



**UPLAND CITY COUNCIL  
6:30 PM Tree Lighting Ceremony in the Civic Center  
Courtyard  
AGENDA  
December 9, 2019  
City Council Chamber**

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

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

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**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**

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**5. INVOCATION**

Alfredo Silvestre, Church of Jesus Christ of Latter-day Saints, Upland 4th Ward

**6. PLEDGE OF ALLEGIANCE**

**7. PRESENTATIONS**

Introduction of San Bernardino County Fire Chief Dan Munsey by Assistant Chief Jeff Birchfield

Presentation by Assistant Fire Chief Birchfield on the Restoration of the Historic Fire Engine

Demonstration of Auto Pulse CPR Device by Jeff Serrano of San Bernardino County Fire Department

**8. CITY ATTORNEY**

**9. ORAL COMMUNICATIONS**

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

**10. COUNCIL COMMUNICATIONS**

**11. CONSENT CALENDAR**

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

**A. APPROVAL OF MINUTES**

Approve the Special Meeting Minutes of November 25, 2019 and the Regular Meeting Minutes of November 25, 2019. (Staff Person: Keri Johnson)

**B. APPROVAL OF WARRANT AND PAYROLL REGISTERS NOVEMBER, 2019**

Approve the November Warrant Registers and Direct Disbursements (check numbers 27737-28105) totaling \$5,125,035.07 and Payroll Registers totaling \$1,338,394.82 (check Numbers 161053-161077 and EFTs 17946-18449). (Staff Person: Londa Bock-Helms)

**C. TREASURY REPORT OCTOBER 2019**

Receive and file the October 2019 Treasury Report. (Staff Person: Londa Bock-Helms)

**D. SCHEDULED VACANCIES FOR COMMISSIONS, COMMITTEES, AND BOARDS FOR CALENDAR YEAR 2020**

Accept and file the Local Appointments List for all City commissions, committees, and boards for calendar year 2020, and direct the City Clerk to post the list. (Staff Person: Keri Johnson)

- E. APPOINTMENT OF MAYOR PRO TEM  
Ratify the appointment of Councilmember Ricky Felix as Mayor Pro Tem, term to expire in December 2020. (Staff Person: Keri Johnson)
- F. RESIGNATION OF CITY COUNCIL ADVISORY COMMITTEE MEMBER  
Accept the resignation from City Council Advisory Committee Member Steve Bierbaum and instruct the City Clerk to post the vacancy pursuant to Government Code Section 54974. (Staff Person: Keri Johnson)
- G. 800 MHZ RADIO SYSTEM ACCESS AND MAINTENANCE CONTRACT  
Approve a contract with the County of San Bernardino to provide access and maintenance for the City of Upland 800 MHz radios effective July 1, 2019 to June 30, 2023; and authorize the Interim City Manager to execute the agreement. (Staff Person: Darren Goodman)
- H. CONSIDERATION OF A RESOLUTION TO PERMANENTLY CANCEL THE LAST REGULAR MEETINGS IN AUGUST AND DECEMBER OF THE CITY COUNCIL  
Adopt a Resolution to rescind Resolution No. 6378 and permanently cancel the last regular meetings in August and December of the City Council. (Staff Person: Keri Johnson)
- I. 2019 MILLS ACT CONTRACTS FOR SEVEN HISTORIC PROPERTIES  
Approve the Mills Act contracts for seven historic properties and authorize the Interim City Manager to execute the documents, subject to review and approval of the Mills Act contracts by the City Attorney. (Staff Person: Robert Dalquest)
- J. WATER RATE ADJUSTMENT - STATUS UPDATE  
Defer the water rate increase scheduled for January 1, 2020 until the water rate check-in study is completed. (Staff Person: Rosemary Hoerning)
- K. APPROVAL OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) EMERGENCY REPAIRS PROGRAM GUIDELINES/POLICIES MODIFICATIONS  
Approve the current modifications to the Emergency Repairs Program guidelines/policies. (Staff Person: Robert Dalquest)
- L. ASSIGNMENT AND ASSUMPTION AGREEMENT BETWEEN BRAVEPARK PROPERTY, LLC, KB HOME, INC., 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, KB Home Coastal, Inc, a California corporation, and the City of Upland, pertaining to Planning Area 3 of the Sycamore Hills Specific Plan. (Staff Person: Rosemary Hoerning)
- M. ACCEPTANCE OF STREET RIGHT OF WAY DEDICATION AND ONSITE UTILITY AND ACCESS EASEMENTS FROM THE RANCHO MONTEVISTA ANNEX, LLC LOCATED AT 365 NORTH CENTRAL AVENUE  
Accept the Offer of Dedication in Fee and dedication of onsite utility and access easements from RMV Annex, LLC and authorize the recordation of the documents. (Staff Person: Rosemary Hoerning)
- N. ACCEPTANCE OF PUBLIC IMPROVEMENTS AT BENSON AVENUE AND 13TH STREET AND SECURITY REDUCTION (1301 BENSON AVENUE)  
Accept the sewer and street intersection restoration work and authorize the

Interim City Manager to release the cash security posted for the project and further to authorize the Interim City Manager to accept a substitute guaranty bond of twenty five percent (25%) and Labor and Materials bond of fifty percent (50%) (Staff Person: Rosemary Hoerning)

- O. APPROVAL OF FINAL TRACT MAP 20151 FOR A CONDOMINIUM DEVELOPMENT LOCATED ON THE NORTHSIDE OF FOOTHILL BOULEVARD APPROXIMATELY 365 FEET EAST OF BENSON AVENUE AND ACCEPTANCE OF SUBDIVISION AGREEMENTS WITH GFR HOMES  
Approve the Final Tract Map 20151 for 20151, LLC (a.k.a. GFR Homes), and authorize the Interim City Manager to execute the Subdivision Improvement Agreements, both public and private improvements, and an Encroachment License Agreement with GFR Homes. It is further recommended that the City Council accept the faithful performance and labor and materials security bonds for both public and private improvements and authorize recordation of the Final Tract Map 20151 and Encroachment License Agreement. (Staff Person: Rosemary Hoerning)
- P. AMEND THE COMPENSATION PLAN FOR PART-TIME EMPLOYEES  
Adopt a Resolution amending the Compensation Plan for Part-Time Employees to comply with California Minimum Wage Law. (Staff Person: Londa Bock-Helms)
- Q. CONSIDERATION OF AN ENCROACHMENT LICENSE AGREEMENT FOR THE INSTALLATION OF AN ELECTRONIC CHANGEABLE-COPY SIGN FOR UPLAND HIGH SCHOOL LOCATED WITHIN THE CITY RIGHT-OF-WAY AT THE SOUTHEAST CORNER OF FOOTHILL BOULEVARD AND SAN ANTONIO AVENUE  
Approve the Encroachment License Agreement to allow Upland Unified School District to install and maintain an electronic changeable-copy sign, that is seventeen feet in height with a sign area of 80 square feet, for Upland High School located within City right-of-way at the southeast corner of Foothill Boulevard and San Antonio Avenue. (Staff Person: Robert Dalquest)

## **12. PUBLIC HEARINGS**

## **13. COUNCIL COMMITTEE REPORTS**

- A. SPECIAL PUBLIC WORKS COMMITTEE MEETING, NOVEMBER 26, 2019  
1) **Proposed Solid Waste Rate Adjustment**, the Committee recommends the City Council direct staff to proceed forward with the Proposition 218 public notification processes to consider solid waste rate adjustments.
- B. ECONOMIC DEVELOPMENT COMMITTEE MEETING, DECEMBER 2, 2019

## **14. BUSINESS ITEMS**

- A. ADMINISTRATIVE SERVICES DEPARTMENT STAFFING LEVELS  
Approve the addition of one position to the current staffing levels, allowing the Human Resources Division to hire a permanent full-time administrative assistant. (Staff Person: Londa Bock-Helms)
- B. POTENTIAL ORDINANCE PROHIBITING SMOKING AND VAPING ON PUBLIC PROPERTIES (CITY GROUNDS AND PARKS)  
Provide direction to the Interim City Manager on whether to prepare modifications to the Upland Municipal Code to prohibit smoking and vaping on public property for future consideration. (Staff Person: Rosemary Hoerning)

C. AWARD OF BID FOR PROJECT NO. 7070 AND 7079, CITYWIDE CONCRETE MAINTENANCE PROJECT (BID NO. 2019-04)

Award Project No. 7070 & 7079, Citywide Concrete Maintenance Contract for an initial three (3) year contract beginning January 1, 2020 to D.M. Contracting Inc., in the amount of \$ 484,550.00, and approve a construction contingency of \$75,450.00, for a total amount of \$560,000.00. (Staff Person: Rosemary Hoerning)

**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 23, 2019 will be cancelled. The next regularly scheduled City Council meeting is Monday, January 13, 2020.

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

All Agenda items and back-up materials are available for public review at the Upland Public Library, downstairs reference desk at 450 North Euclid Avenue, the City Clerk's Office at 460 North Euclid Avenue and the City website at [www.ci.upland.ca.us](http://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 4, 2019 a true and correct copy of this agenda was posted on the bulletin boards at 450 N. Euclid Avenue (Upland Public Library) and 460 N. Euclid Avenue (Upland City Hall).

**MINUTES OF THE SPECIAL MEETING OF THE  
UPLAND CITY COUNCIL  
NOVEMBER 25, 2019**

**OPENING**

The special meeting of the Upland City Council was called to order by Mayor Debbie Stone at 5:30 p.m. in the Council Chamber of the Upland City Hall.

**1. ROLL CALL**

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

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

**2. ORAL COMMUNICATIONS**

Bob Cable, Upland, stated that San Bernardino County Fire should be responsible for reimbursing the San Antonio Heights residents for the FP5 tax and also requested that the Council go through a full recruitment process for the City Manager position.

At 5:33 p.m. Mayor Stone announced the City Council would recess to Closed Session pursuant to Government Code Section

**3. CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

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

Case Name: Yoakum v. City of Upland  
San Bernardino County Superior Court of California Case No.  
CIV-DS-181-7026

**4. CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

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

Case Name: Yoakum v. City of Upland  
San Bernardino County Superior Court of California Case No.  
CIV-DS-172-1778

**5. CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

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

Case Name: Simpson v. City of Upland  
San Bernardino County Superior Court of California Case No.  
CIV-DS-180-9093

**6. CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

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

Case Name: San Antonio Heights Association vs. County of San Bernardino; Local Agency Formation Commission for San Bernardino County; City of Upland; (Case No. CIVDS1712771)

**7. CLOSED SESSION PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Government Code Section 54957  
Title: City Manager

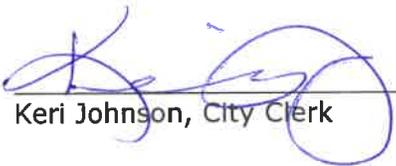
The City Council reconvened in open session at 7:04 p.m.

Interim City Attorney Flower announced the following from Closed Session: Item 6, the City Council voted unanimously to refrain from seeking appeal.

**8. ADJOURNMENT**

Mayor Stone adjourned the meeting at 7:04 p.m. The next regular meeting of the City Council is November 25, 2019 at 7 p.m.

**SUBMITTED BY:**

  
Keri Johnson, City Clerk

**APPROVED:**

December 9, 2019



A. APPROVAL OF MINUTES

Approved the Regular Meeting Minutes of November 11, 2019.

B. 2ND READING OF AN ORDINANCE OF THE CITY OF UPLAND ADDING A NEW CHAPTER 5.76 TO THE UPLAND MUNICIPAL CODE TO CREATE A SIDEWALK VENDING PROGRAM, AMENDING RELATED PROVISIONS OF THE UPLAND MUNICIPAL CODE, AND CONSIDERATION OF A RESOLUTION AMENDING THE MASTER FEE SCHEDULE TO ESTABLISH FEES FOR SIDEWALK VENDING PERMITS

Held second reading by number and title only, waived further reading, and adopted Ordinance No. 1934 adding a new Chapter 5.76 to the Upland Municipal Code to create a sidewalk vending program, amending related provisions of the Upland Municipal Code, and making a determination of exemption under CEQA.

