLE FAMILY DETACHED ENLARGEMENT

SCALE: 1"=10'



TYPICAL COTTAGE SINGLE FAMILY ENLARGEMENT

SCALE: 1"=10'

NOTE: IMAGINARY LOT LINES SHOWN FOR INFORMATIONAL PURPOSES ONLY. LOT LINES DO NOT APPLY TO CONDOMINIUM DEVELOPMENTS.

EXHIBIT C

SHEET 4 OF 5

SINGLE FAMILY DETACHED PRODUCT		
65 UNITS PROVIDED		
LOT CRITERIA	REQUIRED	PROVIDED
LOT SIZE	N/A (CONDOMINIUM DEV.)	
SETBACKS		
FROM BASELINE RD. R/W	25'	37' MIN.
FROM PARK VIEW PROMENADE R/W	10'	300' MIN.
FROM LOCAL STREET (SIDEWALK)	10'	10'
FRONT SETBACKS		
LIVING AREA	10'	10'
FRONT ENTRY GARAGE (FACING STREET)	18'	18'
SIDE SETBACKS		
FROM INTERIOR PROPERTY LINE	5'	5'
FROM STREET OR PARKING LOT	9'	15'
REAR SETBACKS		
MAIN STRUCTURE (1ST FLOOR)	10'	10'
GARAGE (SINGLE STORY PLATE LINE)	5'	N/A
BUILDING COVERAGE	50%	48% MAX.
MINIMUM BUILDING SEPARATION		
BETWEEN MAIN STRUCTURE/REAR TO REAR	15'	20'
BETWEEN MAIN STRUCTURE/SIDE TO SIDE	10'	10'
BETWEEN GARAGE STRUCTURES	8'	10'
PARKING (PER UNIT)	2	2

COTTAGE SINGLE FAMILY PRODUCT		
80 UNITS PROVIDED		
LOT CRITERIA	REQUIRED	PROVIDED
LOT SIZE	N/A* (CONDOMINIUM DEV.)	
SETBACKS		
FROM BASELINE RD. R/W	25'*	28' MIN.
FROM PARK VIEW PROMENADE R/W	10'*	16' MIN.
FROM LOCAL STREET (SIDEWALK)	10'*	10'
FRONT SETBACKS		
LIVING AREA	9'*	9'
FRONT ENTRY GARAGE (FACING STREET)	N/A*	3'
SIDE SETBACKS		
FROM INTERIOR PROPERTY LINE	4.5'*	4.5'
FROM STREET OR PARKING LOT	9'*	10'
REAR SETBACKS		
MAIN STRUCTURE (1ST FLOOR)	3'*	7.5'
GARAGE (SINGLE STORY PLATE LINE)	3'*	N/A
BUILDING COVERAGE	55%*	52% MAX.
MINIMUM BUILDING SEPARATION		
BETWEEN MAIN STRUCTURE/REAR TO REAR	15'	15'
BETWEEN MAIN STRUCTURE/FRONT TO FRONT	30'	35'
BETWEEN MAIN STRUCTURE/SIDE TO SIDE	9'	9'
BETWEEN GARAGE STRUCTURES	8'	9'
PARKING (PER UNIT)	2	2
VISITOR PARKING (PER UNIT)	0.5**	0.5**

NOTES:

* MINIMUM LOT DIMENSIONS, SETBACKS, AND BUILDING COVERAGE CRITERIA ARE PROVIDED FOR INFORMATION ONLY AND ARE NOT APPLICABLE TO CONDOMINIUM DEVELOPMENTS PER NOTE (4) OF TABLE 6-1 OF THE PARK VIEW SPECIFIC PLAN
 **40 VISITOR PARKING STALLS REQUIRED (80 X 0.5), 43 VISITOR STALLS PROVIDED

SITE DIMENSION COMPARISON WITH THE 'RESIDENTIAL DEVELOPMENT STANDARDS' (TABLE 6-1) OF THE PARK VIEW SPECIFIC PLAN DATED MARCH 10, 2008

EXHIBIT C

SHEET 5 OF 5

EXHIBIT C

PROJECT CONDITIONS OF APPROVAL



**DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION
Telephone (909) 931-4130
Facsimile (909) 931-4321**

July 29, 2015

Pete Sullivan
LStar Management
516 N. West Street
Raleigh, NC 27603

SUBJECT: LETTER OF APPROVAL FOR TENTATIVE TRACT MAP 18707 (SYCAMORE HILLS) FOR THE POTENTIAL DEVELOPMENT OF 145 DETACHED RESIDENTIAL UNITS ON A 16.25 ACRE PROPERTY, LOCATED AT THE NORTH EAST CORNER OF I-210 FREEWAY AND WEST 16TH STREET WITHIN THE PARK VIEW SPECIFIC PLAN (APN: 1005-481-01, -02).

Dear Mr. Sullivan,

Thank you and your team's coordination in providing us the detailed information we required for our review in regards to the Sycamore Hills project (Tentative Tract Map 18707), located on the north side of Baseline Road (16th Street), west of Benson Avenue.

We have reviewed and approved the revised dimensional site plan submitted for the Sycamore Hills project, dated June 3, 2015, as it meets the residential development guidelines in the Park View Specific Plan (SPR-14), as required in the conditions of approval (Resolution No. 4682).

This is to confirm that the revised Sycamore Hills Tentative Tract Map 18707, dated June 3, 2015, is in substantial conformance with the Tentative Tract Map, approved under Resolution No. 4682, and as attached.

We are excited about this project and look forward to its completion. If any questions, please contact Melecio Picazo at (909) 931-4317 or via email at MPicazo@ci.upland.ca.us.

Thank you,

A handwritten signature in black ink, appearing to read "Jeff Zwack".

Jeff Zwack
Development Services Director

cc: Tonya Pace, Senior Planner

City of Upland
460 North Euclid Avenue, Upland, CA 91786-4732 • (909) 931-4100 • Fax (909) 931-4123 • TDD (909) 735-2929 • www.ci.upland.ca.us

EXHIBIT C

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EXHIBIT C

-2-

RESOLUTION NO. 4682

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF UPLAND
APPROVING TENTATIVE TRACT MAP NO. TT-18707

WHEREAS, D.R. Horton Los Angeles Holding Company, Inc., 2280 Wardlow Cir., Ste. 100, Corona, CA 92880 ("Applicant"), filed an application (TT-18707.) with the City of Upland for approval of a tentative tract map to subdivide two parcels into a 143 single family detached condominium units within the residentially designated Planning Areas 1 and 2 of the Park View Specific Plan on property generally described as:

Approximately 15.39 acres, located along the north side of Baseline Road, between Benson Avenue and the 210 Freeway (APN# 1005 481 10 & 1005 481 20).

PER STEWART TITLE OF CALIFORNIA, INC. PRELIMINARY TITLE REPORT NO. 112252942, DATED AUGUST 3, 2004, THE SUBJECT PROPERTY IS DESCRIBED AS FOLLOWS:

THE LAND REFERRED TO HEREIN IS SITUATED IN THE STATE OF CALIFORNIA COUNTY OF SAN BERNARDINO, CITY OF UPLAND, DESCRIBED AS FOLLOWS:

PARCEL 1:

LOT 27 OF TRACT NO. 1836, MAP OF EUCLID WATER COMPANY TRACT, AS SHOWN BY MAP ON FILE IN BOOK 26, PAGE 60 OF MAPS, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA.

TOGETHER WITH CENTRAL AVENUE AS VACATED BY RESOLUTION NO. 3399 OF CITY COUNCIL OF THE CITY OF UPLAND, A CERTIFIED COPY OF WHICH RECORDED FEBRUARY 14, 1984 AS INSTRUMENT NO. 84-034845 OF OFFICIAL RECORDS.

ALSO EXCEPTING THEREFROM THAT PORTIO CONVEYED TO THE STATE OF CALIFORNIA, BY DEED RECORDED MAY 14, 1997 AS INSTRUMENT NO. 1997-0171165 OF OFFICIAL RECORDS.

PARCEL 2:

LOT 28 OF TRACT NO. 1836, MAP OF EUCLID WATER COMPANY TRACT, AS SHOWN BY MAP ON FILE IN BOOK 26, PAGE 60 OF MAPS, RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA.

EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE STATE OF CALIFORNIA, BY DEED RECORDED FEBRUARY 1, 1996 AS INSTRUMENT NO. 1996-0037542 OF OFFICIAL RECORDS.

WHEREAS, notice of public hearing regarding the Project has been given in the manner and for time required by law; and

WHEREAS, at the time set, to wit: at 6:30 p.m., on the 25th day of June, 2008, in the Council Chambers of the City of Upland, a public hearing regarding the Project was conducted by the Planning Commission for the City of Upland; and

WHEREAS, at said time and place, said Planning Commission heard and considered both oral and written evidence.

NOW, THEREFORE, the Planning Commission of the City of Upland does hereby make the following FINDINGS and DETERMINATION:

I. FINDINGS:

It was determined that:

1. The proposed subdivision is in compliance with the lot area, dimensions and density for Planning Areas 1 and 2 of the Park View Specific Plan No. SPR-14 and the proposed development are consistent with the general site development criteria and development regulations set forth in Sections 6.5 and 6.6 of said plan.
2. None of the conditions for mandatory denial as set forth in Subsections (a) through (g) of Section 66474, Article 1, Chapter 4, Division 2, Title 7, of the California Government Code exist with respect to said subdivision.
3. That on March 10, 2008, the City Council of the City of Upland adopted a resolution approving General Plan Amendment No. GPA-07-01 from OS (Open Space) to SPR-14 (Park View Specific Plan) and further, that on March 24, 2008, the City Council held second reading on ordinances adopting the Park View Specific Plan (SPR-14) and approving Zone Change No. ZC-07-01 for the proposed project site.
4. The proposed subdivision, together with the provisions for its design and improvement, is consistent with applicable General Plan of the City, as amended, pursuant to Section 66473.5, Article 1, Chapter 5, Division 1, or any specific plan adopted pursuant to Article 8 (commencing with Section 65450) of Chapter 3 of Division 1. Furthermore, the proposed map is consistent with the project described in EIR-1460 (Baseline Road Master Plan) for the Park View Specific Plan.
5. An Environmental Impact Report titled The Baseline Road Master Plan (Ref.: EIR-1460) was prepared and noticed in accordance with CEQA Guidelines, as required by law and contained the findings as provided in 15090, 15091 and 15093. Said document including a Mitigation Monitoring program and Statement of Overriding Consideration, was certified by the City Council of the City of Upland on March 10, 2008.

Pursuant to CEQA Guidelines 15153(a) the Administrative Environmental Committee considered the information in EIR 1460 as well as the proposed project and determined that said EIR adequately describes the general environmental setting, the significant environmental impacts and the alternatives and mitigations measures related to each significant effect. Based on substantial

evidence and in light of the whole record none of the conditions described in CEQA Guidelines 15162 or 15163 exist and therefore no Supplemental or Subsequent Environmental Impact Report is required.

II. DETERMINATION:

That Tentative Tract Map No. TT-18707 is hereby approved for a period of twenty-four (24) months from the approval date in accordance with the Findings set forth hereinbefore, subject to all applicable requirements of Chapter 17, Zoning Regulations, and Chapter 16, Subdivisions, of the Upland Municipal Code, including, but not limited to, the following:

SPECIAL CONDITIONS

Planning

1. Approval of this Tract Map is subject to, and contingent upon criteria and conditions of approval delineated within City approvals for the following:
 - A. The Park View Specific Plan No. SPR-14 (3/24/08)
 - B. General Plan Amendment No. GPA-07-01 (3/10/08)
 - C. Zone Change No. ZC-07-01 (3/24/08)
 - D. Environmental Impact Report No. EIR-1460 (3/10/08)
 - E. Site Plan No. SP-07-11 (AC- 12/11/07, 2/12/08 & DRB-01/22/08)
 - F. Airport Land Use Committee findings and conditions (1/23/08)
2. A master infrastructure phasing plan depicting all improvements, dedications and infrastructure and stages of completion as they relate to the entire specific plan area shall be submitted to the Public Works Director for review and approval prior to issuance of any permits.
3. The site plan, floor plan, exterior elevations, color schemes, walls, landscaping (precise schedule) plans, exterior lighting, streetscapes, and all signs is subject to final Design Review, prior to the issuance of building permits.
4. The project shall be subject to the Airport Land Use Committee determination pertaining airport-related safety conditions, as follows.
 - A. Prior to issuance of building permits, the applicant shall record an aviation and noise easement, to the satisfaction of the City Attorney and the Community Development Director.
 - B. The applicant shall provide documentation and disclose said aviation easement to each potential buyer and/or tenant and cause said buyer or tenant to provide a signed acknowledgement of said easement.
 - C. The proposed structures and the normal mature height of any vegetation shall not exceed the height limitations provided by the Federal Aviation Regulations, Part 77, Objects Affecting Navigable Airspace.
 - D. The proposed use or structure shall not reflect glare, emit electronic interference, or produce smoke that would endanger aircraft operations.
 - E. The proposed use shall not involve the storage or dispensing of volatile or otherwise hazardous substances that would endanger aircraft operations.

5. There shall be compliance with the required mitigation measures of Environmental Impact Report No. EIR-1460 applicable to this development as required by the adopted Park View Specific Plan (SPR-14) and subject to the discretion of the Community Development and Public Works Directors.
6. The developer shall prepare, and cause to be furnished to prospective buyers, typical plans/drawings approved by the Community Development Director depicting options for patio styles, materials and colors.
7. After City approval of the landscaping plan, the Owner/Developer shall provide maintenance during the 180-day plant establishment period for all parkways. The City of Upland will not provide maintenance of any parkway interior to the subject Tract. The Owner/Developer shall complete one of the following options:
 - A. Include in the CC&Rs, provisions for the perpetual maintenance of said parkway(s) by the Homeowner's Association. The Homeowner's Association maintenance responsibility shall commence at the completion of the plant establishment period; or
 - B. The project applicant shall develop a covenant that runs with the land that ensures that the landscaping located on all parkway areas within the tract is maintained in first class condition at no cost to the City. The property owner can accomplish this through any means that is approved by the Community Development Director, Public Works Director and City Attorney. The mechanism that ensures the permanent and ongoing maintenance of the landscaping shall be prepared, approved and recorded prior to any building permit issuance for any parcel in Tract Map No. 18707.

Public Works

8. All public improvements shall be consistent with the City approved Park View Specific Plan.
9. Developer shall subdivide property to create a separate lot for the existing well site prior to map recordation. Existing on-site water well facility shall be protected in place or modified to complement proposed development. However, if letters are provided from the parties of interest with the understanding that this is an easement this condition shall be satisfied.
10. Developer shall construct traffic signals improvements at 16th Street (Baseline Road) and Park View Promenade to the satisfaction of the Public Works Director prior to building permits issuance.
11. Developer shall prepare a hydraulic analysis for the water transmission and distribution system to verify required alignments and pipeline size requirements. The analysis shall be completed prior to issuance of any project permits. At a minimum, all water system improvements shown on the City approved Park View Specific Plan together with a 12" north extension on Mountain Shadow Road shall be constructed unless otherwise approved by the Public Works Director. At a minimum, all public water distribution mains will be 8" diameter and looped unless otherwise approved by the Director of Public Works. All water mains and facilities required for fire protection shall be fully operational prior to obtaining Building permits.

12. Developer shall prepare a sanitary sewer study to define sewer system requirements for the project. At a minimum, the system(s) shall be constructed pursuant to the project specific plan to the satisfaction of the Public Works Director. The analysis shall be completed prior to issuance of any project permits.
13. Developer shall prepare a drainage study to define drainage system requirements for the project. At a minimum, the system(s) shall be constructed pursuant to the project specific plan to the satisfaction of the Public Works Director. The analysis shall be completed prior to issuance of any project permits. The analysis shall consider drainage from the City's future sports Park.
14. Developer shall construct full width street improvements for Park View Promenade from 16th Street (Baseline Road) to the North property limits including landscaped center median and traffic signal improvements to the satisfaction of the Public Works Director. Construction shall be completed prior to any occupancy release.
15. Developer shall dedicate an additional 7 feet of street right-of-way along Baseline Road (16th Street) and acquire and dedicate through instrument acceptable to the City, an additional 10 feet along the west project boundary prior to map recordation.
16. Developer shall complete north half and center median street improvements for 16th Street (Baseline Road) along the project frontage together with portions to City limit as shown in the Park View Specific Plan including a 20 foot wide landscaped median to the satisfaction of the Public Works Director. Construction shall be completed prior to any occupancy release.
17. To the satisfaction of the Public Works Director, the developer shall either construct new storm drain systems or modify existing drainage improvements at the adjoining residential subdivision (east of the project) to divert flows from the existing basin located northeast of this project, southerly to the basins south of Baseline Road (16th St.), west of Benson Ave., via a connection to the developer-constructed storm drain along the City-owned parcel east of the project.
18. Consistent with the Park View Specific Plan (SPR-14), the developer shall prepare landscape improvement plans for the City's 75 foot drainage easement located east of the project. The plans shall be submitted for review and approval by the City prior to issuance of any construction permits.
19. After City approval of the landscaping plan, the Owner/Developer shall provide 180 day maintenance during the plant establishment period for the Baseline Road and Park View Promenade parkways and landscaped medians. The Owner/Developer shall also:
 - 1) Include in the CC&Rs, provisions for the perpetual maintenance of 16th Street (Baseline Road) parkways from the 75 foot City owned land to Planning Area 3 (west side of Park View Promenade) and Park View Promenade parkways by the Homeowner's Association. The Homeowner's Association maintenance responsibility shall commence at the completion of the plant establishment period.

- 2) Form a maintenance district encompassing the Baseline Road and Park View Promenade Medians, the western parkway of Park View Promenade and the Baseline Road (16th Street) parkway from the east side of Planning Area 3 to the Claremont City line for the perpetual maintenance of said medians and parkways. The district shall become effective and operable at the completion of the plant establishment period.
 - 3) Include provisions for the perpetual maintenance of said parkway(s) by the owner. The owner's maintenance responsibility shall commence at the completion of the plant establishment period.
 - 4) Record a "Declaration of Covenant for Parkway Landscape Maintenance" for the perpetual maintenance of said parkway(s) by the owner. The owner's maintenance responsibility shall commence at the completion of the plant establishment period.
20. This project requires landscaping of:
- 1) 16th Street (Baseline Road) and Park View Promenade parkways including serpentine sidewalk, rockwork, trees, shrubbery, and an automatic irrigation system per the City's Standard Drawings for parkways and the Park View Specific Plan.
 - 2) The 20 foot wide medians of Baseline Road and Parkview Promenade shall be fully landscaped with a treatment to include low maintenance landscaping and an automatic irrigation system. Center medians shall be metered to and maintained by the City of Upland. Submit a landscape plan for plan check and approval to the Public Works Department Development Service Section prior to the issuance of a permit.
 - 3) This project requires landscaping of the 75 foot City owned land just east of Planning Area 1 including sidewalk, rockwork, trees, shrubbery, and an automatic irrigation system per the City's Standard Drawings for parkways and the Park View Specific Plan.

STANDARD CONDITIONS

Planning

21. The recorded owner of the property shall submit to the Community Development Department, for record purposes, written evidence of agreement with all conditions of this Permit before said Permit shall become effective. (271 – Comm. Dev.)
22. All landscaped areas shall be maintained in a healthy and thriving condition, free from weeds, trash, and debris as a condition of this approval. (221 – Comm. Dev.)
23. The developer shall employ a qualified design professional to perform on-site landscaping and irrigation system design and inspection services as outlined in Planning Directive Nos. 9, 11, and 12. (223 – Comm. Dev.)
24. No occupancy of any building and/or structure shall be permitted which is not in substantial compliance with approved plans excepting upon specific review and approval of any "as built" modifications by the

authorizing City body (City Council, Planning Commission, or Administrative Committee, as appropriate). (236 – Comm. Dev.)

25. Underground utility services shall include dry line cable TV facilities. Provided further, all dwelling units shall be pre-wired for cable TV service. (063 – Comm. Dev.)
26. The developer shall pay all applicable City of Upland development fees prior to issuance of any permits. (239 – Comm. Dev.)
27. Conditions, Covenants, and Restrictions (CC&R's) for this project, prepared in a manner and form satisfactory to the City Attorney and the Community Development Director and including a covenant made by the developer in consideration of the City's Right to Compel Performance of said CC&R's, shall be recorded prior to the issuance of any permits. Further, said CC&R's shall include a provision stipulating that no amendment, modification, or revocation of such declaration, or any part thereof, may be made without the express written consent of the City, which consent must be recorded in the Official Records of the County of San Bernardino. (026 – Comm. Dev.)

Fire Department

28. Street addresses, including any suite or apartment designation, shall be illuminated, 4 inches in height, plainly visible from the roadway or public street and shall be in accordance with the City of Upland standards. (524-Fire Dept.)
29. Any and all covenants, conditions and restrictions shall include maintenance of the following noted fire protection items:
 - A. On-site water supply and fire hydrants.
 - B. Fire lanes.
 - C. Fire resistive roof covering.
 - D. Built-in structural building protection.
 - E. Fire extinguishers.
 - F. Supervised automatic sprinkler system(s).
 - G. Supervised fire detection and alarm system(s)
30. The developer/general contractor is responsible for reasonable periodic cleanup of the development during construction to avoid hazardous accumulations of combustible trash and debris both on and off-site. Open fires are not permitted as they pose a hazardous situation; consequently, the developer/general contractor will be cited for this (528 – Fire Dept.).
31. A complete supervised automatic sprinkler system shall be installed in accordance with the Fire Department standards. This protection system shall include all necessary equipment to adequately protect the occupants and building. Plans shall be submitted to the Fire Department for review and approval prior to the issuance of all required permits.
32. Portable fire extinguishers shall be installed in accordance with Fire Department standards prior to occupancy. The developer shall contact the Fire Department to determine the exact number, type and

- placement required. Where exterior-mounted extinguishers are provided, it is suggested that installation be in recessed cabinets for aesthetics and to reduce theft or vandalism.
33. Spark arrestors are required on all sizes of fireplace chimneys and are to be substantially constructed using wire mesh, minimum size of 16 gauge and maximum size of 12 gauge, openings not exceeding one-half inch or less than three-eighths inch, and securely mounted to avoid movement. Spark arrestors must be visible from the ground and in accordance with Fire Department standards. (555 – Fire Dept.)
 34. All roof covering shall be of fire resistive materials only. (Class A or Class B according to the Uniform Building Code.) Materials shall be approved by both the Upland Building and Fire Departments. The exterior surface of all exterior walls shall be protected with materials as required by the Uniform Building Code for one-hour fire resistive construction. (559 – Fire Dept.)
 35. Complete architectural and structural building plans, including all specifications, shall be submitted to the Fire Department for review prior to the issuance of any building permits. These plans and specifications shall include, but not be limited to, construction type, exits, fire protection equipment, building protection, and interior finish. The developer is responsible for, and shall apply for and receive, all Fire Department permits, paying all necessary fees, prior to beginning construction. (531 – Fire Dept.).
 36. Plans shall be submitted to the Fire Department for review and approval. The applicant shall pay all necessary fees prior to issuance of all required permits.
 37. Before final approval is given, a version of the “as built” plans saved to CD format shall be submitted to the Upland Fire Department.
 38. Access roadways providing for a driving surface not less than 20 ft. unobstructed access width, capable of supporting one imposed load of fire apparatus (65,000 pounds) to within 150 ft. of all structures is required prior to the framing stages of construction. This access is required to be maintained in an unobstructed manner throughout construction. (522 – Fire Dept.)
 39. Residential developments of the Planned Residential Development (PRD), condominium, specific plan, or mobile home park type are required to submit grading plans for review of access and circulation. Full size drawings shall be accompanied by a reduced drawing not larger than 8-1/2 in. by 14 in. Developments will be reviewed for access, and those required to have fire lanes will be required to obtain Fire Department permits. Permits are required for fire lanes, alternated access drives with gates, and security gates.
 40. Permanent on-site emergency vehicle access lanes (fire lanes) shall be provided in accordance with Fire Department standards. Emergency apparatus access, fire lanes, and private roadways shall be designed and maintained at a minimum turning radius of 20 ft. and a minimum outside radius of 45 ft. This provision shall include those areas where median or landscaped “islands” are installed. An application with plans shall be submitted to the Fire Department for approval, fees to be paid and permits secured. Once approved, a request for resolution shall be submitted.
 41. The required fire flow for this development is 1500 gallons per minute (GPM) as calculated according to the Insurance Services Office Guidelines. If three or more structures have wood-shingled or shake roofs, an increase of 500 GPM will be assessed. Multiple building developments show only the largest fire flow. (513 – Fire Dept.)

42. The provision of fire hydrants and water system shall be conformed to, in accordance with the City's Fire Department and Water Department standards. Fire hydrant locations and appropriate main sizes shall be determined and plotted in accordance with their standards. Plans shall be submitted to the Water and Fire Departments for their approval. (516 – Fire Dept.)
43. The water supply, including mains and hydrants, shall be acceptably tested, painted, and approved by the Water and Fire Departments prior to the issuance of permits and prior to the framing stages of construction to assure availability and reliability for fire fighting purposes. (519 – Fire Dept.)
44. An approved water supply for fire protection, permanent, shall be made available prior to combustible materials arriving on-site. The water supply, including mains and hydrants, shall be acceptably tested, painted, and approved by the water and fire departments prior to the issuance of permits (2007 CFC 1412.1)
45. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities (2007 CFC 503.2.3).
46. Fire apparatus access road and water supply must be inspected and approved by the Upland Fire Department prior to lumber being dropped at the project site. A 2" thick, 20' wide (minimum) paved asphalt road surrounding the structure must be provided. Contact the Upland Fire Department at 909-931-4180 to request and inspection (UMC 8.28.050-503.2.3).

Police Department

47. All streets leading to models shall be required to have street name signs installed. (343 – Police Dept.)
48. All single-family residences, including models, shall have both curb painted addresses and building-affixed addresses. (346 – Police Dept.)
49. Units with front and rear drive access shall affix or paint the address numbering, to include building, unit, and/or suite designations for each individual tenant, on both front and rear accesses. (448 – Police Dept.)
50. Prior to the issuance of building permits the project must be enclosed with 6-ft. high chain link fencing to prevent access to construction areas by the public and to minimize theft of building materials and equipment. (340 – Police Dept.)
51. 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. (415 – Police Dept.)

Public Works

Map

- 52. The approval of this project is subject to, and contingent upon, the recordation of a Tract Map. Said Tract Map 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.
- 53. The submittal, approval, and recordation of a subdivision map shall be in accordance with the provisions of the State Subdivision Map Act and the City subdivision ordinance. The final map shall be recorded before the issuance of any permits. "However, at the discretion of the Public Works Director, Developer may procure improvement permits, including those for grading, landscaping, perimeter wall (retaining), street, water, sewer, storm drain, sales trailer, and model home complex permit, in advance of final map recordation provided that the Developer enters into an Improvement Agreement with the City and provides surety in a manner acceptable to the City for said improvements."
- 54. This development shall be subject to the subdivision requirements of PART V, SUBDIVISIONS, of the Upland Municipal Code.