C. ACCEPTANCE OF PUBLIC IMPROVEMENTS BY MBK HOMES AND REDUCTION OF BONDS

Accepted the public improvements constructed by MBK Homes, generally located on the southeast corner of Central Avenue and 11th Street; and approved the reduction of the faithful performance bond to twenty five percent (25%).

D. BOND REDUCTION REQUEST FOR TRACT 18274 BY LENNAR HOMES

Approved a bond reduction of the Public Performance Bond to fifty percent (50%) for Tract 18274 developed by Lennar Homes of California, Inc.

F. THIRD AMENDMENT TO THE AGREEMENT WITH THE ZAPPIA LAW FIRM FOR LABOR AND EMPLOYMENT LAW SERVICES

Authorized the City Manager to execute the third amendment to the original agreement with The Zappia Law Firm for labor and employment law services.

ITEMS REMOVED FOR SEPARATE ACTION

E. RESOLUTION APPROVING AS TO FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF A CONSTRUCTION FINANCING AGREEMENT FOR THE CONSTRUCTION COSTS OF A REPLACEMENT 7.5 MG WATER RESERVOIR

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

There was discussion on the interest rate on the loan, the payment schedule, the areas of the City serviced by the proposed reservoir, and the life expectancy of the proposed reservoir.

Motion by Councilmember Elliott to adopt Resolution No. 6517 approving as to form and authorizing the execution and delivery of a construction financing agreement for the construction of a replacement 7.5 MG water reservoir, seconded by Councilmember Velto, and carried unanimously.

**12. PUBLIC HEARINGS**           None

**13. COUNCIL COMMITTEE REPORTS**   None

**14. BUSINESS ITEMS**

A.    APPROVAL OF LABOR AGREEMENT WITH UPLAND POLICE OFFICERS' ASSOCIATION

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

Motion by Councilmember Felix to adopt Resolution No. 6518 approving a Memorandum of Understanding with the Upland Police Officers' Association, seconded by Councilmember Zuniga, and carried with Mayor Stone opposed.

B.    CONSIDERATION OF AN ORDINANCE TO ADOPT, BY REFERENCE, THE 2019 CALIFORNIA BUILDING CODE STANDARDS

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

There was discussion on the training that building inspectors receive on code updates.

Motion by Councilmember Felix to hold first reading by number and title only, introduce an Ordinance adopting by reference the 2019 California Administrative, Building, Fire, Green Building Standards, Mechanical, Residential, Plumbing, Electrical, Energy, Existing Building, Historical Building, and Referenced Standards Codes, as set forth in Title 24, California Code of Regulations, Parts 1, 2, 2.5, 3, 4, 5, 6, 8, 9, 10, 11, and 12, and as published as part of the California Building Standards Code; the 1997 Uniform Housing Code, and 1997 Uniform Code for the Abatement of Dangerous Buildings; including certain appendices and penalties; and set a public hearing for January 13, 2020, seconded by Councilmember Elliott, and carried unanimously.

C.    CONSIDERATION OF A RESOLUTION AMENDING THE MASTER FEE SCHEDULE TO UPDATE WATER SERVICE CONNECTION FEES FOR LOW INCOME HOUSEHOLDS IN ACCORDANCE WITH SB998

Acting Administrative Services Director Bock-Helms presented the staff report, which is on file in the City Clerk's Office.

There was discussion on the restrictions on fees to low income residents based on SB998.

Motion by Councilmember Zuniga to adopt Resolution No. 6519 amending the master fee schedule to update the water service reconnection fee for low income households in accordance with Senate Bill 998, seconded by Councilmember Velto, and carried unanimously.

At 8:12 p.m. Councilmember Zuniga announced that he would abstain from Item 14D since he serves on the San Antonio Water Company Board. Councilmember Zuniga then left the Council Chamber.

**D. SAN ANTONIO WATER COMPANY - PROPOSED NEW CENTRALIZED HEADQUARTERS**

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

There was discussion on the cost to build the proposed headquarters for San Antonio Water Company, the water company's use of City facilities for meetings, and the need for transparency and community input.

Motion by Councilmember Velto to direct the City Manager and City Attorney to send a letter to San Antonio Water Company asking them to cease any further action regarding the relocation or design development for a new headquarters, seconded by Mayor Stone, and carried with Councilmember Zuniga abstaining.

At 8:31 p.m. Councilmember Zuniga returned to the Council Chamber and took his seat on the dais.

**15. ORAL COMMUNICATION (items not on the agenda)**

Elizabeth Skrzat, Director of the Chino Basin Water Conservation District introduced herself and provided information on the programs and services they provide.

Bob Cable, Upland, spoke in the support of the proposed Bridge development project.

Roger Stephenson, La Verne, stated that the City's infrastructure is insufficient to handle the truck traffic that would result from the proposed Bridge development project.

Colene Mathews, Upland, requested that the Council allow ice cream trucks to do business in City parks and near schools.

Natasha Walton, Upland, stated opposition to the sale of park land to San Antonio Regional Hospital.

David Wade, questioned the need for a sales tax measure if the City is considering a development that would not bring in point of sale taxes.

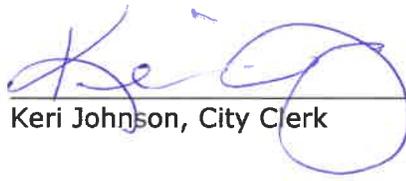
James Breitling, Upland, questioned information provided by Burrtec Waste Industries regarding the company's recycling processes.

**16. CITY MANAGER**

**17. ADJOURNMENT**

At 8:56 p.m., Mayor Stone adjourned the meeting in memory of Lillian Kunz, former board member of the Upland Sister City Association. The next regularly scheduled City Council meeting is Monday, December 9, 2019.

**SUBMITTED BY**



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Keri Johnson, City Clerk

**APPROVED**

December 9, 2019

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## STAFF REPORT

**ITEM NO. 11.B.**

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**DATE:** December 9, 2019  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:** ROSEMARY HOERNING, INTERIM CITY MANAGER  
**PREPARED BY:** LONDA BOCK-HELMS, CPA, ACTING ADMINISTRATIVE SERVICES DIRECTOR  
**SUBJECT:** APPROVAL OF WARRANT AND PAYROLL REGISTERS NOVEMBER, 2019

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### RECOMMENDED ACTION

It is recommended that the City Council approve the November Warrant Register and Direct Disbursements (check numbers 27737-28105) totaling \$5,125,035.07 and Payroll Registers totaling \$1,338,394.82 (check Numbers 161053-161077 and EFTs 17946-18449).

### GOAL STATEMENT

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

### BACKGROUND

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

### ISSUES/ANALYSIS

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

**FISCAL IMPACTS**

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

**ALTERNATIVES**

Provide alternative direction to staff.

**ATTACHMENTS:**

**Check Register November 2019**

12/02/2019 17:09  
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City of Upland, CA  
AP CHECK RECONCILIATION REGISTER

P 1  
apchkrcn

FOR CASH ACCOUNT: 9000000 1001

FOR: Cleared and Uncleared

CHECK #	CHECK DATE	TYPE	VENDOR NAME	UNCLEARED	CLEARED	BATCH	CLEAR DATE
27737	11/05/2019	PRINTED	HISTORIC DOWNTOWN UPLAND	7,000.00			
27738	11/06/2019	PRINTED	BALDY VIEW GYMNASTICS	2,624.49			
27739	11/06/2019	PRINTED	COUPLAND, DONNA	299.25			
27740	11/06/2019	PRINTED	FARLEY, SANDRA	2,856.15			
27741	11/06/2019	PRINTED	GARCIA, ROBYN	48.75			
27742	11/06/2019	PRINTED	GOSS, CAROLINA	69.00			
27743	11/06/2019	PRINTED	JOHNSON, VALERIE	478.80			
27744	11/06/2019	PRINTED	KENDALL, ANDREA	2,312.85			
27745	11/06/2019	PRINTED	LASSETTER, SUELLEN	604.95			
27746	11/06/2019	PRINTED	MCELLAN, MCROBBIE	183.75			
27747	11/06/2019	PRINTED	ONTARIO ICE SKATING CENTE	643.19			
27748	11/06/2019	PRINTED	OTERO, JORDAN	66.50			
27749	11/06/2019	PRINTED	PACIFIC YOUTH SPORTS	308.40			
27750	11/06/2019	PRINTED	PARSONS, DEBORAH	128.25			
27751	11/06/2019	PRINTED	PELLITTERI, CHRISTOPHER	488.02			
27752	11/06/2019	PRINTED	RICHDAI, INC	341.25			
27753	11/06/2019	PRINTED	SCARLETT DREAMS	44.10			
27754	11/06/2019	PRINTED	SINGLETON, DENICE	51.45			
27755	11/06/2019	PRINTED	STEESE, MARION	271.35			
27756	11/06/2019	PRINTED	TOVAR, DONNA	42.75			
27757	11/06/2019	PRINTED	UPLAND ARENA SPORTS LLC	1,330.00			
27758	11/06/2019	PRINTED	UPLAND MUSIC SCHOOL	1,316.70			
27759	11/06/2019	PRINTED	ZAILO, ROBERT	621.30			
27760	11/06/2019	PRINTED	1-800 RADIATOR	129.30			
27761	11/06/2019	PRINTED	ACCUITEMPS	2,075.04			
27762	11/06/2019	PRINTED	ACTION AWARDS	25.76			
27763	11/06/2019	PRINTED	ALL CITY MANAGEMENT SERVI	19,076.31			
27764	11/06/2019	PRINTED	AMERICAN HEAVY MOVING & R	2,250.00			
27765	11/06/2019	PRINTED	AUTOMATED GATE SERVICES	201.00			
27766	11/06/2019	PRINTED	BABCOCK & SONS, INC	322.00			
27767	11/06/2019	PRINTED	CARQUEST AUTO PARTS	477.64			
27768	11/06/2019	PRINTED	CONSOLIDATED ELECTRICAL D	499.53			
27769	11/06/2019	PRINTED	CHEM PRO LABORATORY INC	298.00			
27770	11/06/2019	PRINTED	CINTAS CORPORATION	905.35			
27771	11/06/2019	PRINTED	CLINICAL LABORATORY OF SA	404.00			
27772	11/06/2019	PRINTED	CODE 3 INC	595.78			
27773	11/06/2019	PRINTED	JJS TRUCK EQUIUPMENT LLC	385.07			
27774	11/06/2019	PRINTED	DURAN, MAURICE	168.18			
27775	11/06/2019	PRINTED	VARGAS, LUPE B	325.00			
27776	11/06/2019	PRINTED	EVERSOFT	940.07			
27777	11/06/2019	PRINTED	EXPERIAN	77.00			
27778	11/06/2019	PRINTED	FEDERAL EXPRESS	7.85			
27779	11/06/2019	PRINTED	FOOTHILL FAMILY SHELTER	3,750.00			
27780	11/06/2019	PRINTED	FORD OF UPLAND	99.95			
27781	11/06/2019	PRINTED	G4S SECURE SOLUTIONS (USA	16,225.25			
27782	11/06/2019	PRINTED	GRAINGER	21.42			
27783	11/06/2019	PRINTED	H D L COREN & CONE	4,200.00			
27784	11/06/2019	PRINTED	HARRINGTON INDUSTRIAL PLA	194.66			
27785	11/06/2019	PRINTED	HEARD'S INVESTIGATIONS AN	1,200.00			
27786	11/06/2019	PRINTED	HISTORIC DOWNTOWN UPLAND	18,883.46			
27787	11/06/2019	PRINTED	HOLLIDAY ROCK CO INC	248.91			
27788	11/06/2019	PRINTED	HONEYCOTT, INC	370.00			