Right-of-Way Dedication and Easements

- 55. This project requires dedication of the necessary street right-of-way for the north half of Baseline Road across the project frontage in accordance with the Park View Specific Plan.
- 56. This project requires dedication of street right-of-way for curb ramps and the installation of a new handicap ramp at the southeast and southwest corners of 16th Street (Baseline Road) and Park View Promenade per the Americans with Disability Act.
- 57. Prior to or concurrently with the recordation of the final map, easements shall be abandoned as necessary according to the Park View Specific Plan.
- 58. Easement(s) shall be dedicated to the City for all-public sewer and water systems not located within the public right-of-way.
- 59. Relocation of any public water systems shall be subject to approval by the Public Works Director.

Monuments

- 60. 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.

- 61. 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

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

Street Improvements

- 63. All deficient public improvements within SPR-14 Development Area A (including 75-ft. linear park) shall be upgraded to current City Standards and to the satisfaction of the Public Works Director.
- 64. Asphalt paving that is damaged during the construction shall be replaced to the City's satisfaction.
- 65. Existing driveways shall be reconstructed and/or new driveways constructed in accordance with commercial standards as indicated on Engineering Standard Drawing Number CU-P-4 Type "B."
- 66. All public improvements (interior streets, drainage facilities, landscaped areas, etc.) shown on the plans and/or tentative map shall be constructed to City Standards. Interior street improvements shall include, but are not limited to, curb and gutter, AC pavement, drive approaches, sidewalks, streetlights, and street trees.
- 67. Full standard street improvements are required for the north half of Baseline Road across the project frontage and extending to the Claremont City limit as shown on the Master Plan of Streets and Highways and in accordance with the Park View Specific Plan. This includes: construction of roadway grading and paving, curb and gutter, the installation of sidewalk, parkway trees and street lights, all roadway striping, pavement markings, traffic signing, traffic signals, and other improvements to the satisfaction of the Public Works Director.
- 68. All public street and/or alley right-of-way improvements and the location of driveways shall require the approval of the Public Works Director.
- 69. 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 Public Works Director and the Director of Community Development.

Utility General

70. All utility companies (for non-City owned utilities) shall be contacted to establish appropriate easements to provide services to each lot.
71. All units/lots shall be served by utilities, allowing each unit/lot to function separately from one another.
72. 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.
73. All existing on-site utility lines that conflict with this project shall be relocated, removed, or sealed to the satisfaction of the Public Works Director.
74. The subject property shall be served by underground utilities. All utility plans (Edison, Telephone, and Cable TV) shall be submitted to the Public Works Department for review and approval prior to the occupancy of phase 1.

Undergrounding

75. All parcel/lots within this tract shall be served by underground utilities. All utility plans (Edison, Telephone, and Cable TV) 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.
76. The subject property shall be served by underground utilities. A composite utility plan shall be submitted to the Public Works Department for review and approval before the issuance of any permits.
77. All new SCE transformers and Byrds shall be underground or otherwise screened from public view in a manner that is acceptable to the Community Development Director for any new, residential development.
78. The existing overhead utilities (including telephone, cable and SCE distribution lines) on the project side of 16th Street (Baseline Road) shall be undergrounded from the first pole on the north side of 16th Street (Baseline Road) from the first pole west of the project boundary to the first pole off site east of the project boundary in conformance with the Park View Specific Plan, Development Area A, prior to public improvement acceptance or occupancy release, whichever occurs first, and to the satisfaction of the Public Works Director. All services crossing Baseline Road (within Development Area A) shall be undergrounded at the same time.

Water

79. A separate water meter shall be provided for each parcel (including any necessary easements to provide such services) prior to the recordation of the final map.
80. 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.

81. Appropriate water utility easements for water facility locations shall be shown on water plans. Underground utilities shall maintain a minimum 7-ft. setback from the backside 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.
82. The provision of fire protection water systems, hydrants, and appropriate easements shall be in conformance with the Upland Fire and Public Works Department Standards.
83. Public on-site protection hydrant(s) and water systems shall be installed in accordance with the Upland Fire and Public Works Department Standards.
84. On all commercial/industrial sites, and where an on-site water system for residential development is pressurized by a pump or elevated tank, an RP Backflow Prevention Device shall be installed on the private property side and adjacent to the consumer's water meter.
85. All landscape meter(s) and approved Backflow Device(s) shall be installed and inspected, in accordance with the Public Works Department Standards.
86. All water facilities shall be installed outside any driveways and drive approaches, and shall be in accordance with the Public Works Department Standards.

Sewer

87. Sanitary sewer connections are subject to review, approval, and conditions of the Public Works Director.
88. Easement(s) shall be dedicated to the City of Upland for all public sewer and water systems not located within the public-right-of-way.
89. Relocation of any public sewer lines shall be subject to approval by the Public Works Director.
90. Each Tract Map will reserve easements for ingress and egress for adjacent parcel and or lots.
91. Extend any sanitary sewer line facilities as necessary, including service laterals to serve the entire development, including the payment of any sewer and water connection fees as determined by the Public Works Director.
92. All proposed on-site sewer and drainage facilities shall be private system(s) maintained by the property owner unless otherwise approved by the Public Works Director as public system(s).
93. The Developer shall have all newly installed sewer mains, balled, cleaned, and inspected with closed circuit television (CCTV). CCTV video shall be submitted to the City Public Works Director before acceptance of the sewer lines and placing the system in service.
94. City Staff will inspect all CCTV video submitted of newly installed sewer mains before acceptance of the line for public improvements.

- 95. The Owner/Developer shall provide the necessary Sewer Service Backflow Prevention Device as required by Engineering Directive ED-Z-1.
- 96. All sewer facilities shall be installed outside any driveways and drive approaches, and shall be in accordance with the Public Works Department Standards.
- 97. All on-site sewer mains serving four (4) or more units shall be designed to the satisfaction of the Public Works Director.

Environmental

- 98. This project is subject to the National Pollutant Discharge Elimination System (NPDES) 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 NOI including attachments shall be provided to the City together with 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. Please contact Mr. Thomas Guymon at (909) 931-4370 for details.
- 99. This project is required to file a Notice of Termination (NOT) with the SWRCB upon completion of construction activity. A copy of this NOT must be on file with the City of Upland before occupancy is granted.
- 100. This project is subject to the NPDES Municipal Separate Storm Sewer Systems (MS4) permit and is required to submit a Water Quality Management Plan (WQMP) (reference San Bernardino County MS4 Permit WQMP Guidance, rev. June 9, 2005). 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 this project. The subject WQMP shall be approved prior to the issuance of grading or building permit. Please contact Mr. Thomas Guymon at (909) 931-4370 for details.

In developing the Water Quality Management Plan, the applicant shall infiltrate or treat projected runoff for the new development by an amount equal to or greater than the volume of runoff produced from a storm event through incorporation of design elements that address one or more of the goals set forth below in the subdivisions below. The design elements utilized by an applicant may, but are not required to, include those provided on the list below so long as the required projected runoff infiltration or treatment is achieved:

- A. Maximize permeable areas to allow more percolation of runoff into the ground through such means as:
 - I. Biofilters;
 - II. Green strips;
 - III. Swales.

The use of permeable materials in lieu of or to replace hardscapes will increase the amount of runoff seepage into the ground
- B. Maximize the amount of runoff directed to permeable areas and/or maximize stormwater storage for reuse or infiltration by such means as:

- I. Orienting roof runoff towards permeable surfaces, drywells, French drains, or other structural BMPs rather than directly to driveways or non-permeable surfaces so that runoff will penetrate into the ground instead of flowing off-site
 - II. Grading the site to divert flow to permeable areas
 - III. Using cisterns, retention structures or green rooftops to store precipitation or runoff for reuse
 - IV. Removing or designing curbs, berms or the like so as to avoid isolation of permeable or landscaped areas
- C. Remove pollutants through installation of treatment control BMPs.
- D. The Water Quality Management Plan must also include the applicant's plan for the maintenance of all BMP's requiring ongoing maintenance.
- E. The Water Quality Management Plan must include the applicant's signed statement accepting responsibility for all structural and/or treatment control BMP maintenance. The transfer of property subject to Water Quality Management Plan must include as a written condition to the transfer that the transferee assumes full responsibility for maintenance of any structural, and/or source or treatment control BMPs.
- F. The applicant shall provide a trash and recycling enclosure for the development. No other area shall drain to the enclosed area. The trash enclosures are to be designed to accommodate any City-mandated recycling facilities, subject to review and approval of Public Works Director. The area where a trash receptacle or receptacles are located for use as a repository for solid wastes must meet the following Structural or Treatment Control BMP requirements:
- I. Drainage from adjoining roofs and pavement must be diverted away from the trash storage areas.
 - II. The area must be covered with roof or awning (to prevent rain from entering the area and sewer or storm drain conveyance system), screened or walled to prevent off-site transport of trash, and connected to the sanitary sewer.
 - III. Trash bins must have solid covers and be covered at all times except while being emptied.
- G. The Developer shall comply with the City's Stormwater Pollution Prevention Program in accordance with the NPDES MS4 permit requirements issued by the Regional Water Quality Control Board.
- H. All public and private storm drain inlets are to be stenciled "No-Dumping - I Live Downstream" using stencils provided by the City. Alternative inlet stencils or marking may be permitted, subject to Public Works Director's approval.
- I. The developer is responsible for ensuring that all contractors are aware of all storm water quality measures and that such measures are implemented. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.
- J. The project plans shall include storm water measures for the operation and maintenance of the project for the review and approval of the Public Works Director. The project plans shall identify Best Management Practices (BMPs) appropriate to the uses conducted on site that effectively prohibit the entry of pollutants into storm water runoff.
- K. All on-site storm drains are to be cleaned prior to occupancy and be cleaned each year immediately before the beginning of the rainy season (October 15).
- L. Sidewalks, parking lots, and other paved areas must be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to

prevent entry into the storm drain system. No cleaning agent may be discharged to the storm drain.

- M. Landscaping shall be properly maintained and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution.

Waste Management

101. A Waste Management Plan (WMP) is necessary to demonstrate compliance with the Municipal Code 13.28.620 that requires projects to salvage, reuse, or recycle at least 50% of construction and demolition debris generated by the project. This code was adopted to assist the City of Upland in meeting the State mandated diversion requirement of 50% of all waste generated. In developing a WMP, the owner/developer shall specifically identify:
- A. All waste materials that will be generated
 - B. The procedure for management, control and disposition of all refuse and waste materials generated.
102. All Construction sites shall be required to provide one 10 cu yd roll-off bin for every 10,000 sq ft for construction and debris (C&D) materials. All C&D materials shall be removed from the premises to an approved solid waste facility.
103. All construction sites shall remove all refuse from the premises to an approved waste facility at least once per week.

Grading/Stormdrain/Erosion /Drainage

104. A grading plan shall be approved per all applicable Engineering Directives and the CU-E Series Standard Drawings.
105. All drainage shall be directed on-site to points so indicated upon the subject map/plan. Any deviation will require re-submittal to the Administrative Committee for approval.
106. The Developer shall submit a hydrology study, to the satisfaction of the Public Works Director. Any off-site drainage, which may impact this development, or additional drainage shall be addressed in accordance with the mitigation measures required in the hydrology report before issuance of any permits.
107. Each parcel/lot shall drain to the street or other drainage facility. Cross parcel/lot, drainage shall be minimized. Location, direction, and devices for conveying site drainage to a street shall be subject to review and approval by the Public Works Director.
108. 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.
109. The location of temporary access roads for model/sales trailer sites shall be approved by the Public Works Director and it shall be paved to the satisfaction of the Public Works Director and the Fire Chief.

- 110. All catch basins and storm drain inlet facilities shall be stenciled with the appropriate "No Dumping" message, as supplied by the Public Works Department, Environmental Division.
- 111. The owner/developer shall provide Stormwater acceptance deeds on all parcels/lots subject to runoff water from adjacent parcels/lots. In addition, the owner/developer shall construct permanent concrete swales at appropriate locations intercepting such runoff waters and transporting them off each parcel/lot in a manner approved by the Public Works Director.
- 112. An Erosion Control Plan, and temporary drainage controls during construction shall be required as directed by the Public Works Director.
- 113. The Developer shall be required to submit erosion and sediment control plan to mitigate soil, dirt, and debris from entering the storm drain system as directed by the Public Works Director.
- 114. Dust control operations shall be performed by the Contractor at the time, location and in the amount required 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 work. The Contractor is responsible for compliance with Fugitive Dust Regulations issued by the SCAQMD.
- 115. The Developer shall apply water as often as necessary to all active construction areas to control dust emissions. 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 South Coast Air Quality Management District (SCAQMD), 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.
- 116. The Developer shall provide techniques for minimizing exposure to unsafe noise levels from construction equipment for the work area and surrounding residents to the satisfaction of the Public Works Director.

Landscaping

- 117. Any landscaping proposed within a City utility easement is subject to approval by the Public Works Director and Community Development Director.
- 118. 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.
- 119. All developments require a tree-planting scheme. Residential developments require one tree per 40 feet of residential street frontage with a minimum of one tree per lot. For commercial and industrial developments, the same requirements apply and are subject to exceptions made on a situation-by-situation basis.
- 120. If planting in a parkway, center the tree between the curb and sidewalk.
 - A. If planting in an area without sidewalk plant the tree 4' to 6' from the existing or planned curb or street

- B. Plant trees a minimum of 5 feet from other utilities; a minimum of 10 feet from driveways, water meters, water lines, sewer lines, traffic and directional signs, and fire hydrants; a minimum of 15 feet from street lights; and a minimum of 30 feet from street corners.
- 121. The project frontage shall be fully landscaped, including an automatic irrigation system in accordance with a plan subject to review and approval by the Community Development Director and the Public Works Director in accordance with the Park View Specific Plan.
- 122. Before the final approval of streetscape plans (landscaping, irrigation systems, walks and/or fences, etc.) the hardscape plan(s) that are designed by a registered engineer, are submitted for review and approval by the Community Development Director.
- 123. Any landscaping plans that include work in public rights-of-way shall include a note stating: "A permit shall be obtained from the Public Works Director's Office prior to any work commencing in the public street parkway. The approved Civil Engineering street plans shall be assumed correct if they conflict with these plans."
- 124. The median island at the center of Baseline Road and also Parkview Promenade shall be fully landscaped with a treatment to include low maintenance landscaping and an automatic irrigation system. Center medians shall be metered to and maintained by the City of Upland. Submit a landscape plan for plan check and approval to the Public Works Department Development Service Section prior to the issuance of a permit.
- 125. The Owner/Developer shall provide for maintenance of the landscape areas located along the project frontage that includes parkways and the median island. Any areas currently maintained by the City shall be converted to private maintenance for landscaping and irrigation. The Owner/Developer shall be required to have a meter and controller, separate from the City maintained areas.