12/02/2019 17:09  
emyers

City of Upland, CA  
AP CHECK RECONCILIATION REGISTER

P 2  
apchkrcn

FOR CASH ACCOUNT: 9000000 1001

FOR: Cleared and Uncleared

CHECK #	CHECK DATE	TYPE	VENDOR NAME	UNCLEARED	CLEARED	BATCH	CLEAR DATE
27789	11/06/2019	PRINTED	INLAND FAIR HOUSING MEDIA	3,794.18			
27790	11/06/2019	PRINTED	INLAND VALLEY DAILY BULLE	6,315.12			
27791	11/06/2019	PRINTED	INLAND VALLEY HOPE PARTNE	1,752.00			
27792	11/06/2019	PRINTED	JEEP CHRYSLER OF ONTARIO	260.76			
27793	11/06/2019	PRINTED	KEENAN & ASSOCIATES	24,577.32			
27794	11/06/2019	PRINTED	L D M ASSOCIATES INC	25,950.00			
27795	11/06/2019	PRINTED	LANDIVAR, CARLO	125.00			
27796	11/06/2019	PRINTED	LMWS INC	2,225.71			
27797	11/06/2019	PRINTED	LOWE'S	3,357.00			
27798	11/06/2019	PRINTED	M S A	1,050.00			
27799	11/06/2019	PRINTED	MADRID, RICHARD	123.97			
27800	11/06/2019	PRINTED	MAIN STREET SIGNS	363.12			
27801	11/06/2019	PRINTED	MATHISEN OIL CO INC	2,121.33			
27802	11/06/2019	PRINTED	MR KEYS-AABOC-JACKS	35.50			
27803	11/06/2019	PRINTED	NOBEL SYSTEMS	28,400.00			
27804	11/06/2019	PRINTED	NUCKLES OIL COMPANY INC	25,610.49			
27805	11/06/2019	PRINTED	O'BRIEN, KYLE	43.70			
27806	11/06/2019	PRINTED	OCCUPATIONAL HEALTH CENTE	431.50			
27807	11/06/2019	PRINTED	OFFICE DEPOT	36.36			
27808	11/06/2019	PRINTED	P F SERVICES INC	150.00			
27809	11/06/2019	PRINTED	PRECIADO, ROCIO	109.15			
27810	11/06/2019	PRINTED	PPS ENTERPRISES, INC	2,316.38			
27811	11/06/2019	PRINTED	RAIN MASTER IRRIGATION SY	235.90			
27812	11/06/2019	PRINTED	SAN BERNARDINO COUNTY SHE	724.26			
27813	11/06/2019	PRINTED	SAN BERNARDINO LAFCO	17.25			
27814	11/06/2019	PRINTED	IDSC HOLDINGS LLC	26,368.65			
27815	11/06/2019	PRINTED	SOFFA ELECTRIC INC	1,579.56			
27816	11/06/2019	PRINTED	SOUTH COAST A Q M D	1,304.18			
27817	11/06/2019	PRINTED	SOUTHWEST MOBILE STORAGE,	133.93			
27818	11/06/2019	PRINTED	STAPLES BUSINESS ADVANTAG	109.02			
27819	11/06/2019	PRINTED	THE COUNSELING TEAM	300.00			
27820	11/06/2019	PRINTED	THOMPSON PLUMBING SUPPLY	51.92			
27821	11/06/2019	PRINTED	ULINE, INC	135.30			
27822	11/06/2019	PRINTED	UNDERCAR PLUS UPLAND	349.69			
27823	11/06/2019	PRINTED	UPLAND CHAMBER OF COMMERC	450.00			
27824	11/06/2019	PRINTED	VERIZON WIRELESS	2,945.21			
27825	11/06/2019	PRINTED	VIDO SAMARZICH, INC	792,908.60			
27826	11/06/2019	PRINTED	WATERLINE TECHNOLOGIES, I	888.92			
27827	11/06/2019	PRINTED	WAXIE SANITARY SUPPLY	234.26			
27828	11/06/2019	PRINTED	CHRISTINE PAULSEN	2,124.84			
27829	11/06/2019	PRINTED	CHRISTOPHER CRUZ	79.00			
27830	11/06/2019	PRINTED	DENISE STRUBEL	100.00			
27831	11/06/2019	PRINTED	KATHRINE GUTIERREZ	79.00			
27832	11/06/2019	PRINTED	MARICELA & FRANK GOMEZ	79.00			
27833	11/06/2019	PRINTED	RUSS BURROUGHS	100.00			
27834	11/06/2019	PRINTED	TODD HECKER	100.00			
27835	11/06/2019	PRINTED	WILLIAM STARK	99.00			
27836	11/13/2019	PRINTED	CITY EMPLOYEE ASSOCIATES	299.00			
27837	11/13/2019	PRINTED	FRANCHISE TAX BOARD	100.00			
27838	11/13/2019	PRINTED	INLAND EMPIRE UNITED WAY	26.00			
27839	11/13/2019	PRINTED	UPLAND POLICE MANAGEMENT	1,183.00			
27840	11/13/2019	PRINTED	UPLAND POLICE OFFICERS AS	4,620.00			

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CHECK #	CHECK DATE	TYPE	VENDOR NAME	UNCLEARED	CLEARED	BATCH	CLEAR DATE
27841	11/13/2019	PRINTED	BABCOCK & SONS, INC	322.00			
27842	11/13/2019	PRINTED	BRIGHTVIEW	1,209.88			
27843	11/13/2019	PRINTED	CARL WARREN & CO	3,862.60			
27844	11/13/2019	PRINTED	CARQUEST AUTO PARTS	411.55			
27845	11/13/2019	PRINTED	CCSINTERACTIVE	240.00			
27846	11/13/2019	PRINTED	FRANCISCO MONRREAL	274.76			
27847	11/13/2019	PRINTED	CINTAS CORPORATION	661.00			
27848	11/13/2019	PRINTED	CHAFFEY COMMUNITIES CULTU	2,000.00			
27849	11/13/2019	PRINTED	COSTAR REALTY INFORMATION	473.58			
27850	11/13/2019	PRINTED	DANIEL RODRIGUEZ	75.00			
27851	11/13/2019	PRINTED	DELL MARKETING LP	3,503.91			
27852	11/13/2019	PRINTED	DESIGN WEST ENGINEER	650.00			
27853	11/13/2019	PRINTED	ECONOLITE SYSTEMS	10,974.81			
27854	11/13/2019	PRINTED	FEDERAL EXPRESS	16.13			
27855	11/13/2019	PRINTED	FOOTHILL FAMILY SHELTER	3,500.00			
27856	11/13/2019	PRINTED	FRIENDS OF THE UPLAND PUB	5,000.00			
27857	11/13/2019	PRINTED	FRIENDS OF UPL ANML SHLTR	4,000.00			
27858	11/13/2019	PRINTED	FRONTIER	62.66			
27859	11/13/2019	PRINTED	FRONTIER	83.84			
27860	11/13/2019	PRINTED	FRONTIER	112.68			
27861	11/13/2019	PRINTED	FRONTIER	121.71			
27862	11/13/2019	PRINTED	FRONTIER	1,220.00			
27863	11/13/2019	PRINTED	FRONTIER	1,413.08			
27864	11/13/2019	PRINTED	G H A TECHNOLOGIES	2,606.76			
27865	11/13/2019	PRINTED	DENNIS SILLETTO & ASSOCIA	33,405.63			
27866	11/13/2019	PRINTED	GRAFIX SYSTEMS	386.63			
27867	11/13/2019	PRINTED	GRAINGER	37.91			
27868	11/13/2019	PRINTED	HEARD'S INVESTIGATIONS AN	750.00			
27869	11/13/2019	PRINTED	HELPING OUT PETS EVERYDAY	1,000.00			
27870	11/13/2019	PRINTED	HISTORIC DOWNTOWN UPLAND	3,000.00			
27871	11/13/2019	PRINTED	HOLLIDAY ROCK CO INC	223.05			
27872	11/13/2019	PRINTED	HONEYCOTT, INC	770.00			
27873	11/13/2019	PRINTED	INFOSEND INC	15,863.87			
27874	11/13/2019	PRINTED	INLAND VALLEY DAILY BULLE	5,803.52			
27875	11/13/2019	PRINTED	INTEGRATED TECHNOLOGY	2,143.68			
27876	11/13/2019	PRINTED	JEEP CHRYSLER OF ONTARIO	630.81			
27877	11/13/2019	PRINTED	JOHN DEERE AG & TURF CORP	14,954.23			
27878	11/13/2019	PRINTED	KAISER FOUNDATION HEALTH	116,815.02			
27879	11/13/2019	PRINTED	KAZMI, SALEHA	34.92			
27880	11/13/2019	PRINTED	KEENAN & ASSOCIATES	6,144.33			
27881	11/13/2019	PRINTED	KONICA MINOLTA	8,738.54			
27882	11/13/2019	PRINTED	LAW OFFICES OF JONES & MA	3,838.88			
27883	11/13/2019	PRINTED	LMWS INC	2,000.00			
27884	11/13/2019	PRINTED	MATHISEN OIL CO INC	3,687.15			
27885	11/13/2019	PRINTED	MEGAN'S WINGS INC	3,000.00			
27886	11/13/2019	PRINTED	MIDAMERICA ADMIN & RETIRE	4,800.00			
27887	11/13/2019	PRINTED	MK CONSULTING	2,142.56			
27888	11/13/2019	PRINTED	MOUNTAIN VIEW CHEVROLET	325.50			
27889	11/13/2019	PRINTED	MPOWER COMMUNICATIONS	233.37			
27890	11/13/2019	PRINTED	MUNICIPAL MAINTENANCE EQU	301.67			
27891	11/13/2019	PRINTED	MV CHENG & ASSOCIATE	5,625.00			
27892	11/13/2019	PRINTED	NOBEL SYSTEMS	24,000.00			

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CHECK #	CHECK DATE	TYPE	VENDOR NAME	UNCLEARED	CLEARED	BATCH	CLEAR DATE
27893	11/13/2019	PRINTED	OCCUPATIONAL HEALTH CENTE	98.50			
27894	11/13/2019	PRINTED	PATTON SALES CORP	146.22			
27895	11/13/2019	PRINTED	PC SPECIALIST INC	2,349.08			
27896	11/13/2019	PRINTED	RICHARD BRADY AND ASSOCIA	1,943.93			
27897	11/13/2019	PRINTED	SAMARITAN COUNSELING CENT	2,000.00			
27898	11/13/2019	PRINTED	SAVANT SOLUTIONS INC	1,301.75			
27899	11/13/2019	PRINTED	SEW HAPPY	1,025.78			
27900	11/13/2019	PRINTED	SMART & FINAL IRIS CO	226.33			
27901	11/13/2019	PRINTED	SMITH-EMERY LABORATORIES	5,165.00			
27902	11/13/2019	PRINTED	IDSC HOLDINGS LLC	437.03			
27903	11/13/2019	PRINTED	STAPLES BUSINESS ADVANTAG	316.30			
27904	11/13/2019	PRINTED	TERMINIX INTERNATIONAL	127.00			
27905	11/13/2019	PRINTED	TIME WARNER CABLE	92.27			
27906	11/13/2019	PRINTED	TIME WARNER CABLE	119.98			
27907	11/13/2019	PRINTED	TIME WARNER CABLE	151.52			
27908	11/13/2019	PRINTED	TIME WARNER CABLE	1,323.14			
27909	11/13/2019	PRINTED	U.S. TELEPACIFIC CORP	1,695.36			
27910	11/13/2019	PRINTED	U.S. TELEPACIFIC CORP	2,830.50			
27911	11/13/2019	PRINTED	TRAINING INNOVATIONS CO	750.00			
27912	11/13/2019	PRINTED	TYLER TECHNOLOGIES INC	6,130.34			
27913	11/13/2019	PRINTED	UNDERCAR PLUS UPLAND	401.56			
27914	11/13/2019	PRINTED	UNDERGROUND SERVICE ALERT	644.77			
27915	11/13/2019	PRINTED	UPLAND COMMUNITY EMERGENC	3,000.00			
27916	11/13/2019	PRINTED	UPLAND COMMUNITY FOUNDATI	13,760.00			
27917	11/13/2019	PRINTED	UPLAND COMMUNITY PARTNERS	7,500.00			
27918	11/13/2019	PRINTED	UPLAND FOOTHILL KIWANIS F	3,000.00			
27919	11/13/2019	PRINTED	UPLAND HERITAGE	2,500.00			
27920	11/13/2019	PRINTED	UPLAND HIGHLAND REGIMENT	2,000.00			
27921	11/13/2019	PRINTED	UPLAND HOST LIONS CLUB	3,000.00			
27922	11/13/2019	PRINTED	UPLAND ROTARY CLUB FOUNDA	3,000.00			
27923	11/13/2019	PRINTED	UPLAND VETERAN'S MONUMENT	4,000.00			
27924	11/13/2019	PRINTED	VERIZON	1,450.45			
27925	11/13/2019	PRINTED	VERIZON WIRELESS	35.15			
27926	11/13/2019	PRINTED	VERIZON WIRELESS	38.01			
27927	11/13/2019	PRINTED	VERIZON WIRELESS	38.01			
27928	11/13/2019	PRINTED	VERIZON WIRELESS	78.59			
27929	11/13/2019	PRINTED	VERIZON WIRELESS	115.35			
27930	11/13/2019	PRINTED	VERIZON WIRELESS	166.57			
27931	11/13/2019	PRINTED	VERIZON WIRELESS	211.09			
27932	11/13/2019	PRINTED	VERIZON WIRELESS	384.23			
27933	11/13/2019	PRINTED	VERIZON WIRELESS	433.78			
27934	11/13/2019	PRINTED	VERIZON WIRELESS	1,809.44			
27935	11/13/2019	PRINTED	VERIZON WIRELESS	2,131.05			
27936	11/13/2019	PRINTED	WEST COAST ARBORISTS INC	10,848.50			
27937	11/13/2019	PRINTED	IN-N-OUT BURGERS	5,000.00			
27938	11/13/2019	PRINTED	NAN MENG	65.74			
27939	11/13/2019	PRINTED	RYAN BOOTSM	2,000.00			
27940	11/20/2019	PRINTED	AFLAC PREMIUM HOLDING	1,534.80			
27941	11/20/2019	PRINTED	AMERICAN FIDELITY ASSURAN	2,416.34			
27942	11/20/2019	PRINTED	AMERICAN HERITAGE LIFE IN	114.75			
27943	11/20/2019	PRINTED	PRE PAID LEGAL SVC, INC	146.50			
27944	11/20/2019	PRINTED	TACLOTT RESOLUTION LIFE I	27.08			