Other Agency

- 126. Approval and/or permits may be required from the following agencies:
 - A. CalTrans
 - B. San Bernardino County:
 - I. Health Department
 - E. California Regional Water Quality Control Board, Santa Ana Region for an NPDES Permit or Clearance Letter.

Studies/Reports/CC&R's

- 127. A Noise Study (acoustical analysis) shall be required for any new development within 500 feet of a CalTrans owned R.O.W.
- 128. Conditions, Covenants, and Restrictions (CC&Rs) shall be recorded requiring the provision of the following special features, and maintenance thereof in perpetuity, in conjunction with the approval of this project: A restrictive covenant shall be recorded alerting the home owners of any affected parcel/lots that

those parcel/lots are required to accept and accommodate runoff from other parcel/lots. Said covenant shall prohibit homeowners from modifying drainage facilities and/or flow patterns of their parcel/lots without first obtaining permission from the City. This condition shall be completed prior to recordation of the Tract Map.

129. An Encroachment License Agreement shall be required for all private facilities (such as signs, walls, lighting, landscaping, curbs, parking facilities, etc.) located within the public right-of-way, to the satisfaction of the Public Works Director and the Community Development Director.
130. A Geotechnical Report (no older than one year) shall be submitted for review before the issuance of a grading permit. Reports older than one year are not accepted.

General

131. Owner/Developer is required to arrange for a PRE-CONSTRUCTION MEETING with the Public Works Department before the issuance of any permits for work within public right-of-way or public easements.
132. The Owner/Developer shall employ a qualified PROFESSIONAL ENGINEERING FIRM to perform design and inspection services as outlined in Engineering Directive General Series before issuance of any permits (ED-G-2).
133. Public improvement plans and grading plans shall be submitted for plan check to the Public Works Department as a complete package. A complete package includes street; sewer, water, grading, drainage, and any appropriate reports and back up documents. Incomplete submittals shall be rejected.
134. All plans (including Landscaping Plans) depicting any work to be plan checked by Development Services shall be prepared on 24"x36", 4 mil mylars on City Standard title block. This includes street, sewer, water, grading, storm drain, grading, erosion control, private street design, and landscape plans. No "cut and paste," "sticky-backs," "zip-a-tone," "Kroy lettering," or other tape will be permitted on final originals.
135. As-built plans (including street, sewer, water, and storm drain and grading plans) shall be submitted prior to the last occupancy phase release. Electronic drawing files on compact disc (CD's) shall be submitted to the City for file in the format acceptable by the City prior to the last occupancy phase release.
136. 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.

Miscellaneous

137. Prior to the occupancy for Phase I housing construction, all off-site improvements, including landscaping, lighting, street paving, curb and gutter, sidewalk, handicapped ramps, dry utilities, water, sewer and storm drain facilities, and on-site improvements only to the extent necessary to serve Phase I construction, shall be completed in accordance with the Park View Specific Plan (Development Area A) to the City's satisfaction. The 75-ft. City-owned linear park is not subject to the above, however, development of same shall be completed prior to the issuance of certificate of occupancy for Phase 9 (per approved phasing plan).

138. The requirements for undergrounding overhead utility lines shall be implemented prior to occupancy release of phase 1.
139. 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.
140. The location of the temporary access road for model/sales trailer sites shall be approved by the Public Works Director and it shall be paved to the satisfaction of the Public Works Director and Fire Chief.
141. 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.
142. Adequate drainage/erosion control shall be provided at all times during each phase of development (including model/sales trailer sites). Submit appropriate erosion control plans to the Public Works Department.

Concept Plan/Other

143. The conceptual grading plan and preliminary sewer and water plan are subject to City's review and approval by the Public Works Director. (For conceptual site plan approval).
144. The conditions applied to the conceptual site plan are subject to change due to the Environmental Impact Report and its recommended mitigation measures.
145. The subject property shall be developed in accordance with approved plans and specifications on file with the City of Upland Community Development Department and shall be in compliance with all conditions for approval of Site Plan No. SP-07-11 (246 – Comm. Dev.)
146. Approval shall terminate if the subject map has not been recorded within a two- (2) year period from the date of approval (i.e., prior to 04/23/10), unless an extension of time is obtained. (955/R – Comm. Dev.)

RESOLUTION NO. 4682 (continued)

TT-18707

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 25th day of June 2008, by the following roll call vote:

AYES: Commissioners Cook, Morris, Schauer, Schwary, Sheridan, Timm

NAYS: None ABSENT: Commissioner Tundis



Gery Schwary, VICE CHAIR

ATTEST:



Sylvia Schari, ACTING SECRETARY

**TABLE 9-1
MITIGATION MONITORING PROGRAM**

IDENTIFIED IMPACTS	COMPLIANCE/ MONITORING PROCEDURE	MITIGATION MEASURES/ REGULATORY REQUIREMENTS	RESPONSIBLE PARTY
AESTHETICS AND VISUAL QUALITY			
		<p>Neon and similar types of lighting are prohibited in all areas of Park View Specific Plan.</p> <ul style="list-style-type: none"> • No freestanding residential light fixtures will exceed twenty-five feet in height; parking lot light standards will not exceed thirty feet. In no instance will over wash occur beyond property lines. Playing field light fixtures may exceed these standards. • The lighting concept for the entry monumentation features will illuminate the sign graphics and to gently wash the walls and pilasters with light. Trees and other landscape features will be illuminated by ambient light reflecting off of entrance walls. <p>All electrical meter pedestals and light switch/control equipment shall be located with minimum public visibility or shall be screened with appropriate plant materials.</p>	
<p>AVQ-2: The development of the City Sports Park would establish multiple recreational playing fields in a currently vacant, reclaimed quarry. In order to use the fields at night, lighting would be constructed throughout the City Sports Park. This would introduce new sources of night-time light to the area.</p>	<p>Prior to issuance of permits for the City Sports Park portion</p>	<p>AVQ-2: Prior to issuance of Permits for the City Sports Park, the City of Upland shall prepare a final lighting plan showing the exact locations of light poles and the proposed orientation of the fixtures and directing light and glare away from the homes along the northern, eastern, and southern boundaries of the City Sports Park portion.</p>	<p>Planning Department</p>
AIR QUALITY			
<p>AQ-1: Development of the proposed Master Plan would violate pollutant level thresholds established by the SCAQMD during the construction phase of the Master Plan.</p>	<p>Throughout Construction for the entire Master Plan area</p>	<p>AQ-1: Comply with SCAQMD's Rule 402 and 403. Applicable mitigation measures listed within Rule 402 403, Tables 1, 2 and 3 (Tables 4.2-7, 4.2-8 and 4.2-9 above) shall be utilized. In addition, the contractors will be required to submit a fully executed Large Operation Notification to the SCAQMD's Executive Officer and provide copies to the City of Upland.</p> <p>AQ-2: Reduce construction equipment emissions by implementing the following measures. The following measures should be implemented and be included in grading and improvement plans specifications.</p>	<p>SCAQMD</p>

**TABLE 9-1
MITIGATION MONITORING PROGRAM**

IDENTIFIED IMPACTS	COMPLIANCE/ MONITORING PROCEDURE	MITIGATION MEASURES/ REGULATORY REQUIREMENTS	RESPONSIBLE PARTY
BIOLOGICAL RESOURCES			
<p>BIO-1: The proposed project could adversely affect California gnatcatchers that have formal status under state or federal Endangered Species Acts.</p>	<p>Conduct survey no more than one year prior to construction</p> <p>Measure applies to the entire Master Plan area</p>	<p>BIO-1: The Applicant shall conduct protocol level surveys for coastal California Gnatcatchers in all areas supporting suitable coastal sage scrub habitat that may be affected by the project. This will include a minimum 300-foot buffer. Presence/absence of this species shall be determined no more than one year prior to construction activities. If present, the Applicant shall avoid construction in or adjacent to occupied habitat during the breeding season (March 15-July 31). If direct impacts to coastal California gnatcatcher occupied habitat cannot be avoided, project activities shall not occur in occupied habitat until impacts to this species have been addressed through Section 10(a)(1)(B) process under the Federal Endangered Species Act of 1973, as amended. The Applicant shall complete compliance with the Federal Endangered Species Act prior to project construction. Mitigation measures developed through this process may include restriction of construction activities within coastal sage scrub habitat during the gnatcatcher breeding season (March 15-July 31), restoration/creation/enhancement of on-site coastal sage scrub habitat, and/or the purchasing of land or mitigation bank credits at an appropriate ratio to offset impacts to gnatcatchers and their habitat.</p>	<p>Planning Department</p>
<p>BIO-2: Although no nesting or migratory birds were observed during the site visit, the incidental killing of migratory birds is prohibited by the Migratory Bird Treaty Act and U.S. Fish and Game Code. The killing of nesting or migratory birds by grading or land clearing activities would be considered a potentially significant impact.</p>	<p>Schedule grading outside of breeding season.</p> <p>Measure applies to the entire Master Plan area</p>	<p>BIO-2: To avoid incidental killing of birds protected under the Migratory Bird Treaty Act and the California Fish and Game Code, scheduling initial grading and brush removal of any previously undisturbed habitat shall occur outside the breeding season. No vegetation removal should occur between early spring (15 March) and midsummer (15 July).</p>	<p>Planning Department</p>

**TABLE 9-1
MITIGATION MONITORING PROGRAM**

IDENTIFIED IMPACTS	COMPLIANCE/ MONITORING PROCEDURE	MITIGATION MEASURES/ REGULATORY REQUIREMENTS	RESPONSIBLE PARTY
CULTURAL RESOURCES (Continued)			
	Measure applies to the entire Master Plan area.	<p>C-2: In the event that Native American cultural resources are discovered during project development/construction, all work in the immediate vicinity of the find shall cease and a qualified archaeologist meeting Secretary of Interior Standards shall be hired to assess the find. Work on the overall project may continue during this assessment period.</p> <p>C-3: If significant Native American cultural resources are discovered, for which a Treatment Plan must be prepared, the Applicant or his archaeologist shall contact the Morongo Band of Mission Indians. If requested by the Tribe, the Applicant or the project archaeologist shall, in good faith, consult on the discovery and its disposition (e.g. avoidance, preservation, return of artifacts to tribe, etc.).</p>	
CR-2: Excavation during development may result in the disturbance of previously unidentified paleontological resources, sites, or unique geological features.	<p>During site grading or any other earthmoving activities</p> <p>Measure applies to the entire Master Plan area.</p>	<p>C-4: Fossils found by contractors, or subcontractors during the development of the Master Plan, shall be reported immediately to the Planning Department of the governing jurisdiction (City of Upland or City of Claremont). These officials shall provide direction to contact a paleontological monitor from the San Bernardino County Museum. A member of the museum staff or a museum-authorized paleontologist will be dispatched to monitor the fossil location. All excavation shall cease in the area of the find until the monitor is on-site. If significant fossils (those having potential to increase scientific knowledge; including all identifiable vertebrate remains) are encountered on the property, the following mitigation procedures shall be followed:</p> <ul style="list-style-type: none"> • The paleontologist retained for the project shall immediately evaluate the fossils that have been discovered to determine if they are significant and, if so, to develop a plan to collect and study them for the purpose of mitigation. • If fossils are found, the paleontologic monitor shall be empowered to temporarily halt or redirect excavation equipment to allow evaluation and removal of the fossils as needed. To minimize construction delays, the monitor should be equipped to speedily collect specimens if they are encountered. 	San Bernardino County Coroner/Planning Department

**TABLE 9-1
MITIGATION MONITORING PROGRAM**

IDENTIFIED IMPACTS	COMPLIANCE/ MONITORING PROCEDURE	MITIGATION MEASURES/ REGULATORY REQUIREMENTS	RESPONSIBLE PARTY
GEOLOGY AND SOILS (Continued)			
<p>G-2: Construction activities such as grading, excavation or any other soil disturbing activities may expose bare soils to erosion and loss of soils.</p>	<p>Throughout construction of the site.</p> <p>Measure applies to the entire Master Plan area.</p>	<p>G-2: Grading activities shall be minimized and performed immediately prior to any new construction activities.</p> <p>G-3: Disturbed soils shall be watered at least twice daily to ensure the control of fugitive dust escaping off-site.</p> <p>G-4: A National Pollutant Discharge Elimination System permit shall be obtained before construction is started. To obtain the permit, a SWPPP must be submitted showing how storm waters will be controlled through BMP's to avoid off-site sedimentation.</p> <p>G-5: Soils left bare or inactive for longer than thirty days shall be planted with ground cover or covered by approved means to assure no loss of topsoil.</p>	<p>Planning Department</p>
HAZARDS AND HAZARDOUS MATERIALS			
<p>II-1: The proposed Park View Specific Plan may include the construction and operation of a fueling station. This would introduce the potential of an accidental release of hazardous materials to the environment, and potential exposure to people.</p>	<p>Prior to the issuance of occupancy permits.</p> <p>Measure applies to the Park View Specific Plan portion only.</p>	<p>II-1: Prior to issuance of occupancy permits for businesses that would use, store, or transport hazardous materials, the Applicant shall submit detailed building plans showing where storage areas would be located and where use would occur, to City and County agencies responsible for oversight and permitting such businesses. In conjunction with building plans the Applicant shall propose a Business Emergency Response Plan to be approved prior to occupancy.</p> <p>II-2: All proposed tenant improvements or change of business/occupancy applications shall require the submittal of detailed site plans indicating the location of hazardous material storage areas. The Applicant shall concurrently submit a Business Emergency Response Plan to be approved prior to occupancy.</p>	<p>Building Department</p>

**TABLE 9-1
MITIGATION MONITORING PROGRAM**

IDENTIFIED IMPACTS	COMPLIANCE/ MONITORING PROCEDURE	MITIGATION MEASURES/ REGULATORY REQUIREMENTS	RESPONSIBLE PARTY
HYDROLOGY AND WATER QUALITY			
<p>HWQ-1: Construction activities associated with the Park View Specific Plan portion of the Master Plan would alter the drainage pattern of the site, increasing on-site flow by changing the impermeable surfaces on-site. Development of the site would also alter the patterns of flows from the existing drainages entering the site from the east and southeast.</p>	<p>Prior to the issuance of grading permits; measure applies to the entire Master Plan area.</p>	<p>HWQ-1: Prior to issuance of grading permits, the Applicant shall submit a detailed storm water drainage plan that includes design drawings for the drainage facilities that would capture, hold and/or convey storm water through the site and that the proposed infrastructure will accommodate resulting flows in a 100 year storm event. The plans shall be subject to approval of the City of Upland Public Works Department.</p>	<p>Public Works Department</p>
<p>HWQ-2: During storm events, construction activities, particularly vegetation removal, grading and excavation, could affect the amounts of sediments and suspended solids leaving the site ultimately affecting water quality down stream.</p>	<p>Prior to the issuance of grading permits; measure applies to the entire Master Plan area.</p>	<p>HWQ-2: Prior to issuance of any grading permits, the Applicant shall prepare a Water Quality Management Plan and submit proof of the filing of a Notice of Intent (NOI) for coverage under the State General Permit to comply with RWQCB requirements for storm water discharge. The Applicant shall comply with NPDES requirements of the SWPPP and WQMP and employ BMPs identified in the documents during all phases of construction. BMPs shall be shown on all construction drawings and grading plans for the Park View Specific Plan portion of the Master Plan.</p>	<p>Public Works Department</p>
<p>HWQ-3: Development of vacant land within the Park View Specific Plan portion of the Master Plan project site would result in new quantities of urban pollutants entering the local drainages thereby creating or contributing runoff water which would provide substantial additional sources of polluted runoff; or otherwise substantially degrade water quality, and violate any water quality standards or waste discharge requirements.</p>	<p>Prior to the issuance of grading permits; measure applies to the entire Master Plan area.</p>	<p>HWQ-3: Prior to issuance of grading permits, the Applicant shall prepare a Water Quality Management Plan and file a Notice of Intent (NOI) to comply with RWQCB requirements for storm water discharge, including a full description of the discharge and a demonstration of compliance with EPA-specified effluent limits.</p> <p>HWQ-4: Landscaping plans shall include provisions for controlling and minimizing the use of fertilizers/pesticides/herbicides. Plans for these areas shall be submitted to the City for review and approval prior to the issuance of grading permits.</p> <p>HWQ-5: Landscaped areas shall include use of bio-swales and natural filters to the extent feasible.</p>	<p>Public Works Department</p>

**TABLE 9-1
MITIGATION MONITORING PROGRAM**

IDENTIFIED IMPACTS	COMPLIANCE/ MONITORING PROCEDURE	MITIGATION MEASURES/ REGULATORY REQUIREMENTS	RESPONSIBLE PARTY
NOISE (Continued)			
<p>NOI-2: The surrounding land uses may be subject to noise levels in excess of the City Noise Standards during operation of the Park View Specific Plan developments both due to increased traffic and on-site activities.</p>	<p>Throughout the operation of the retail portion of the project; applies to Park View Specific Plan portion only</p>	<p>NOI-3: Deliveries to the major retail store area loading docks and operation of heavy trucks along the northeast boundary of the project between the retail stores and the residential areas shall be restricted to the hours between 7:00 a.m. and 11:00 p.m. Signs, approved by the City of Upland shall be placed at the loading docks describing this restriction. If the nighttime restriction is not amenable to the tenants of the retail/grocery store and/or adjacent retail stores, then they have the option of having a noise assessment prepared showing that they can comply with the City of Upland Noise Ordinance. The noise assessment shall identify the number of truck deliveries, the types of trucks to be used, the hours of delivery and any measures necessary to insure that compliance with the ordinance will be obtained. The noise assessment shall be submitted to the City, and the City shall review and approve the assessment and proposed mitigation measures prior to the issuance of occupancy permits.</p> <p>NOI-4: A sound wall shall be located at the property line between the residences and retail center as shown in Figure 4.10-5. The sound wall shall be 12 feet high near the westernmost residences and then decreases to 8 feet for the remaining residences (will vary depending upon the noise study requirements). (The sound wall also provides needed protection to the residences from traffic on SR-210) To be effective, noise barriers are required to have a surface density of at least 3.5 pounds per square foot, and have no openings or cracks. They may be a solid wall, an earthen berm, or a combination of the two. They may be constructed of wood studs with stucco exterior, 1/4 inch plate glass, 5/8 inch plexiglass, any masonry material, or a combination of these materials. Caltrans Encroachment Permit (Temporary Encroachment Permit) shall be submitted to the City of Upland.</p>	<p>Planning Department</p>

**TABLE 9-1
MITIGATION MONITORING PROGRAM**

IDENTIFIED IMPACTS	COMPLIANCE/ MONITORING PROCEDURE	MITIGATION MEASURES/ REGULATORY REQUIREMENTS	RESPONSIBLE PARTY
NOISE (Continued)			
<p>NOI-3: The residents within the vicinity of the proposed project may be subject to noise levels in excess of the City Noise Standards during operation of the City Sports Park.</p>	<p>Prior to the issuance of grading permits; applies to the City Sports park only.</p>	<p>NOI-8: Prior to issuance of grading permits, a noise study shall be prepared for the City Sports Park portion of the project by a qualified acoustical engineer. The noise study will examine the noise generated by SR-210 and describe the measures required to ensure that regular use areas of the City Sports Park are not exposed to noise levels in excess of 70 CNEL and passive use areas of the City Sports Park are not exposed to levels in excess of 65 CNEL.</p>	<p>Planning Department</p>
TRAFFIC AND CIRCULATION			
<p>TC-1: The proposed project would increase vehicle trips/traffic levels, and affect the level of service along arterial roadways and intersections.</p>	<p>Prior to the issuance of occupancy permits; measure applies to the entire Master Plan site</p>	<p>TC-1: Baseline Road, adjacent to the project site: Widen and improve Baseline Road bordering the project site to ultimate half-section width per the City of Upland Circulation Element.</p> <p>Baseline Road at Driveway #1: It is recommended that Driveway #1 provide one inbound lane and two outbound lanes (one exclusive left-turn lane and one exclusive right-turn lane). It is recommended that a three-phase traffic signal be installed at this project driveway. This improvement will cost approximately \$120,000.00 and is the sole responsibility of the proposed project.</p> <p>Baseline Road at Driveway #2: It is recommended that Driveway #2 provide one inbound lane and one outbound lane (one exclusive right-turn lane). It is recommended that a "STOP" sign and stop bar be installed at this project driveway.</p> <p>Baseline Road at Park View Promenade: It is recommended that Park View Promenade provide two inbound lanes and two outbound lanes (one exclusive left-turn lane and one shared through/right-turn lane). It is recommended that the existing traffic signal be modified for five-phase operation with protected eastbound and westbound left-turn phasing. This improvement will cost approximately \$75,000.00 and is the sole responsibility of the proposed project.</p> <p>Baseline Road at Driveway #4: It is recommended that Driveway #4 provide one inbound lane and one outbound lane (one exclusive right-turn lane). It is recommended that a "STOP" sign and stop bar be installed at this project driveway.</p>	<p>Planning Department/City Traffic Engineer</p>

**TABLE 9-1
MITIGATION MONITORING PROGRAM**

IDENTIFIED IMPACTS	COMPLIANCE/ MONITORING PROCEDURE	MITIGATION MEASURES/ REGULATORY REQUIREMENTS	RESPONSIBLE PARTY
PUBLIC UTILITIES AND INFRASTRUCTURE (Continued)			
<p>PU-3: The proposed project would result in the development of more intense land uses than what currently exists on-site, which may require the construction of new storm water drainage facilities or expansion of existing facilities.</p>	<p>Prior to the issuance of grading permits; measure applies to Park View Specific Plan portion only</p>	<p>PU-2: The project Applicant would be required to submit a Stormwater Drainage Plan to be approved by the City of Upland, prior to any earth-disturbing activities, for the Park View Specific Plan portion of the Master Plan. The Stormwater Drainage Plan shall describe necessary improvements and demonstrate that infrastructure to be developed will accommodate resulting flows in a 100 year storm event.</p> <p>PU-3: The City of Upland would prepare a Stormwater Drainage Plan to be approved, prior to any earth-disturbing activities, for the City Sports Park portion of the Master Plan. The Stormwater Drainage Plan shall describe necessary improvements and demonstrate that infrastructure to be developed will accommodate resulting flows in a 100 year storm event.</p>	<p>Planning Department</p>
<p>PU-4: The proposed project would result in the development of more intense land uses than what currently exists on-site, and therefore would increase the burden on the existing solid waste system.</p>	<p>Prior to the issuance of building permits; measure applies to Park View Specific Plan portion only</p>	<p>PU-4: Prior to the issuance of building permits, the Applicant shall ensure that required governmental approvals and any associated agreements, and methods to track quantity of waste and recycling, are secured for providing solid waste service by the City of Upland to the 2.4 acres in Claremont.</p>	<p>Public Works Department</p>

EXHIBIT D DEVELOPMENT IMPACT FEE - TABLE

Development Impact Fees

Land Use	Qty.	General	Fire	Police	Park Quimby	Traffic	Water	Sewer	Storm Drain	Total ¹
Single Family (Per Dwelling Unit)	DU	\$993.00	\$504.00	\$902.00	\$10,700.00	\$1,904.00	\$3,768.00	\$1,305.00	\$2,856.00	\$22,932.00
Multi-Family (Per Dwelling Unit)	DU	\$853.00	\$432.00	\$774.00	\$9,182.00	\$1,169.00	\$2,900.00	\$918.00	\$2,315.00	\$18,543.00
Commercial (Per 1,000 Bldg Sq.Ft)	SF	\$161.00	\$235.00	\$147.00	N/A	\$5,109.00	\$1,559.00	\$793.00	\$4,029.00	\$12,033.00
Office (Per 1000 Bldg Sq.Ft)	SF	\$262.00	\$381.00	\$239.00	N/A	\$2,809.00	\$1,530.00	\$556.00	\$2,968.00	\$8,745.00
Industrial (Per 1000 Bldg Sq.Ft)	SF	\$161.00	\$235.00	\$147.00	N/A	\$1,622.00	\$890.00	\$667.00	\$3,570.00	\$7,292.00

DU - Dwelling Unit

SF - Square Feet

PASS THROUGH FEES²

IEUA FEES ³	PER EQUIVALENT DWELLING UNIT	
		\$5,415.00
C-1	OFFICE, RETAIL STORES, RECREATION-AMUSEMENT, FAST FOOD RESTAURANT, BAR, TAVERN	Based on Fixture Unit Counts
C-2	MARKET (WITH BUTCHER SHOP), BAKERY, MORTUARY	Based on Fixture Unit Counts
C-3	HOSPITAL, CONVALESCENT HOME, HEALTH SPA WITH POOL, FULL SERVICE RESTAURANT	Based on Fixture Unit Counts
C-4	LAUNDRY, DRY CLEANER	Based on Fixture Unit Counts
C-5	CAR WASH, COIN OPERATED CARWASH	Based on Fixture Unit Counts
C-6	CHURCH, SCHOOL, PUBLIC FACILITIES	Based on Fixture Unit Counts
C-7	HEALTH SPA WITHOUT A POOL	Based on Fixture Unit Counts
C-7	LAUNDROMAT WITH WATER EFFICIENT/CONSERVING WASHERS (2 FU'S/WASHER UNIT)	Based on Fixture Unit Counts
SCHOOL FEES ⁴	3.36/SQ. FT. RESIDENTIAL (COLLECTED BY UPLAND UNIFIED SCHOOL DISTRICT)	
	0.54/SQ. FT. COMMERCIAL/INDUSTRIAL (COLLECTED BY UPLAND UNIFIED SCHOOL DISTRICT)	

1. For estimate purposes only, all fees are subject to increase, annual indexing, and additional project requirements.
2. Pass through Fees are subject to increase.
3. Pass through fee for Inland Empire Utilities Agency (IEUA) is subject to increase per Resolution No. 6306 effective 01/01/2016.
4. School Fees are collected by Upland Unified School District, 390 N. Euclid Avenue (909) 985-1864. Fees is subject to increase.

EXHIBIT E

EXISTING LAND USE REGULATIONS

All ordinances, resolutions, codes, rules, regulations and official written policies of CITY governing the development and use of land, including, without limitation, the permitted use of land, the intensity of use, subdivision requirements, the maximum height and size of proposed buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction standards' and specifications applicable to the development of the property, existing on the Effective Date of the Agreement, as modified or supplemented by the Existing Development Approvals and Subsequent Development Approvals.

EXHIBIT F

PUBLIC IMPROVEMENTS

“Off Site Public Improvements” to be constructed by Developer.