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27945	11/20/2019	PRINTED	ALHAMBRA REPROGRAPHICS IN	142.77			
27946	11/20/2019	PRINTED	ACCOUNTEMPS	3,910.92			
27947	11/20/2019	PRINTED	ADLERHORST INTERNATIONAL	96.98			
27948	11/20/2019	PRINTED	ADORAMA	314.65			
27949	11/20/2019	PRINTED	AIRGAS USA LLC	82.85			
27950	11/20/2019	PRINTED	AKHILESH GULATI	539.83			
27951	11/20/2019	PRINTED	ALL CITY MANAGEMENT SERVI	7,065.30			
27952	11/20/2019	PRINTED	ALLIANCE BUILDING SOLUTIO	62,949.60			
27953	11/20/2019	PRINTED	ANNEALTA GROUP	9,282.00			
27954	11/20/2019	PRINTED	ASPINALL, ROBIN JEAN	100.00			
27955	11/20/2019	PRINTED	ATMAA INC	2,720.00			
27956	11/20/2019	PRINTED	BONHUS, JOHN	113.92			
27957	11/20/2019	PRINTED	BROUSE, LINDEN	100.00			
27958	11/20/2019	PRINTED	CARQUEST AUTO PARTS	118.74			
27959	11/20/2019	PRINTED	CINTAS CORPORATION	856.24			
27960	11/20/2019	PRINTED	COMCATE SOFTWARE INC	7,650.00			
27961	11/20/2019	PRINTED	CRAFCO INC	13,115.96			
27962	11/20/2019	PRINTED	CROSSROADS SOFTWARE INC	5,900.00			
27963	11/20/2019	PRINTED	CUCAMONGA VALLEY WATER DI	84.38			
27964	11/20/2019	PRINTED	DEPARTMENT OF JUSTICE	676.00			
27965	11/20/2019	PRINTED	EQUIPMENT TECH SERVICES	356.40			
27966	11/20/2019	PRINTED	VARGAS, LUPE B	405.00			
27967	11/20/2019	PRINTED	EUROFINS EATON ANALYTICAL	4,221.00			
27968	11/20/2019	PRINTED	EXPERIAN	77.00			
27969	11/20/2019	PRINTED	FORD OF UPLAND	26.38			
27970	11/20/2019	PRINTED	DENNIS SILLETTO & ASSOCIA	341.87			
27971	11/20/2019	PRINTED	GOOD FAITH LIEN SVCS INC	597.00			
27972	11/20/2019	PRINTED	GRAFIX SYSTEMS	502.12			
27973	11/20/2019	PRINTED	GRAINGER	1,068.68			
27974	11/20/2019	PRINTED	HAAKER EQUIPMENT CO	2,366.30			
27975	11/20/2019	PRINTED	HACH CO	509.80			
27976	11/20/2019	PRINTED	HEARD'S INVESTIGATIONS AN	450.00			
27977	11/20/2019	PRINTED	HOLLIDAY ROCK CO INC	280.16			
27978	11/20/2019	PRINTED	HUSA, ZACHARY	125.00			
27979	11/20/2019	PRINTED	INLAND EMPIRE PRINTING	262.91			
27980	11/20/2019	PRINTED	INLAND VALLEY DAILY BULLE	1,407.84			
27981	11/20/2019	PRINTED	INTERWEST CONSULTING GROU	16,450.66			
27982	11/20/2019	PRINTED	J & G ADVERTISING SPECIAL	487.30			
27983	11/20/2019	PRINTED	J G TUCKER & SONS INC.	4,248.58			
27984	11/20/2019	PRINTED	JOHNSON, KERI	54.52			
27985	11/20/2019	PRINTED	KENAN & ASSOCIATES	5,284.67			
27986	11/20/2019	PRINTED	LAW ENFORCEMENT MEDICAL S	1,375.00			
27987	11/20/2019	PRINTED	LAW OFFICES OF JONES & MA	1,320.00			
27988	11/20/2019	PRINTED	LEININGER & SHORT	59.95			
27989	11/20/2019	PRINTED	LIBRARY SYSTEMS & SERVICE	12,541.34			
27990	11/20/2019	PRINTED	LOMA LINDA UNIV CHILDRENS	600.00			
27991	11/20/2019	PRINTED	MATHISEN OIL CO INC	2,148.27			
27992	11/20/2019	PRINTED	MATT CHLOR INC	3,798.42			
27993	11/20/2019	PRINTED	MCMURRAY STERN, INC	15,588.00			
27994	11/20/2019	PRINTED	MJS ALARM	609.00			
27995	11/20/2019	PRINTED	MORNEAU SHEPELL LIMITED	260.00			
27996	11/20/2019	PRINTED	MR T'S TOWING INC	2,100.00			

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27997	11/20/2019	PRINTED	NOVIKOV, ALEXANDER	100.00			
27998	11/20/2019	PRINTED	OCCU-MED LTD	2,301.50			
27999	11/20/2019	PRINTED	OCCUPATIONAL HEALTH CENTE	206.00			
28000	11/20/2019	PRINTED	OFFICE DEPOT	20.32			
28001	11/20/2019	PRINTED	PARKHOUSE TIRE INC	941.27			
28002	11/20/2019	PRINTED	PLUMBERS DEPOT INC	2,395.27			
28003	11/20/2019	PRINTED	QUALITY CODE PUBLISHING L	573.75			
28004	11/20/2019	PRINTED	ROUTE 66 CAR WASH INC	920.00			
28005	11/20/2019	PRINTED	S & J SUPPLY CO INC	37,106.14			
28006	11/20/2019	PRINTED	SAN ANTONIO WATER CO	266,140.89			
28007	11/20/2019	PRINTED	SCHWARY, GARY	100.00			
28008	11/20/2019	PRINTED	SILVER & WRIGHT LLP	12,344.33			
28009	11/20/2019	PRINTED	DS SERVICES OF AMERICA IN	55.51			
28010	11/20/2019	PRINTED	STAPLES BUSINESS ADVANTAG	415.16			
28011	11/20/2019	PRINTED	STATEWIDE TRAFFIC SAFETY	603.07			
28012	11/20/2019	PRINTED	E&S TOWING ENTERPRISES, I	2,550.00			
28013	11/20/2019	PRINTED	V C A CENTRAL ANIMAL HOSP	286.14			
28014	11/20/2019	PRINTED	VERIZON WIRELESS	152.04			
28015	11/20/2019	PRINTED	VULCAN FLARE & MECHANICAL	1,402.38			
28016	11/20/2019	PRINTED	YVETTE WALKER	100.00			
28017	11/20/2019	PRINTED	WATER FACILITIES AUTHORIT	387,038.12			
28018	11/20/2019	PRINTED	WAXIE SANITARY SUPPLY	1,323.54			
28019	11/20/2019	PRINTED	WAYNE PARADISE SIGNS & DE	777.16			
28020	11/20/2019	PRINTED	WEST END CONSOLIDATED WAT	30,350.57			
28021	11/20/2019	PRINTED	WEST VALLEY MRF	4,615.08			
28022	11/20/2019	PRINTED	WILLDAN FINANCIAL SERVICE	1,250.00			
28023	11/20/2019	PRINTED	WILLIAMS, MARCI	98.14			
28024	11/20/2019	PRINTED	DIANA HUERTA	10.00			
28025	11/20/2019	PRINTED	RAMI ASAD	93.04			
28026	11/20/2019	PRINTED	RYAN BOOTSM	106.66			
28027	11/27/2019	PRINTED	CITY EMPLOYEE ASSOCIATES	299.00			
28028	11/27/2019	PRINTED	FIDELITY SECURITY LIFE IN	2,397.26			
28029	11/27/2019	PRINTED	FRANCHISE TAX BOARD	100.00			
28030	11/27/2019	PRINTED	INLAND EMPIRE UNITED WAY	26.00			
28031	11/27/2019	PRINTED	UPLAND POLICE MANAGEMENT	1,183.00			
28032	11/27/2019	PRINTED	UPLAND POLICE OFFICERS AS	4,620.00			
28033	11/27/2019	PRINTED	PATRICK VAN DUSEN	72.67			
28034	11/27/2019	PRINTED	AIR-EX	1,597.49			
28035	11/27/2019	PRINTED	AIRGAS USA LLC	925.04			
28036	11/27/2019	PRINTED	ALL CITY MANAGEMENT SERVI	6,358.77			
28037	11/27/2019	PRINTED	BLANCO, MARCELLO	80.00			
28038	11/27/2019	PRINTED	BRIGHTVIEW	55,786.95			
28039	11/27/2019	PRINTED	CA BLDG STANDARDS COMMISS	1,651.01			
28040	11/27/2019	PRINTED	CARQUEST AUTO PARTS	1,784.46			
28041	11/27/2019	PRINTED	CARRASCO, ALEX	86.19			
28042	11/27/2019	PRINTED	CHINO BASIN WATER	270,283.31			
28043	11/27/2019	PRINTED	CHINO MOWER & ENGINE SERV	93.96			
28044	11/27/2019	PRINTED	CINTAS CORPORATION	723.93			
28045	11/27/2019	PRINTED	CODE 3 INC	559.73			
28046	11/27/2019	PRINTED	ESCOTO, EDGAR A	358.00			
28047	11/27/2019	PRINTED	ROSALYN MARIE NICHOLAS	3,479.90			
28048	11/27/2019	PRINTED	JJS TRUCK EQUIPMENT LLC	114.02			