1. Street Improvements on Baseline Road and Parkview Promenade per City Approved Improvement Plans (SI 14-01)
2. Traffic Signal Modifications per City Approved Improvement Plans (TS 14-01 and TS 16-01)
3. Street Lighting Parkview Promenade per City Approved Improvement Plans (SL 14-01)
4. Storm Drain Improvements per City Approved Improvement Plans (SD 14-01)
5. Sewer Improvements per City Approved Improvement Plans (SS 14-01)
6. Water Improvements per City Approved Improvement Plans (W 14-01)
7. Reclaimed Water Improvements per City Approved Improvement Plans (RW 14-01)
8. City Storm Drain per City Approved Improvement Plans (from the City Park to Holliday Rock Pit) (SD-9640)
9. Landscape improvements per City Approved Improvement Plans (LS 14-01)
10. Lineal Park Improvements per City Approved Improvement Plans (LS 16-01)

Dry Utilities (electric power, telephone, gas, cable) are to be installed in coordination with the relevant utility and the City.

On Site Public Improvements to be constructed by DEVELOPER or assignee in Planning Areas 1, 2, 3, 4 & 5:

1. Sewer Improvements per City Approved Improvement Plans (SS 14-01A)
2. Water Improvements per City Approved Improvement Plans (W 14-01A)
3. Recycled Water Improvements per City Approved Improvement Plans (W 14-01C)
4. Dry Utilities (electric power, telephone, gas, cable).

- PHASE I - PUBLIC INFRASTRUCTURE IMPROVEMENTS TO SERVE PROJECT AND INSTALLATION OF ASSOCIATED LANDSCAPE AND HARDSCAPES (INCLUDING ALL IMPROVEMENTS TO BASELINE ROAD FRONTAGE AS IDENTIFIED ON APPROVED PLANS - PER SECTION 3.4 OF THIS DEVELOPMENT AGREEMENT)
- PHASE II - MASS AND ROUGH GRADING AND INSTALLATION OF PERIMETER STRUCTURAL WALLS; INSTALLATION OF THE PRIMARY ROCK CONVEYOR BELT SYSTEM STRUCTURE
- PHASE III - ROUGH GRADING AND INSTALLATION OF PERIMETER STRUCTURAL WALLS; PRIVATE STORM SYSTEM INSTALLATION; COMPLETE THE ROCK CONVEYOR TRANSFER STATION STRUCTURES
- PHASE IV - MASS AND ROUGH GRADING AND INSTALLATION OF PERIMETER STRUCTURAL WALLS
- PHASE V - MASS AND ROUGH GRADING AND INSTALLATION OF PERIMETER STRUCTURAL WALLS

NOTE:
 PHASING IS INTENDED TO BE SEQUENTIAL
 BUT MAY BE ADJUSTED AS MARKET
 DEMANDS MAY APPLY

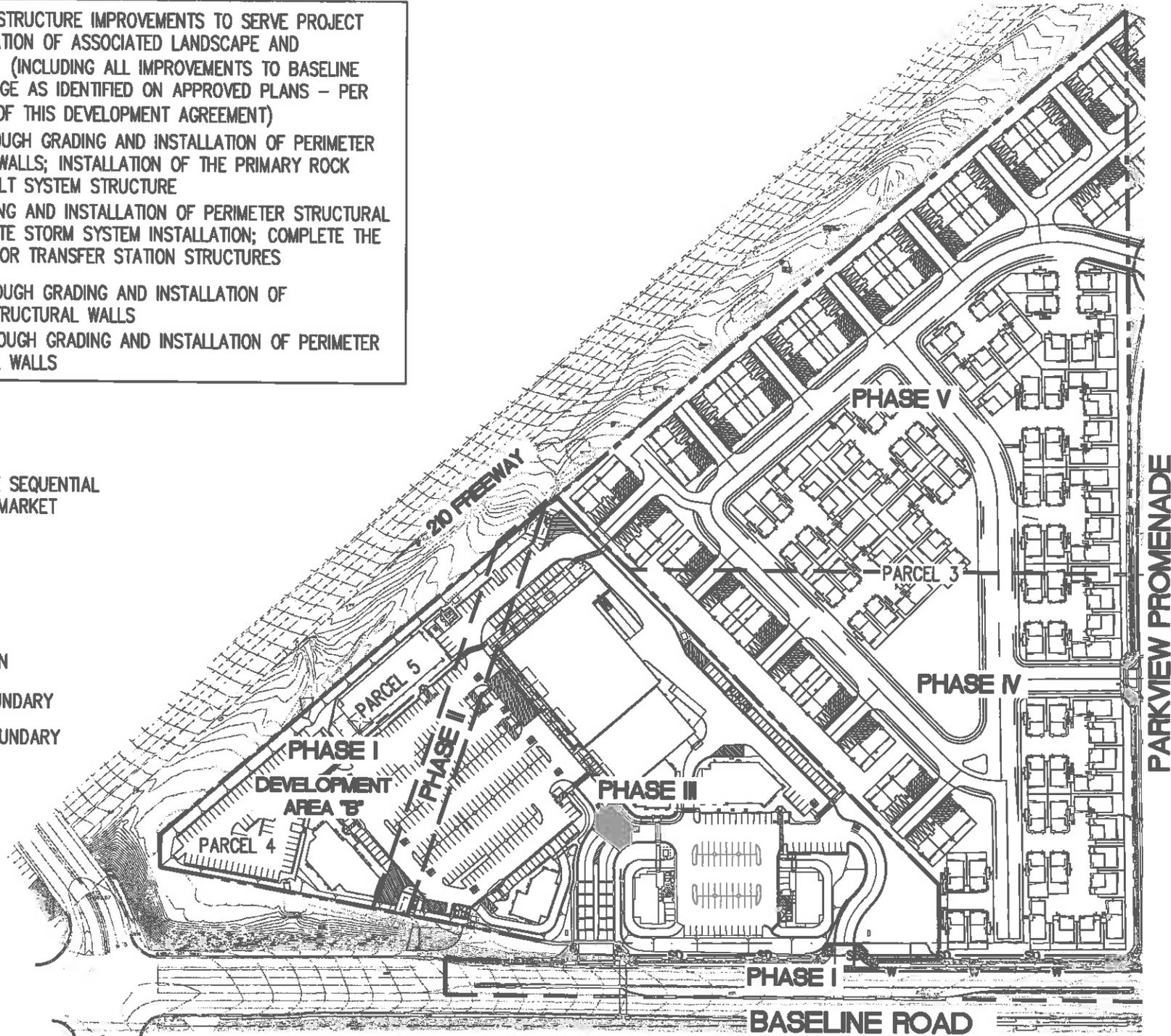
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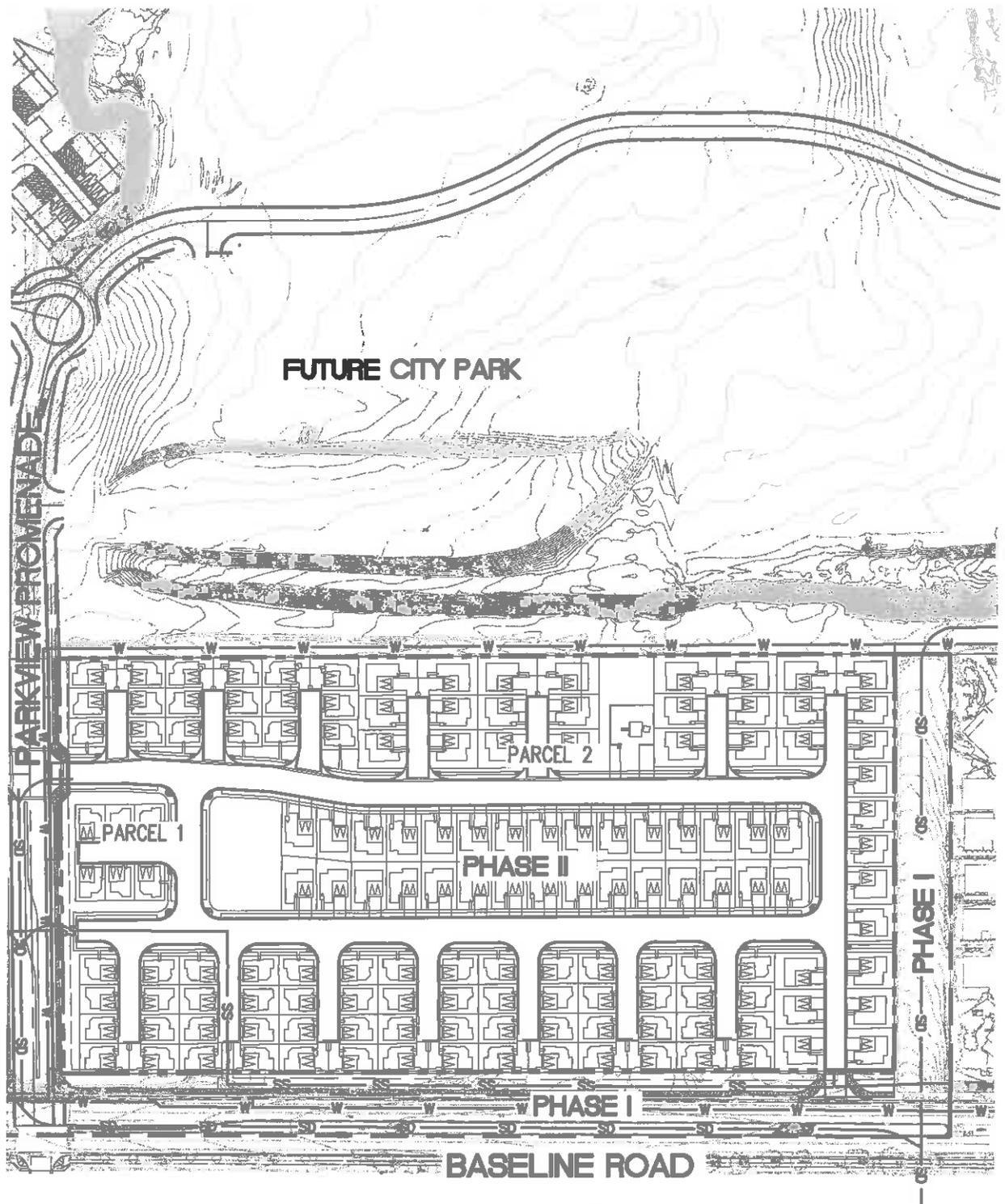
- SS— SEWER
- W— WATER
- SD— STORM DRAIN
- - - - - PARCEL BOUNDARY
- — — — — PHASING BOUNDARY



EXHIBIT G

(1 OF 2)





PHASE I – PUBLIC INFRASTRUCTURE IMPROVEMENTS TO SERVE PROJECT AND INSTALLATION OF ASSOCIATED LANDSCAPE AND HARDSCAPES (INCLUDING ALL IMPROVEMENTS TO BASELINE ROAD FRONTAGE AS IDENTIFIED ON APPROVED PLANS – PER SECTION 3.4 OF THIS DEVELOPMENT AGREEMENT)

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PHASE IV – MASS AND ROUGH GRADING AND INSTALLATION OF PERIMETER STRUCTURAL WALLS

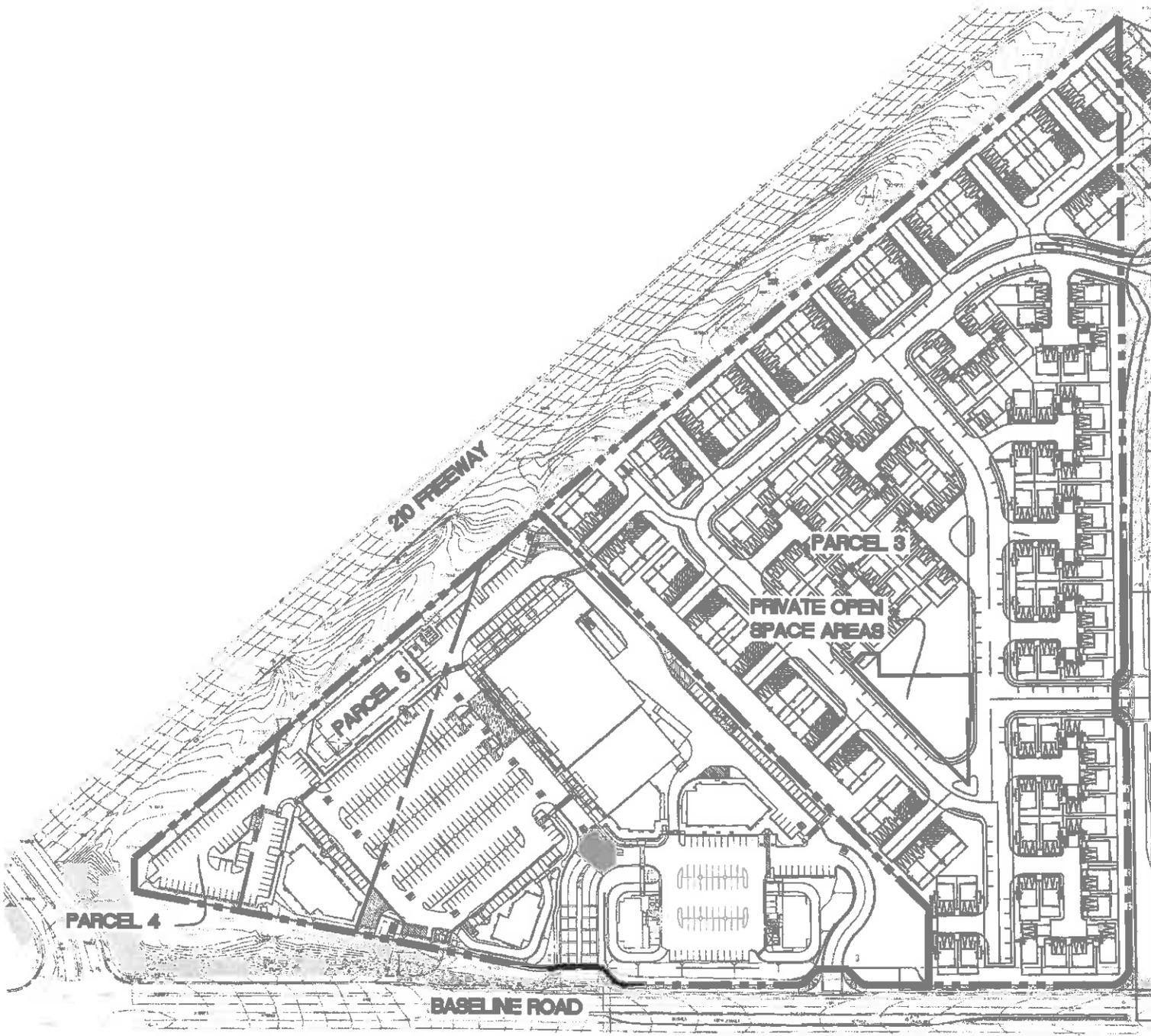
NOTE:
PHASING IS INTENDED TO BE SEQUENTIAL BUT MAY BE ADJUSTED AS MARKET DEMANDS MAY APPLY

LEGEND:

- SS— SEWER
- W— WATER
- SD— STORM DRAIN
- - - - - PARCEL BOUNDARY
- — — PHASING BOUNDARY



EXHIBIT G
(2 OF 2)



SEE EXHIBIT H (2 OF 2)

EXHIBIT H (1 OF 2)

SEE EXHIBIT H (1 OF 2)

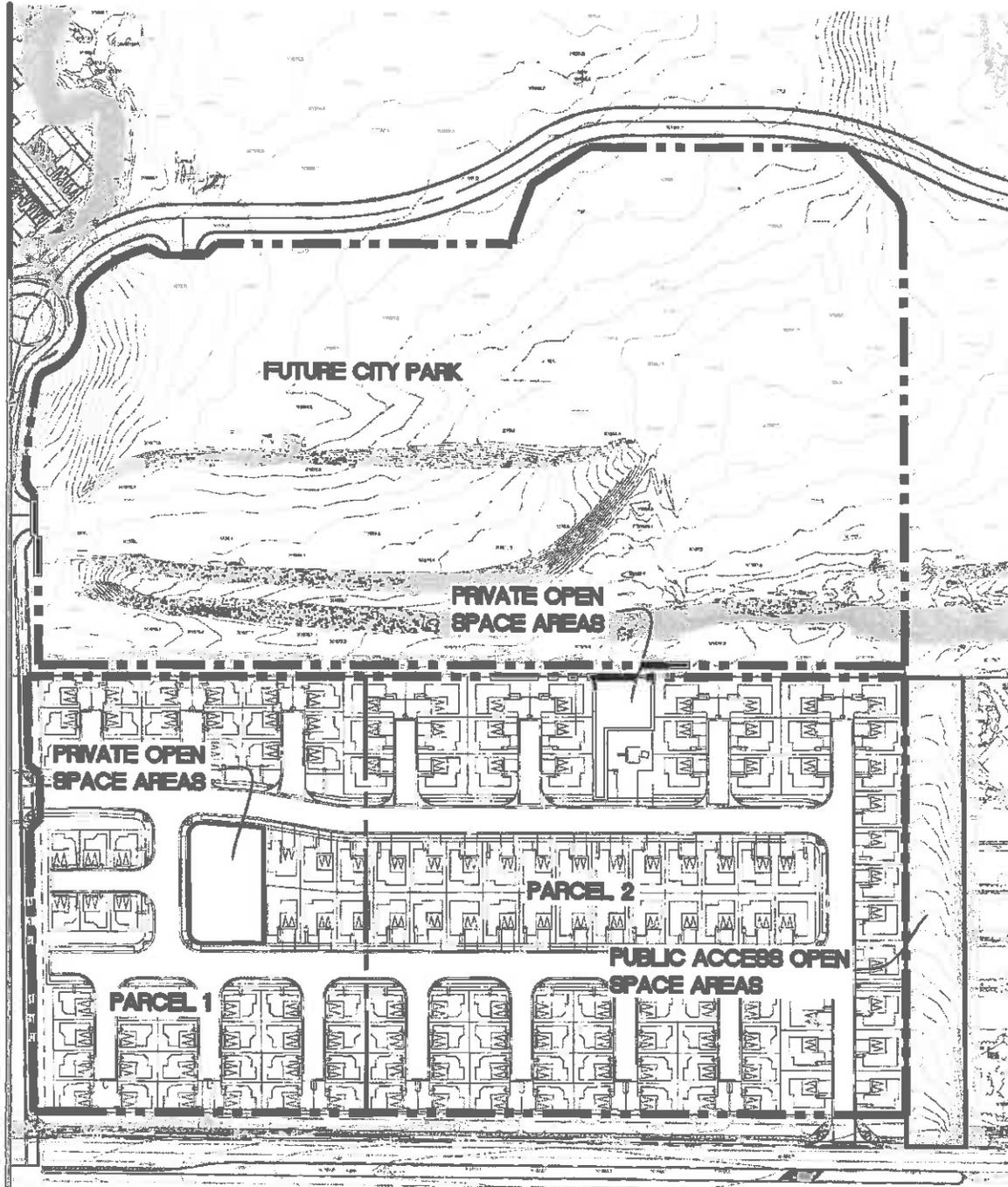


EXHIBIT H (2 OF 2)



EXHIBIT I

Storm Drain Credit Schedule

Storm Drain Component(s)	Quantity	Unit	Cost Share		Fair Share Percentage		Fair Share Amount	
			Unit Price	Amount	City	BP	City	BP
Mobilization, develop water supply, traffic control, construction surveying, potholing and utility verification and SWPPP	1	LS	\$ 53,321.00	\$ 53,321.00	61.4%	38.6%	\$ 32,731.70	\$ 20,589.30
Construction management	1	LS	\$ 37,806.30	\$ 37,806.30			\$ 31,431.85	\$ 6,374.45
Install 54" RCP (2000D)	878	LF	\$ 435.00	\$ 381,930.00	100.0%	0.0%	\$ 381,930.00	\$ -
Install 60" RCP (2000D)	102	LF	\$ 483.00	\$ 49,266.00	61.4%	38.6%	\$ 30,242.50	\$ 19,023.50
Install 60" HDPE	461	LF	\$ 219.00	\$ 100,959.00	61.4%	38.6%	\$ 61,974.83	\$ 38,984.17
Construct Manhole Structure Pipe to Pipe Side Inlet	1	EA	\$ 5,500.00	\$ 5,500.00	61.4%	38.6%	\$ 3,376.24	\$ 2,123.76
Construct Manhole Structure Pipe to Pipe	2	EA	\$ 5,500.00	\$ 11,000.00	100.0%	0.0%	\$ 11,000.00	\$ -
Construct Manhole Safety Ledge	1	EA	\$ 12,000.00	\$ 12,000.00	61.4%	38.6%	\$ 7,366.34	\$ 4,633.66
Construct Type A Headwall with Wingwalls	1	EA	\$ 15,000.00	\$ 15,000.00	100.0%	0.0%	\$ 15,000.00	\$ -
Construct Type A Headwall with Wingwalls	1	EA	\$ 15,000.00	\$ 15,000.00	61.4%	38.6%	\$ 9,207.92	\$ 5,792.08
Install Trash Rack	1	EA	\$ 7,500.00	\$ 7,500.00	100.0%	0.0%	\$ 7,500.00	\$ -
Install Trash Rack	1	EA	\$ 7,500.00	\$ 7,500.00	61.4%	38.6%	\$ 4,603.96	\$ 2,896.04
Construct Concrete Pipe Anchor	24	EA	\$ 2,500.00	\$ 60,000.00	61.4%	38.6%	\$ 36,831.68	\$ 23,168.32
Construct Concrete Collar	2	EA	\$ 1,500.00	\$ 3,000.00	61.4%	38.6%	\$ 1,841.58	\$ 1,158.42
Construct HDPE to RCP Connection	1	EA	\$ 1,000.00	\$ 1,000.00	61.4%	38.6%	\$ 613.86	\$ 386.14
Construct Concrete Cradle	54	LF	\$ 75.00	\$ 4,050.00	61.4%	38.6%	\$ 2,486.14	\$ 1,563.86
Construct Grouted Rock Energy Dissipater	35	CY	\$ 300.00	\$ 10,532.45	100.0%	0.0%	\$ 10,532.45	\$ -
Construct Grouted Rock Energy Dissipater	62	CY	\$ 300.00	\$ 18,567.55	61.4%	38.6%	\$ 11,397.90	\$ 7,169.65
Total:				\$ 793,932.30			\$ 660,068.95	\$ 133,863.35



**DEVELOPMENT SERVICES DEPARTMENT
PLANNING DIVISION
Telephone (909) 931-4130
Facsimile (909) 931-4321**

April 26, 2016

San Bernardino County Recorder
222 W Hospitality Lane
San Bernardino, CA 92415

Subject: Certification that the attached is a true copy of the original, Park View Upland Development Agreement

To whom it may concern:

Pursuant to Government Code 27361.7, I certify, under the penalty of perjury, that each document being submitting for recording is a "true copy of the original."

This letter is to certify that the attached document, Park View Upland Development Agreement, presented for recordation is a legible "true copy of the original". It may contain modifications to the first document by handwriting or typewriting and attached the same to the original as a part of the document for making the permanent photographic record. I hereby certify, as the party creating the copy, under penalty of perjury that this is a true copy of the original.

The attached Notary Certificate is provided as evident that signature on this letter is indeed my own. If you should have any questions, please contact Jerry Guarracino, AICP at (909) 931-4327 or jguarracino@ci.upland.ca.us.

Sincerely,

A handwritten signature in cursive script that reads "Jerry Guarracino".

Jerry Guarracino, AICP
Contract Senior Planner
Development Services Division

ACKNOWLEDGMENT

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

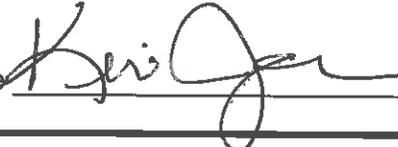
State of California
County of San Bernardino

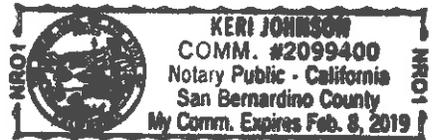
On April 26, 2016 before me, Keri Johnson, Notary Public
(insert name and title of the officer)

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

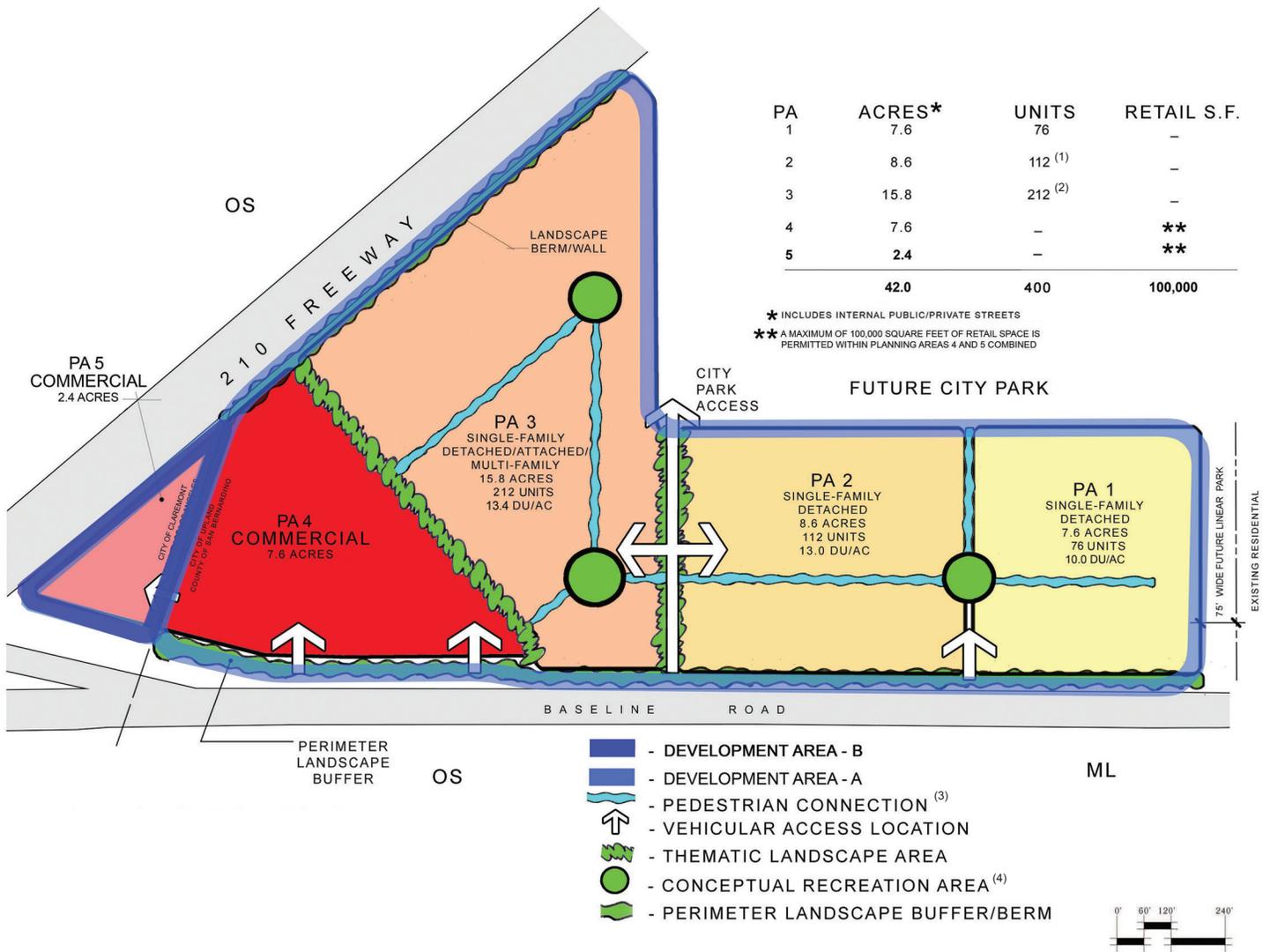
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)



Chapter 1
SECTION 1. EXECUTIVE SUMMARY



1. Represents a target maximum number of dwelling units in Planning Area 2. Dwelling units assigned to Planning Area 1 not developed in Planning Area 1 may be transferred to Planning Areas 2 or 3 provided the total number of dwelling units in the project does not exceed 400 and the project complies with all applicable development standards.
2. Represents a target maximum number of dwelling units for Planning Area 3. Dwelling units assigned to Planning Areas 1 and 2 which are not developed in these Planning Areas may be transferred to Planning Area 3 provided the total number of dwelling units does not exceed 400 and the project complies with all applicable development standards.
3. Location indicated is conceptual. Final location may vary based on final design of each Planning Area. Pedestrian connections will be a minimum 5 foot width and may be located within street right of way.
4. Locations indicated are conceptual. Final location may vary based on the final design of each Planning Area.