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CHECK #	CHECK DATE	TYPE	VENDOR NAME	UNCLEARED	CLEARED	BATCH	CLEAR DATE
28049	11/27/2019	PRINTED	DEPARTMENT OF JUSTICE	1,768.00			
28050	11/27/2019	PRINTED	DEPT OF CONSERVATION	1,295.11			
28051	11/27/2019	PRINTED	DOUG MARTIN CONTRACTING C	121,629.84			
28052	11/27/2019	PRINTED	VARGAS, LUPE B	440.00			
28053	11/27/2019	PRINTED	EXEMPLARY POLICING SERVIC	537.00			
28054	11/27/2019	PRINTED	FEDERAL EXPRESS	12.60			
28055	11/27/2019	PRINTED	FORD OF UPLAND	102.34			
28056	11/27/2019	PRINTED	GRAINGER	1,610.68			
28057	11/27/2019	PRINTED	HEARD'S INVESTIGATIONS AN	600.00			
28058	11/27/2019	PRINTED	HOLLIDAY ROCK CO INC	1,431.35			
28059	11/27/2019	PRINTED	HOSE-MAN INC	147.16			
28060	11/27/2019	PRINTED	INFOSEND INC	1,055.95			
28061	11/27/2019	PRINTED	INLAND EMPIRE PRINTING	98.59			
28062	11/27/2019	PRINTED	INLAND EMPIRE STAGES, LTD	3,571.08			
28063	11/27/2019	PRINTED	INLAND VALLEY DAILY BULLE	504.72			
28064	11/27/2019	PRINTED	J C I JONES CHEMICALS IN	3,295.51			
28065	11/27/2019	PRINTED	JEEP CHRYSLER OF ONTARIO	640.41			
28066	11/27/2019	PRINTED	JON'S FLAGS & POLES	2,687.21			
28067	11/27/2019	PRINTED	KAISER FOUNDATION HEALTH	135,234.13			
28068	11/27/2019	PRINTED	KAISER FOUNDATION HEALTH	10,005.98			
28069	11/27/2019	PRINTED	KAISER FOUNDATION HEALTH	11,687.66			
28070	11/27/2019	PRINTED	KAISER FOUNDATION HEALTH	24,479.82			
28071	11/27/2019	PRINTED	LAYNE, RANDALL	127.66			
28072	11/27/2019	PRINTED	LOZEAU, MICHAEL ROBERT	320.00			
28073	11/27/2019	PRINTED	MAGNOLIA COLONY APARTMENT	124.73			
28074	11/27/2019	PRINTED	BOYER, WAYNE	223.00			
28075	11/27/2019	PRINTED	PACIFIC WESTERN BANK	90,159.33			
28076	11/27/2019	PRINTED	PLUMBERS DEPOT INC	2,054.79			
28077	11/27/2019	PRINTED	PRO FORCE LAW ENFORCEMENT	1,512.98			
28078	11/27/2019	PRINTED	PULL UP A CHAIR EVENT REN	1,000.00			
28079	11/27/2019	PRINTED	PVP COMMUNICATIONS	78.49			
28080	11/27/2019	PRINTED	QUAD COUNTRY PAINTING	63,158.00			
28081	11/27/2019	PRINTED	R E S ENVIRONMENTAL INC	1,560.00			
28082	11/27/2019	PRINTED	R3 CONSULTING GROUP	5,971.25			
28083	11/27/2019	PRINTED	RICHARDS, WATSON & GERSHO	26,292.98			
28084	11/27/2019	PRINTED	RIDE ON POWEPWERSPORTS,	1,852.17			
28085	11/27/2019	PRINTED	S & J SUPPLY CO INC	2,259.89			
28086	11/27/2019	PRINTED	SAN BERNARDINO COUNTY	53,204.90			
28087	11/27/2019	PRINTED	SANTANA, GABRIEL	59.82			
28088	11/27/2019	PRINTED	SAX-CLIFFORD, SUSAN PHD,	450.00			
28089	11/27/2019	PRINTED	SHRED-IT USA JV LLC	92.57			
28090	11/27/2019	PRINTED	SOFFA ELECTRIC INC	1,005.00			
28091	11/27/2019	PRINTED	STAPLES BUSINESS ADVANTAG	1,079.51			
28092	11/27/2019	PRINTED	SUN BADGE COMPANY INC	235.12			
28093	11/27/2019	PRINTED	THERMAL COMBUSTION INNOVA	78.31			
28094	11/27/2019	PRINTED	THE LINCOLN NATIONAL LIFE	2,541.00			
28095	11/27/2019	PRINTED	THOMSON REUTERS - WEST PA	1,221.17			
28096	11/27/2019	PRINTED	UNDERCAR PLUS UPLAND	200.78			
28097	11/27/2019	PRINTED	UNIVERSAL TRUCK BODY, INC	561.60			
28098	11/27/2019	PRINTED	URBAN GRAFFITI ENTERPRISE	5,200.00			
28099	11/27/2019	PRINTED	WEST COAST ARBORISTS INC	14,678.00			
28100	11/27/2019	PRINTED	FRANK GONZALEZ	100.00			

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City of Upland, CA  
AP CHECK RECONCILIATION REGISTER

P 8  
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FOR CASH ACCOUNT: 9000000 1001

FOR: Cleared and Uncleared

CHECK #	CHECK DATE	TYPE	VENDOR NAME	UNCLEARED	CLEARED	BATCH	CLEAR DATE
28101	11/27/2019	PRINTED	HOME DEPOT AT-HOME SERVIC	206.58			
28102	11/27/2019	PRINTED	MICHELLE TOMES	100.00			
28103	11/27/2019	PRINTED	SAFE STEP WALK-IN TUB CO	206.58			
28104	11/27/2019	PRINTED	SOHEILA AZIZI	250.00			
28105	11/27/2019	PRINTED	SUDDUTH CONSTRUCTION	321.00			
110119001	11/01/2019	MANUAL	MASSACHUSETTS MUTUAL LIFE	200.00			
110419001	11/04/2019	MANUAL	U S BANK NATIONAL ASSN	19,110.18			
110519001	11/05/2019	MANUAL	SOUTHERN CALIF GAS COMPAN	1,099.85			
110519002	11/05/2019	MANUAL	KEENAN & ASSOCIATES	90,866.49			
110619001	11/06/2019	MANUAL	CARL WARREN & CO	49,478.09			
110619002	11/06/2019	MANUAL	SOUTHERN CALIF EDISON CO	114,981.34			
110719000	11/07/2019	MANUAL	AMERICAN FIDELITY ASSURAN	989.55			
110719001	11/07/2019	MANUAL	CARL WARREN & CO	138,024.48			
110719002	11/07/2019	MANUAL	LIBRARY SYSTEMS & SERVICE	103,518.00			
110719003	11/07/2019	MANUAL	ICMA-RC	2,297.91			
110719004	11/07/2019	MANUAL	KAREN LONG	672.00			
110719005	11/07/2019	MANUAL	MIDAMERICA ADMIN & RETIRE	1,543.49			
110719006	11/07/2019	MANUAL	UPLAND CITY EMPLOYEE ASSO	970.00			
110819000	11/08/2019	MANUAL	AMERICAN FIDELITY ASSURAN	1,006.58			
110819001	11/08/2019	MANUAL	DEPT OF THE TREASURY	550.00			
111119001	11/11/2019	MANUAL	STATE OF CALIFORNIA EMPLO	3,499.00			
111219000	11/12/2019	MANUAL	MASSACHUSETTS MUTUAL LIFE	77,534.75			
111319000	11/13/2019	MANUAL	CALPERS	155,075.61			
111319001	11/13/2019	MANUAL	INLAND EMPIRE UTILITIES A	552,830.40			
111519000	11/15/2019	MANUAL	MASSACHUSETTS MUTUAL LIFE	36.59			
111819001	11/18/2019	MANUAL	SOUTHERN CALIF EDISON CO	71,402.84			
112019000	11/20/2019	MANUAL	AMERICAN FIDELITY ASSURAN	1,006.58			
112019001	11/20/2019	MANUAL	CARL WARREN & CO	49,918.58			
112119000	11/21/2019	MANUAL	AMERICAN FIDELITY ASSURAN	989.55			
112119001	11/21/2019	MANUAL	ICMA-RC	2,297.91			
112119002	11/21/2019	MANUAL	KAREN LONG	672.00			
112119003	11/21/2019	MANUAL	MIDAMERICA ADMIN & RETIRE	1,611.20			
112119004	11/21/2019	MANUAL	UPLAND CITY EMPLOYEE ASSO	950.00			
112219000	11/22/2019	MANUAL	CALPERS	144,385.50			
112219001	11/22/2019	MANUAL	DEPT OF THE TREASURY	550.00			
112219002	11/22/2019	MANUAL	KEENAN & ASSOCIATES	90,056.72			
112219003	11/22/2019	MANUAL	MIDAMERICA ADMIN & RETIRE	24,379.74			
112519000	11/25/2019	MANUAL	MASSACHUSETTS MUTUAL LIFE	51,264.78			
112619000	11/26/2019	MANUAL	MASSACHUSETTS MUTUAL LIFE	347.06			
403 CHECKS				CASH ACCOUNT TOTAL	5,125,035.07		.00

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City of Upland, CA  
AP CHECK RECONCILIATION REGISTER

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UNCLEARED

CLEARED

403 CHECKS

FINAL TOTAL

5,125,035.07

.00

\*\* END OF REPORT - Generated by Erin Myers \*\*



# STAFF REPORT

**ITEM NO. 11.C.**

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**DATE:** December 9, 2019  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:** ROSEMARY HOERNING INTERIM CITY MANAGER  
**PREPARED BY:** LONDA BOCK-HELMS CPA, ACTING ADMINISTRATIVE SERVICES DIRECTOR  
**SUBJECT:** TREASURY REPORT OCTOBER 2019

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## **RECOMMENDED ACTION**

It is recommended that the City Council receive and file the October 2019 Treasury Report.

## **GOAL STATEMENT**

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

## **BACKGROUND**

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

## **ISSUES/ANALYSIS**

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

## **FISCAL IMPACTS**

There is no fiscal impact associated with this action.

**ALTERNATIVES**

Provide alternative direction to staff.

**ATTACHMENTS:**

**Treasury Report October 2019**

**TREASURY REPORT**

City of Upland - Successor Agency - Public Financing Authority

**For Period Ended  
October 31, 2019**

Investment Portfolio	Cost	Par Value	Market Value	% of Portfolio
State Local Agency Investment Fund	\$ 21,590,037	N/A	\$ 21,756,339	24.3%
Bank Accounts and Change Funds	7,486,501	N/A	7,486,501	8.4%
ABS-Corporate Paydown Securities	-	N/A	-	0.0%
Money Market Fund	5,876,233	N/A	5,876,233	6.6%
Government Agency Securities	40,828,637	40,855,000	40,886,056	45.9%
Corporate Bonds	12,334,553	12,343,000	12,484,370	14.0%
US Treasury	602,322	600,000	599,372	0.7%
<b>Total Cash and Investments</b>	<b>\$ 88,718,283</b>	<b>\$ 53,798,000</b>	<b>\$ 89,088,871</b>	<b>100.0%</b>

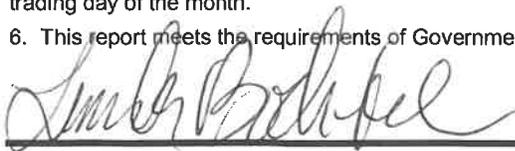
PARS Investment Portfolio	Cost	Market Value	% of Portfolio
115 Trust-OPEB Investment as of 10/31/19	1,147,121	1,147,121	14.3%
Pension Trust Investment as of 10/31/19	6,860,273	6,860,273	85.7%
<b>Total Cash and Investments</b>	<b>\$ 8,007,392</b>	<b>\$ 8,007,392</b>	<b>100.0%</b>

<b>Weighted Average Days to Maturity</b>	602.55
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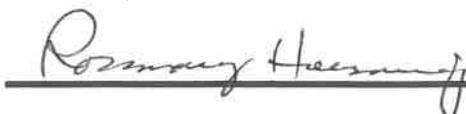
<b>Blended Yield:</b>	2.200%
<b>Benchmarks:</b>	
<b>LAIF</b>	2.190%
<b>2yr U.S. Treasury</b>	1.520%
<b>5yr U.S. Treasury</b>	1.510%

Restricted Funds with Fiscal Agent	Book Value	Market Value
Water System Lease Revenue Refunding Bonds 2011	14	14
Colonies CFD Area #2 2015	1,732,999	1,732,999
Colonies CFD Area #1 2012	2,385,968	2,385,968
Upland 54 CFD 2004	201,281	201,281
Successor Agency TAN 2013 / TAN 2016- Merged Project	2,458,498	2,458,498
Harvest at Upland CFD 2016-1	8,250,244	8,250,244
<b>Total Restricted Funds</b>	<b>\$ 15,029,004</b>	<b>\$ 15,029,004</b>

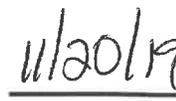
- I hereby certify that the investments are in compliance with the investment policy adopted by the City Council in June 2018.
- The City has the ability to meet its budgeted expenditures for the next six months.
- The market values for funds held in banking institutions do not change. The amounts listed 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.