Exhibit 1-3
Land Use Plan



STAFF REPORT

ITEM NO. 14.B.

DATE: December 10, 2018
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, ACTING CITY MANAGER
PREPARED BY: JAMES L. MARKMAN, CITY ATTORNEY
JEANNETTE VAGNOZZI, ACTING CITY MANAGER
SUBJECT: ACTION TO FILL CITY COUNCIL VACANCY

RECOMMENDED ACTION

It is recommended that the City Council consider the following options to fill the City Council Vacancy:

- 1) Direct staff to initiate a process for appointment of a resident and registered voter of the City of Upland; or
- 2) Direct staff to bring back the required resolutions to call for an all-mail ballot special election; or
- 3) Direct staff to bring back required resolutions to call for a special election.

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

When Council Member Elliott is sworn into office as Council Member, District 2, a vacancy will be created in her then previously held at-large Council seat. There are two years remaining on the term of office. City Council is required to take action as to how the vacancy will be filled on or before February 8, 2019. The election code provides the following options for filling the vacancy:

1. Appoint a person to fill the vacant at-large Council position for the remainder of the unexpired term of that position; or
2. Call for a Special Mailed Ballot Election to occur on May 7, 2019 to fill the vacant at-large Council position, once assured that the responsible officials will conduct that election; or
3. Call for a Special Election to occur on November 5, 2019 to fill the vacant at-large Council position for the remainder of the unexpired term of that position.

ISSUES/ANALYSIS

The Council's options are governed by California Government Code Section 36512. The section establishes a 60 day period commencing after the vacancy occurs in which the Council must either appoint a person to fill the vacancy or call for a Special Election to do so. Assuming that the vacancy will occur on December 10, 2018, the period of time in which the Council must take one of the two actions concludes on February 8, 2019.

As to the option to appoint to fill the vacancy, it is necessary to determine the length of the term of office for the appointed person. If the office is deemed to have become vacant during the first half of Councilmember Elliott's at-large term of office, the appointment only would provide an interim term of office ending when a Special Election to fill the seat could be conducted. If the office is deemed to have become vacant during the second half of the at-large term, the appointee would hold the office for the remainder of the at-large term. It is our view that the vacancy should be considered to have occurred in the second half of that at-large term of office since the election cycle in the middle of that 4 year term will have been completed and the second half of that at-large term will begin with the seating of a new City Council. In addition, it is speculative to count the total days of the four year at-large term because the end of that term will occur when the Mayor and Council member elected in 2020 take their oaths of office. The date of that event is unknown, but could occur in late November or early December of 2020 depending upon when the San Bernardino County Registrar provides certified election results to the City. Once those results are supplied, the Council could call a special meeting, certify the results of the election and have the newly elected officials sworn in, all within 24 hours of receiving the information from the County. In other words, the Council may then act to ensure that the vacancy occurred in the second half of the four year at-large term.

As to the option to call a Special Election to fill the vacancy, Government Code section 36512 requires that election to occur no earlier than 114 days from the date when the vacancy occurs. Accordingly, the election could not be conducted until April 3, 2019. The code section also requires the Special Election to occur on "an established election date." Established election dates are specified in California Elections Code section 1000. That code section presently provides for an established election date in June of each year. However, Elections Code section 1000 has been modified effective January 1, 2019 and all June election dates have been eliminated from the list of established election dates. And the next available established election date listed in Elections Code section 1000 is now the first Tuesday after the first Monday of November. That date is November 5, 2019.

Should the Council wish to proceed by mailed ballot only, Election Code section 1500 establishes additional eligible dates, including the first Tuesday after the first Monday of May, which would be May 7, 2019. Pursuant to Elections Code section 4004, the Council (as a "small" City of less than 100,000 in population) could set an all mailed ballot Special Election to fill the Council vacancy. That election would occur on May 7, 2019. However, City staff and San Bernardino County officials would need to assure the Council that such an all mailed ballot election will be conducted should the Council choose that option. Some counties have refused to do so.

FISCAL IMPACTS

Should the City Council decide to conduct an open selection process for appointment, the limited costs may be approximately \$500 to \$1,000.

Should the City Council decide to call an all-mail ballot special election to fill the vacancy, the cost of the special election would be approximately \$60,000 to \$80,000.

Should the City Council decide to call a special election to fill the vacancy, the cost of the special election would be approximately \$90,000 to \$110,000.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

No Attachments Available



STAFF REPORT

ITEM NO. 14.C.

DATE: December 10, 2018
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, ACTING CITY MANAGER
PREPARED BY: JEANNETTE VAGNOZZI, ACTING CITY MANAGER
SUBJECT: RESOLUTION REPEALING AND RESCINDING RESOLUTION NO. 6446

RECOMMENDED ACTION

It is recommended that the City Council adopt a Resolution repealing and rescinding Resolution No. 6446, Censure of Council Member Janice Elliott.

GOAL STATEMENT

The proposed action supports the City's goal for transparency in matters of City governance.

BACKGROUND

The City Council adopted Resolution No. 6446, Censure of Council Member Janice Elliott, on May 29, 2018. Council Member Elliott and Council Member Elect Zuniga, requested that the termination of the censure be placed on the agenda for consideration by the current City Council.

ISSUES/ANALYSIS

On May 29, 2018 the City Council adopted a Resolution to censure Council Member Elliott. At that time it was stated that the censure was intended to provide a method of enforcement of the Council's Code of Ethics and Conduct (Upland Municipal Code Section 2.56) which applies to each Council Member.

The censure is an action taken by a Council Member's peers. The action to remove the censure must also be taken by the City Council. The attached Resolution was prepared for that purpose.

FISCAL IMPACTS

There is no fiscal impact associated with this agenda item or Council action.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Resolution rescinding Resolution No. 6446
Resolution No. 6446

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UPLAND REPEALING AND RESCINDING ITS RESOLUTION NO. 6446

THE CITY COUNCIL OF THE CITY OF UPLAND HEREBY FINDS, DETERMINES AND RESOLVES AS FOLLOWS:

Section 1. Resolution No. 6446 of this Council adopted on May 29, 2018 hereby is repealed and rescinded.

Section 2. This Resolution shall be effective immediately upon its passage and approval.

Section 3. Certification. The City Clerk shall certify to the passage and adoption of this Resolution and shall enter it into the book of original resolutions.

PASSED, APPROVED and ADOPTED this 10th day of December, 2018.

Debbie Stone, Mayor

I, Keri Johnson, Deputy 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 10th day of December, 2018, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAINED:

ATTEST: _____
Keri Johnson, Deputy City Clerk

RESOLUTION NO. 6446

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UPLAND APPROVING PUBLIC CENSURE OF COUNCIL MEMBER JANICE ELLIOTT

Intent of the Parties and Findings

(i) The City Council has determined that Council Member Janice Elliott has, for reasons delineated below:

(ii) Engaged in conduct unbecoming a City Council Member; and

(iii) Engaged in conduct which has brought embarrassment and discredit to the City Council; and

(iv) Improperly publicly disclosed confidential documents and information, in violation of a Council Member's duty of confidentiality, mischaracterizing appropriate confidential deliberations as a lack of transparency; and

(v) Breached the trust and confidence of the other City Council Members through public disclosures of confidential and privileged Council communications; and

(vi) Breached the trust and confidence of the other City Council Members by making unsupported accusations of wrongdoing, rather than accommodating good faith debate and disagreement; and

(vii) Improperly exceeded the scope of her authority and duties as a Council Member by interfering with City Staff and Management in daily personnel and operational matters; and

(viii) Improperly and secretly engaged in communications and settlement negotiations with litigants suing the City without having the advance knowledge or consent of the City, potentially disclosing or prejudicing the City's litigation confidentiality and strategy; and

(ix) As a result, this has caused all other Council Members to lose confidence in their ability to speak candidly with Council Member Elliott in both open and closed session due to the above conduct, thus impairing the Council from engaging in candid discussion and debate on pending matters; and

(x) The Council wishes it known that this Public Censure does not arise out of any good faith disagreement by or with Council Member Elliott on any matter, as good faith disagreement and debate are expected, encouraged and welcome; and

(xi) Specific instances of Council Member Elliott's misconduct leading to this Public Censure has included, and is not limited to:

1. Repeatedly speaking publicly about discussions held in closed session, and commenting publicly in a manner that is detrimental to the City's position in pending litigation only two weeks after agreeing not to discuss or comment on any such litigation.

2. Improperly disclosing confidential information regarding a performance of a City employee.
3. Improperly disclosing a private, non-binding document for only the City Council to view by posting it on her social media page.
4. Improperly attempting to interfere with two Animal Services Officers' performance of their duties by haranguing them and impliedly threatening them with disciplinary action for not issuing citations contrary to Department policy, i.e., for not citing leash law violations the officers had not witnessed.
5. Undertaking secret and private communications with former Upland employees regarding their pending and threatened litigation with the City.
6. Using unprofessional, inflammatory, belittling and discourteous language in communications with City employees and residents, including calling a citizen an "alcoholic," among other instances, leading to complaints.
7. Failing to exercise discretion and causing embarrassment to a fellow water board member who was singled out on social media for accepting director fees to which he is legally entitled.
8. Engaging in a public personal vendetta against a particular City Council Member by:
 - a. Using her relationship with a local newspaper to have an article published that falsely and publicly accused a City Council Member of a conflict of interest through his alleged ownership interest in a City contractor that the Council Member did not, in fact, have, and accusing the City Manager of participating in this alleged conflict in awarding the contract.
 - b. Attempting to defame the same City Council Member regarding the alleged conflict of interest through social media posts.
 - c. Repeatedly attacking and falsely accusing a Council Member and his spouse of wrongdoing *publicly*, while only *privately* admitting she was wrong and apologizing.
9. Publicly and repeatedly mischaracterizing the District Attorney's decision to dismiss her alleged Brown Act violations as a determination that the violations occurred.
10. Misusing her position and exceeding her authority by circumventing instructions to the City Manager that inquiries to department heads be coordinated through the City Manager's office.

11. Publicly characterizing a meeting to help her with public communications as an "ambush" by the Mayor, City Attorney and previous city manager.
12. Questioning why the City sent a Planning Commission Member to attend a League of Cities event in Monterey, when the Member was attending in a private capacity on behalf of her employer, not a City capacity.
13. Insulting the hosts of a different city's Fourth of July parade and embarrassing the Upland City Council by sending an indefensibly rude and inappropriate email to the hosts of the parade, who are respected and prominent community leaders in that city.
14. Misusing her position as a City Council Member by appealing in her official, rather than private, capacity to a neighboring city for habitat mitigation in connection with the neighboring city's development project, thus prompting confusion and an inquiry by the neighboring city into whether the Upland City Council had taken an official position on the project.
15. Further embarrassing the Upland City Council by sending another note months later to this same neighboring city on the same topic, misrepresenting herself as a "resident ... speaking on my own behalf" while signing her name, "Janice Elliott, Member of the Upland city council."

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

Section 1. The City Council hereby concludes that the facts concerning Council Member Elliott's conduct stated above constitute violations of the Upland Municipal Code, Chapter 2.56, Code of Ethics and Conduct and particularly the following sections:

1. Section 2.46.040 A. which requires a member of the City Council "...to be loyal to the objectives expressed by the electorate and the programs developed by policymaking officials which are intended to attain those objectives."
2. Section 2.56.060 B. which precludes a Council Member from disclosing confidential information without legal authorization concerning the government or the affairs of the City, including those arising from closed session.

Section 2. The City Council also hereby concludes that the facts concerning Council Member Elliott's conduct stated above constitute violations of Upland Municipal Code Section 2.04.210, Council-Manager relations, which require each Council Member to deal with the administrative service of the City only through the City Manager.

In accordance with Upland Municipal Code Section 2.56.110 A.1., the City Council of the City of Upland thus hereby:

1. Publicly censures Council Member Elliott for engaging in the foregoing conduct which has caused undue disruption and loss of trust and confidence in her by the other City Council Members.
2. Admonishes Council Member Elliott to cease engaging in such conduct or similar conduct in the future, so that the Council may regain trust and confidence in her going forward, and thus allowing the Council to perform its duties in the best interests of the public.
3. Removes Council Member Elliott from any committee or board she sits on in her capacity as a Council member, and bans her from representing the city and the Council at public functions.

Section 3. This resolution shall be effective immediately after its passage and approval.

Section 4. 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 29th day of May, 2018.



Debbie Stone, Mayor

I, Jeannette Vagnozzi, 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 29th day of May, 2018, by the following vote:

AYES: Mayor Stone, Councilmembers Timm, Filippi, Robinson
NOES: Councilmember Elliott
ABSENT: None
ABSTAINED: None

ATTEST:



Jeannette Vagnozzi, City Clerk