  
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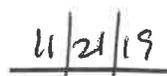
Reviewed by Finance Officer

  
\_\_\_\_\_

Interim City Manager

  
\_\_\_\_\_

Date

  
\_\_\_\_\_

Date

**TREASURY REPORT**

City of Upland - Successor Agency - Public Financing Authority

**State Local Agency Investment Fund**

**For Period Ended  
October 31, 2019**

<u>Fund or Account</u>		<u>Account Balance</u>	
City	95-36-642	21,590,037	
			<b>Market Value (See Note 4)</b>
	<b>Totals</b>	<b>\$ 21,590,037</b>	<b>\$ 21,756,339</b>
<b>Yield for Period Ended</b>	<b>10/31/2019</b>	<b>2.190%</b>	

## TREASURY REPORT

City of Upland - Successor Agency - Public Financing Authority

### Bank Accounts and Change Funds

For Period Ended  
October 31, 2019

Account Name	Institution	Insured Deposits	Collateralized Deposits	Total Deposits
Petty Cash City of Upland	City of Upland	\$ -	\$ 11,400	\$ 11,400
City of Upland Payroll Zero Balance Account	Chase	-	-	-
City of Upland Checking Account	Chase	250,000	4,275,387	4,525,387
City of Upland Successor Agency	Chase	-	2,949,715	2,949,715
	<b>Totals</b>	<b>\$ 250,000</b>	<b>\$ 7,236,501</b>	<b>\$ 7,486,501</b>

**TREASURY REPORT**

City of Upland - Successor Agency - Public Financing Authority

For Period Ended

October 31, 2019

Investment	Purchased From	Cusip #	Cost	Market Value	Stated Rate	Maturity Date
Iberia Bank CD		45083ALH3	250,000	251,048	2.800%	3/2/2020
Compass BK CD		20451PWE2	250,000	251,063	2.800%	3/4/2020
Bank of OZK C D		06417NGZ0	250,000	250,838	2.350%	4/9/2020
United Bankers CD		909557HZ6	250,000	251,718	2.850%	5/19/2020
Brookline Bank CD		11373QFU7	250,000	251,878	2.900%	5/29/2020
First Financial CD		32021SFP6	250,000	252,108	2.900%	6/26/2020
Ally Bank Midvale Utah		02007GDM2	250,875	251,888	2.750%	6/29/2020
TCF National Bank CD		87227RCN2	250,000	251,670	2.600%	7/2/2020
Wells Fargo Bank CD		949763SP2	249,873	252,210	2.800%	7/27/2020
Bank Pontiac ILL C D		064455AM0	250,000	251,433	2.350%	8/14/2020
State Street Bank Note		857477AS2	103,593	100,537	2.550%	8/18/2020
Bank of Hope CD		062683BX4	250,000	252,488	2.800%	9/14/2020
Comenity CAP BK CD		20033AXY7	250,000	250,750	2.000%	10/23/2020
First Internet CD		32056GDD9	250,000	253,703	3.000%	12/28/2020
JP Morgan Chase CD		48128F4V1	250,000	250,630	3.000%	1/8/2021
Live Oak CD		538036DX9	250,000	254,035	3.000%	2/9/2021
Eagle Bank CD		27002YDY9	250,000	253,768	2.800%	3/8/2021
CitiBank NA CD		17312QH93	250,000	253,643	2.750%	4/12/2021
Capital One NA CD		14042RFV8	246,218	250,730	2.250%	5/24/2021
B Bay LLC Promissory Notebal		05580ANK6	250,000	255,230	3.000%	7/13/2021
Capital One Bank CD		14042TBG1	250,000	251,495	2.100%	8/2/2021
Abacus Federal CD		00257TBA3	250,000	255,145	2.900%	8/31/2021
First Fid Bank C D		32024FAB7	250,000	255,010	2.850%	9/14/2021
Wells Fargo Bank CD		949763LT1	250,000	252,408	2.250%	12/8/2021
Synchronony Bank CD		87164WYK8	250,000	255,078	2.700%	3/8/2022
Sterling Bank CD		85916VCW3	250,000	257,380	3.100%	3/9/2022
Morgan Stanley CD		61690UFC9	250,000	255,680	2.800%	3/14/2022
American CD		02587DN38	249,675	248,760	2.400%	4/5/2022
First Northeast CD		33583FAB8	239,570	248,010	2.000%	4/19/2022
Old Missouri CD		68002LBL1	250,000	257,755	3.100%	5/5/2022
American Express CD		02587CFU9	250,000	252,555	2.400%	8/29/2022
BMO Harris CD		05581WN35	250,000	250,373	2.850%	9/14/2022
Apple Inc		037833DE7	494,750	509,530	2.400%	1/13/2023
Goldman Sachs CD		38148PYQ4	250,000	257,230	2.800%	2/28/2023
Sallie Mae Bank Salt Lke		795450P66	250,000	261,030	3.200%	5/9/2023
Discover Bank Greenwood Del CD		254673RF5	250,000	262,443	3.300%	7/11/2023
Morgan Stanley C D		61760AZR3	250,000	258,860	2.750%	5/2/2024
Jonesboro St Bank C D		48040PFB6	250,000	250,160	2.050%	9/16/2024
<b>Corporate Bonds Subtotal</b>			12,334,553	12,484,370		
<b><u>US Treasury</u></b>						
US T-note	Barclays Capital Inc	912828G61	199,188	199,942	1.500%	11/30/2019
US T-note	Citigroup Global Mkt Inc	912828H52	202,258	199,828	1.250%	1/31/2020
US T-note	Morgan Stanley	912828UV0	200,876	199,602	1.125%	3/31/2020
<b>US Treasury Subtotal</b>			602,322	599,372		
<b>Total Portfolio</b>			\$ 59,641,747	\$ 59,846,031		

**TREASURY REPORT**

City of Upland - Successor Agency - Public Financing Authority

	Market Value	Availability 10/31/19 11/01/19	No. of days until maturity	weight	days to maturity weighted average	Total by maturity	
<b>October 31, 2019</b>							
Petty Cash	11,400	11/01/19	1	0.0%	0.00		
Checking Account	4,525,387	11/01/19	1	5.1%	0.05		
Successor Agency	2,949,715	11/01/19	1	3.3%	0.03	7,486,501	
<b>Total Bank Accounts</b>	<b>7,486,501</b>						
<b>State Local Agency Investment Fund</b>	<b>21,756,339</b>	11/01/19	1	24.4%	0.24	21,756,339	
US Bank	5,876,233	11/01/19	1	6.6%	0.07	5,876,233	
<b>Total Money Market Accounts</b>	<b>5,876,233</b>						
Wells Fargo Sec LLC <b>Government Securities</b>	<b>1,499,850</b>	11/15/19	15	1.7%	0.25	1,499,850	
USNY Bank CD <b>Corporate Bonds</b>	<b>250,038</b>	11/05/19	5	0.3%	0.01	250,038	
Barclays Capital Inc <b>US Treasury</b>	<b>199,942</b>	11/30/19	30	0.2%	0.07	199,942	
						<b>37,068,903</b>	<b>1 - 30 days</b>
Wells Fargo Sec LLC <b>Government Securities</b>	<b>200,140</b>	12/13/19	43	0.2%	0.10	200,140	
Wex Bank Midvale CD	250,290	12/13/19	43	0.3%	0.12		
Bank of China CD	250,133	12/20/19	50	0.3%	0.14		
Bank Baroda New CD	250,470	12/27/19	57	0.3%	0.16		
Customers Bank CD	250,155	12/30/19	60	0.3%	0.17	1,001,048	
<b>Corporate Bonds</b>	<b>1,001,048</b>						
						<b>1,201,188</b>	<b>31 - 60 days</b>
The Fahey CD	250,460	01/10/20	71	0.3%	0.20		
Union Bank CD	250,580	01/16/20	77	0.3%	0.22		
Merrick Bank CD	250,643	01/21/20	82	0.3%	0.23		
Radius Bank CD	250,275	01/29/20	90	0.3%	0.25		
Town and Country CD	250,280	01/30/20	91	0.3%	0.26		
Valley N B CD	250,785	02/07/20	99	0.3%	0.28	1,503,023	
<b>Corporate Bonds</b>	<b>1,503,023</b>						
Citigroup Global Mkt Inc <b>US Treasury</b>	<b>199,828</b>	01/31/20	92	0.2%	0.21	199,828	
						<b>1,702,851</b>	<b>61 - 120 days</b>
Wells Fargo Sec LLC <b>Government Securities</b>	<b>199,686</b>	04/06/20	158	0.2%	0.35	199,686	
Iberia Bank CD	251,048	03/02/20	123	0.3%	0.35		
Compass BK CD	251,063	03/04/20	125	0.3%	0.35		
Bank of OZK C D	250,838	04/09/20	161	0.3%	0.45	752,948	
<b>Corporate Bonds</b>	<b>752,948</b>						
Morgan Stanley <b>US Treasury</b>	<b>199,602</b>	03/31/20	152	0.2%	0.34	199,602	
						<b>1,152,236</b>	<b>121 - 180 days</b>
Wells Fargo Sec LLC	204,783	05/13/20	195	0.2%	0.45		
Federal Home Loan Bks	1,501,560	09/28/20	333	1.7%	5.61		
Deutsche Bank Sec Intl <b>Government Securities</b>	<b>1,498,785</b>	10/30/20	365	1.7%	6.14	3,205,128	
United Bankers CD	251,718	05/19/20	201	0.3%	0.57		
Brookline Bank CD	251,878	05/29/20	211	0.3%	0.60		
First Financial CD	252,108	06/26/20	239	0.3%	0.68		
Ally Bank Midvale Utah	251,888	06/29/20	242	0.3%	0.68		
TCF National Bank CD	251,670	07/02/20	245	0.3%	0.69		
Wells Fargo Bank CD	252,210	07/27/20	270	0.3%	0.76		
Bank Pontiac ILL C D	251,433	08/14/20	288	0.3%	0.81		
State Street Bank Note	100,537	08/18/20	292	0.1%	0.33		
Bank of Hope CD	252,488	09/14/20	319	0.3%	0.90		
Comenity CAP BK CD	250,750	10/23/20	358	0.3%	1.01	2,366,677	
<b>Corporate Bonds</b>	<b>2,366,677</b>						

**TREASURY REPORT**

City of Upland - Successor Agency - Public Financing Authority

	Market Value	Availability 10/31/19 11/01/19	No. of days until maturity	weight	days to maturity weighted average	Total by maturity	
<b>October 31, 2019</b>						<b>5,571,805</b>	<b>181 - 1 year</b>
Deutsche Bank Sec Intl	1,498,485	11/30/20	396	1.7%	6.66		
Federal Farm Credit Bks	1,250,025	09/13/21	683	1.4%	9.58		
Deutsche Bank Sec Intl	1,494,525	10/07/21	707	1.7%	11.86	4,243,035	
<b>Government Securities</b>	<b>4,243,035</b>						
First Internet CD	253,703	12/28/20	424	0.3%	1.21		
JP Morgan Chase CD	250,630	01/08/21	435	0.3%	1.22		
Live Oak CD	254,035	02/09/21	467	0.3%	1.33		
Eagle Bank CD	253,768	03/08/21	494	0.3%	1.41		
CitiBank NA CD	253,643	04/12/21	529	0.3%	1.51		
Capital One NA CD	250,730	05/24/21	571	0.3%	1.61		
B Bay LLC Promissory Notebal	255,230	07/13/21	621	0.3%	1.78		
Capital One Bank CD	251,495	08/02/21	641	0.3%	1.81		
First Fid Bank C D	255,010	09/14/21	684	0.3%	1.96		
Abacus Federal CD	255,145	08/31/21	670	0.3%	1.92	2,533,388	
<b>Corporate Bonds</b>	<b>2,533,388</b>						
						<b>6,776,423</b>	<b>1- 2 years</b>
Federal Farm Credit Bks	2,014,780	11/19/21	750	2.3%	16.96		
Federal Home Loan Bks	1,501,215	11/26/21	757	1.7%	12.76		
Federal Home Loan Bks	1,505,775	05/08/22	918	1.7%	15.52		
Federal Farm Credit Bks	1,002,360	06/03/22	946	1.1%	10.64		
Federal Home LN Corp	1,500,345	06/06/22	949	1.7%	15.98		
Federal Farm Credit Bks	3,005,490	07/22/22	995	3.4%	33.57		
Federal Farm Credit Bks	1,250,050	09/12/22	1,047	1.4%	14.69	11,780,015	
<b>Government Securities</b>	<b>11,780,015</b>						
Wells Fargo Bank CD	252,408	12/08/21	769	0.3%	2.18		
Synchrony Bank CD	255,078	03/08/22	859	0.3%	2.46		
Morgan Stanley CD	255,680	03/14/22	865	0.3%	2.48		
Sterling Bank CD	257,380	03/09/22	860	0.3%	2.48		
American CD	248,760	04/05/22	887	0.3%	2.48		
First Northeast CD	248,010	04/19/22	901	0.3%	2.51		
Old Missouri CD	257,755	05/05/22	917	0.3%	2.65		
American Express CD	252,555	08/29/22	1,033	0.3%	2.93		
BMO Harris CD	250,373	09/14/22	1,049	0.3%	2.95	2,277,998	
<b>Corporate Bonds</b>	<b>2,277,998</b>						
						<b>14,058,013</b>	<b>2- 3 years</b>
Federal Home LN Corp	1,500,540	11/28/22	1,124	1.7%	18.93		
Morgan Stanley & Co	2,003,540	10/30/23	1,460	2.2%	32.83	3,504,080	
<b>Government Securities</b>	<b>3,504,080</b>						
Apple Inc	509,530	01/13/23	1,170	0.6%	6.69		
Goldman Sachs CD	257,230	02/28/23	1,216	0.3%	3.51		
Sallie Mae Bank Salt Lke	261,030	05/09/23	1,286	0.3%	3.77		
Discover Bank Greenwood Del CD	262,443	07/11/23	1,349	0.3%	3.97	1,290,233	
<b>Corporate Bonds</b>	<b>1,290,233</b>						
						<b>4,794,313</b>	<b>3- 4 years</b>
Morgan Stanley & Co	2,007,640	04/30/24	1,643	2.3%	37.03		
Morgan Stanley & Co	1,500,555	05/22/24	1,665	1.7%	28.04		
Federal Home LN Corp	2,000,840	06/04/24	1,678	2.2%	37.69		
Federal Home Loan Bks	2,508,200	06/05/24	1,679	2.8%	47.27		
Federal Home LN Corp	1,002,780	06/17/24	1,691	1.1%	19.03		
Federal Home LN Corp	1,502,115	07/30/24	1,734	1.7%	29.24		
Federal Home LN Corp	1,501,035	07/30/24	1,734	1.7%	29.22		
Federal Farm Credit Bks	1,491,510	08/13/24	1,748	1.7%	29.26		
Federal Home LN Corp	1,500,585	09/18/24	1,784	1.7%	30.05		
Federal Home Loan Bks	1,238,863	10/02/24	1,798	1.4%	25.00	16,254,123	
<b>Government Securities</b>	<b>16,254,123</b>						

**TREASURY REPORT**

City of Upland - Successor Agency - Public Financing Authority

	Market Value	Availability 10/31/19 11/01/19	No. of days until maturity	weight	days to maturity weighted average	Total by maturity	
<b>October 31, 2019</b>							
Morgan Stanley C D	258,860	05/02/24	1,645	0.3%	4.78		
Jonesboro St Bank C D	<u>250,160</u>	09/16/24	1,782	0.3%	5.00	509,020	
<b>Corporate Bonds</b>	<b>509,020</b>						
						<u><b>16,763,143</b></u>	<b>4- 5 years</b>
<b>Total Investments</b>	<u><b>\$ 89,088,871</b></u>			100.00%	602.55	<u><b>\$ 89,088,871</b></u>	
	Average Maturity in Days		602.55				
	Average Maturity in Years:		1.651				
LAIF Amortized Cost	\$ 91,358,769,998						
LAIF Fair Value	<u>\$ 92,062,479,216</u>						
Check:	1.007702700						

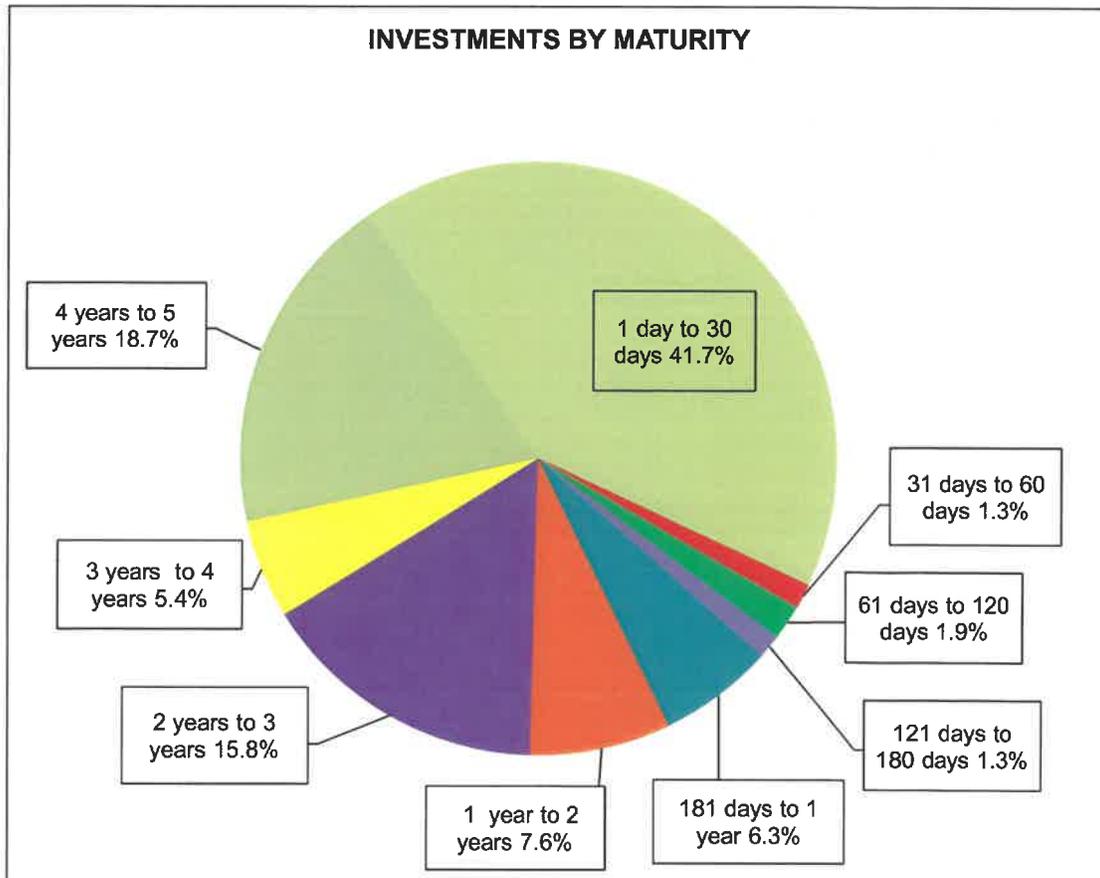
**TREASURY REPORT**

City of Upland - Successor Agency - Public Financing Authority

**October 31, 2019**

**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	21,756	-	-	-	-	-	-	-	-
Bank Accounts and Change Funds	7,487	-	-	-	-	-	-	-	-
ABS	-	-	-	-	-	-	-	-	-
Government Securities	1,500	200	-	200	3,205	4,243	11,780	3,504	16,254
Money Market Fund	5,876	-	-	-	-	-	-	-	-
Corporate Bonds	250	1,001	1,503	753	2,367	2,533	2,278	1,290	509
US Treasury	200	-	200	200	-	-	-	-	-
<b>Total Cash and Investments</b>	<b>37,069</b>	<b>1,201</b>	<b>1,703</b>	<b>1,153</b>	<b>5,572</b>	<b>6,776</b>	<b>14,058</b>	<b>4,794</b>	<b>16,763</b>
<b>Percentage</b>	<b>41.7%</b>	<b>1.3%</b>	<b>1.9%</b>	<b>1.3%</b>	<b>6.3%</b>	<b>7.6%</b>	<b>15.8%</b>	<b>5.4%</b>	<b>18.7%</b>





# STAFF REPORT

**ITEM NO. 11.D.**

---

**DATE:** December 9, 2019  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:** ROSEMARY HOERNING, INTERIM CITY MANAGER  
**PREPARED BY:** KERI JOHNSON, CITY CLERK  
**SUBJECT:** SCHEDULED VACANCIES FOR COMMISSIONS, COMMITTEES,  
AND BOARDS FOR CALENDAR YEAR 2020

---

## **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 2020, 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. 6504, 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 14 positions on commissions, committees, and boards that have terms expiring during 2020. The Local Appointments List has been prepared and must be posted prior to December 31, 2019 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**



LOCAL APPOINTMENTS LIST

Pursuant to Government Code Section 54972, the following terms will expire during the 2018 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 after consultation with, and approval by the full Council. Each Councilmember may nominate an individual to the Building Board of Appeals, City Council Advisory Committee, Community Development Block Grant Committee, Street Tree Advisory Committee, and the 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](http://www.ci.upland.ca.us)

	<u>Date of Appointment</u>	<u>Term Expires</u>
<u>BUILDING BOARD OF APPEALS</u>		
VACANT		12/2020
Mark Bertone	01/28/2019	12/2020
<u>CITY COUNCIL ADVISORY COMMITTEE</u>		
Andrew Behnke (Chair)	03/13/2017	12/2020
Hydee Hall	06/10/2019	12/2020
<u>COMMUNITY DEVELOPMENT BLOCK GRANT COMMITTEE</u>		
Hydee Hall	01/23/2017	12/2020
Robin Aspinall	01/28/2019	12/2020
<u>LIBRARY BOARD</u>		
Renuka Balakrishnan	06/12/2017	06/2020
Wendy Slatkin	06/12/2017	06/2020
<u>PLANNING COMMISSION</u>		
Alexander Novikov	04/22/2019	06/2020
Yvette Walker	07/25/2016	06/2020
<u>STREET TREE ADVISORY COMMITTEE</u>		
Gregg Denson	01/23/2017	12/2020
Brigitte James	01/28/2019	12/2020
<u>TRAFFIC SAFETY ADVISORY COMMITTEE</u>		
Eddie Limbaga	02/25/2019	12/2020
Mark Bertone	01/28/2019	12/2020



## STAFF REPORT

**ITEM NO. 11.E.**

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**DATE:** December 9, 2019  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:** ROSEMARY HOERNING, INTERIM CITY MANAGER  
**PREPARED BY:** KERI JOHNSON, CITY CLERK  
**SUBJECT:** APPOINTMENT OF MAYOR PRO TEM

---

### RECOMMENDED ACTION

It is recommended that the City Council ratify the appointment of Councilmember Ricky Felix as Mayor Pro Tem, term to expire in December 2020.

### GOAL STATEMENT

The proposed action supports the City's goal to provide inclusive leadership opportunities for all Councilmembers.

### BACKGROUND

Historically, the Mayor Pro Tem has been appointed by the Mayor. Mayor Stone requested consideration be given to a rotation of Mayor Pro Tem at the time her term of office began.

In December 2016 the City Council adopted Resolution No. 6376 establishing procedures for selecting a Mayor Pro Tem pursuant to the provisions of the California Government Code Section 36801.

In January 2019 the Council adopted Resolution No. 6478 updating the rotation of Mayor Pro Tem to accommodate the change to district-based voting. The rotation began with District 2 and proceeds numerically through District 3, District 4, and District 1. The other provisions of the Resolution remained unchanged.

### ISSUES/ANALYSIS

In keeping with Resolution No. 6478, Councilmember Felix will be appointed as Mayor Pro Tem with a term ending in December 2020.

**FISCAL IMPACTS**

There is no fiscal impact related to this action.

**ALTERNATIVES**

Provide alternative direction to staff.

**ATTACHMENTS:**

**Resolution No. 6478**

RESOLUTION NO. 6478

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UPLAND  
AMENDING PROCEDURES FOR SELECTING A MAYOR PRO TEM  
PURSUANT TO THE PROVISIONS OF CALIFORNIA GOVERNMENT  
CODE SECTION 36801 AND RESCINDING RESOLUTION NO.  
6376

Intent of the Parties and Findings

(i) Government Code Section 36801 provides that the City Council shall meet at the meeting at which the declaration of election results is made pursuant to Sections 10262 and 10263 of the Elections Code and, following the declaration of the election results and the installation of elected officials, choose one of its members to serve as Mayor Pro tem; and

(ii) The City Council is desirous of selecting a Mayor Pro Tem to serve a one-year term, beginning in December of each year;

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

Section 1. That the City Council shall reorganize by selecting one of its members for one year as Mayor Pro Tem in December of each year.

Section 2. The City Council shall make its annual selection based upon the rotation plan, so that each Council Member willing and able to serve will be given the opportunity serve as Mayor Pro Tem during his or her four-year term of office.

In the event one of the current incumbents is no longer on the Council at the time of reorganization, the successor in the district shall assume the same position in the rotation of Mayor Pro Tem subject to the provisions of Section 4 hereof.

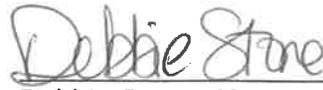
Section 3. (A) In December 2019, the Council shall select the Councilmember for District 3 for a one-year term as Mayor Pro Tem  
(B) In December 2020, the Council shall select the Councilmember for District 4 for a one-year term as Mayor Pro Tem  
(C) In December 2021, the Council shall select the Councilmember for District 1 for a one-year term as Mayor Pro Tem  
(D) In December 2022, the Council shall select the Councilmember for District 2 for a one-year term as Mayor Pro Tem  
(E) In December of each succeeding year, the Council shall follow the rotation plan established by this Resolution.

Section 4. In the event that any current incumbent is not the holder of the office as established by this Resolution, at the time of reorganization, the Council may select his or her successor as Mayor Pro Tem or reassign the rotation so that a new Council Member is not selected early in his or her term.

Section 5. Resolution No. 6376 is hereby rescinded in its entirety.

Section 6. Certification. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions

PASSED, APPROVED and ADOPTED this 14th day of January 2019.

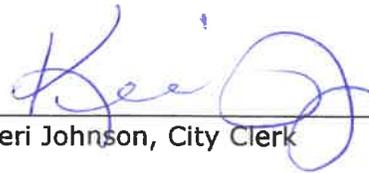


Debbie Stone, Mayor

I, Keri Johnson, City Clerk of the City of Upland, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Council held on the 14th day of January, 2019, by the following vote:

AYES: Mayor Stone, Councilmembers Elliott, Felix, Zuniga  
NOES: None  
ABSENT: None  
ABSTAINED: None

ATTEST:



Keri Johnson, City Clerk



# STAFF REPORT

**ITEM NO. 11.F.**

---

**DATE:** December 9, 2019  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:** ROSEMARY HOERNING, INTERIM CITY MANAGER  
**PREPARED BY:** KERI JOHNSON, CITY CLERK  
**SUBJECT:** RESIGNATION OF CITY COUNCIL ADVISORY COMMITTEE MEMBER

---

## **RECOMMENDED ACTION**

It is recommended that the City Council accept the resignation from City Council Advisory Committee Member Steve Bierbaum and instruct the City Clerk to post the vacancy pursuant to Government Code Section 54974.

## **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 City Council Advisory Committee reviews any matters which may be referred to the Committee from time to time, and serves as stand-by officers for the City Council in the event of an emergency.

Mr. Bierbaum was appointed to the City Council Advisory Committee on January 28, 2019 and was nominated by Councilmember Zuniga. The term of the appointment will expire in December 2022.

## **ISSUES/ANALYSIS**

The City Clerk's Office received Mr. Bierbaum's resignation on November 27, 2019. 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.

**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.**

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**DATE:** December 9, 2019  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:** ROSEMARY HOERNING, INTERIM CITY MANAGER  
**PREPARED BY:** DARREN L. GOODMAN, POLICE CHIEF  
MARCELO A. BLANCO, POLICE CAPTAIN  
**SUBJECT:** 800 MHz RADIO SYSTEM ACCESS AND MAINTENANCE CONTRACT

---

### **RECOMMENDED ACTION**

It is recommended the City Council approve a contract with the County of San Bernardino to provide access and maintenance for the City of Upland 800 MHz radios effective July 1, 2019 to June 30, 2023; and authorize the Interim City Manager to execute the agreement.

### **GOAL STATEMENT**

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

### **BACKGROUND**

The Upland Police Department, Animal Services, and Public Works use the 800 MHz radio communications system, maintained by the County of San Bernardino, as their primary radio communications network. The City has traditionally agreed to pay a per radio access and maintenance fee to the County. This contract has expired and needs to be renewed in order for the City of Upland to continue to receive telecommunication and network infrastructure access and services for the 800 MHz radios used by City personnel, predominantly police.

### **ISSUES/ANALYSIS**

The Chief of Police and Interim City Manager met to discuss the goals and impact of this contract. It was decided the citizens of Upland benefit from this radio system. The 800 MHz radio system allows for radio communications between police, fire, animal services dispatch centers, and personnel/units in the field. This system is critical for successful public safety

operations in the City. There are currently no viable alternative options available for providing these services.

**FISCAL IMPACTS**

The cost of radio access and maintenance is \$671.44 per Dispatch Console (5 Consoles) and \$59.49 (164 Units) per vehicle mounted or hand held 800 MHz radio, per month. The total annual cost of the contract is \$157,362.72. The agreement has already been budgeted for FY 2019/20 and no additional appropriations are necessary.

**ALTERNATIVES**

Provide alternative direction to staff.

**ATTACHMENTS:**

**San Bernardino County Radio Contract**



## **A. System Purpose and Objective**

The primary purpose of the System is to serve the County and accommodate participation by public safety and local governmental agencies in the County of San Bernardino. Secondly, other governmental and safety related non-governmental users may be allowed access to the System as conditions warrant and as provided for by this Agreement. During a disaster, public safety users will receive priority in all areas, based entirely on emergency response responsibilities and access to the System by non-public safety users may be limited or suspended.

## **B. Backbone Operational Policies**

Public safety and local governmental users shall have operational priority over all other users. In the case of a disaster, public safety users affected by the disaster shall have operational priority over all other public safety users, with County public safety users afforded the highest priority.

- 1) County has the final authority, at all times, to exercise discretionary control over the Backbone, and to otherwise manage Backbone traffic to insure the ability of immediate-need public safety agencies to effectively communicate and for the overall benefit of all Backbone users. EXCEPT FOR GROSSLY NEGLIGENT ACTS OR OMISSIONS IN EXERCIZING ITS AUTHORITY UNDER THIS SECTION, THE COUNTY WILL HAVE NO LIABILITY WHATSOEVER FOR SYSTEM ALLOCATION DECISIONS.

## **C. Backbone Modification (Post Backbone Implementation)**

- 1) The County may determine that Backbone modification is needed from time to time to meet the changing needs of County and/or users.
- 2) Costs for Backbone modifications made after the execution of this Agreement shall be assessed as follows:
  - (i) If the modification benefits all users, each user will bear the pro rata cost of the modification based on the user's derived benefit. Derived benefit shall be determined as a percentage based on the number of units that are in service by each end user divided by the total units being serviced by the Backbone infrastructure at the time the modification is made.
  - (ii) If the modification improves service only for users in a definable local area, all users in such definable local area, and participating in and receiving direct benefit from the modification, shall share the costs for its implementation, operation, and maintenance equally.
  - (iii) If the modification only applies to a specific subset of users, the subset of users that caused the modification shall share the costs of the modification its implementation, operation, and maintenance equally.
  - (iv) if the modification is requested by, and benefits only Customer, Customer shall bear the entire cost of the modification, its implementation, operation, and maintenance.
- 3) Customer acknowledges and agrees that the County is the sole decision-maker in determining the allocation of costs for all Backbone modifications.

## **D. Field Equipment**

- 1) Customer shall, at Customer's expense and future financial liability, purchase and maintain its own Field Equipment.
- 2) Customer shall, at Customer's expense, expand or modify existing Customer structures, facilities, or dispatch centers as required to support the installation of Customer's Field Equipment.
- 3) Customer is solely responsible for ensuring that the Field Equipment is compatible with the System.

#### **E. Related Non-Governmental Users**

- 1) At times, Customer's non-governmental users may have a need to communicate with public safety/local government services during emergencies, or in their daily support of public safety/local government services. Where it is not in conflict with Federal Communications Commission (FCC) Regulations or other laws, and subject to approval by County, Customer's non-governmental users may be allowed Backbone access. However, Customer's non-governmental use of the Backbone for day-to-day operations shall be on a non-interfering, prioritized basis, and subject to channel loading limits, as determined by County.
- 2) County shall be responsible for coordinating Backbone access and implementing terms and conditions of such use, including one-time and recurring costs to be paid by new users.
- 3) County shall monitor non-governmental users of the Backbone. If the needs of public safety/local government expand to the point of competition with non-governmental use of the Backbone, Customer's non-governmental users may be required by the County to terminate their use of the Backbone.
- 4) Customer's non-governmental users will be removed in reverse order of their entry into the System, i.e., the last user to enter the System will be the first user to be removed unless any other Customer's non-governmental user voluntarily relinquishes access.
- 5) County will provide Customer ninety (90) days prior written notice of termination of access to allow Customer's non-governmental users to remove their equipment or transfer their operations to another communications system. At the expiration of the notice period, the Customer's non-governmental users will be denied access to the System.

#### **F. Backbone Ownership**

It is understood that County has ownership of the Backbone, and upon any termination of this Agreement by County or by Customer, any and all rights, title, and interest in the Backbone shall remain with the County.

## **II. MEGAHERTZ RADIO AND EQUIPMENT MAINTENANCE SERVICES**

The County of San Bernardino Information Services Department (ISD) offers a number of 800 MHz radio and equipment maintenance services to public safety and local governmental agencies in the County of San Bernardino, as well as other governmental and safety-related non-governmental users. Services provided under this Agreement consist of 800 MHz Backbone radio equipment maintenance, 800 MHz mobile/portable radio equipment maintenance, Mobile Data Access Modems maintenance, 800 MHz radio dispatch equipment maintenance, and 800 MHz radio battery replacement. Specific charges for these services are set forth and attached hereto as Exhibit A, 800 MHz Radio Communications System Access/Paging Services and Payment Terms.

### **A. County Responsibilities in Providing Maintenance Services**

If providing maintenance services to Customer, ISD:

- 1) Will maintain sufficient spare mobile radios to temporarily replace equipment that is removed from service for maintenance reasons;
- 2) Will remove, reinstall and maintain Customer-owned radios or other covered equipment that has become defective from normal wear and usage, as solely determined by ISD, and perform repairs at ISD or elsewhere as determined by ISD;
- 3) Will provide a two-hour response time from notification for problems with radio dispatch equipment and Backbone radio equipment, and reasonable response time during normal County work hours on normal County business days for maintenance of Mobile Data Access Modems, and mobile/portable radios with after-hours service available at premium rates;
- 4) Reserves the right to subcontract for all or part of services;
- 5) Assumes no liability for equipment failure in the field, or for any adverse consequences caused by such failed equipment;
- 6) Assumes no liability for failure to provide or delay in providing services, under this Agreement.

#### **B. County Services Provided on a Time and Materials Basis**

- 1) Service required due to Customer abuse or abnormal wear;
- 2) Service to correct attempts by Customer or unauthorized third parties to repair or modify equipment;
- 3) Facility electrical problems at Customer location(s) or vehicle electrical problems;
- 4) Services in addition to those identified above, to the extent feasible and cost-effective, as determined by ISD;
- 5) Program or re-program radios at Customer's request or in response to abnormal wear and usage, except for County-originated systems reconfigurations;
- 6) Replacement of accessories and consumable items, including batteries, antennas, and microphone cords;
- 7) Radio reactivations are processed within 5 business days after the request is received, and are billed for each serial number reactivated at one-half of the Board-approved hourly rate in effect at the time reactivation is ordered.

#### **C. Customer Responsibilities**

- 1) Customer shall procure its own Field Equipment and shall:
  - (i) Provide ISD with model and serial numbers of all equipment to be covered under this Agreement.
  - (ii) Designate an individual as the single point of contact for maintenance coordination.
  - (iii) Coordinate and schedule service requirements with ISD in advance whenever possible.
  - (iv) Advise ISD of all radio relocations or reassignments within their fleet, within 24-hours of relocation or reassignment.

- 2) It is Customer's sole responsibility to maintain a current inventory of its Field Equipment using the System and to approve and validate billing of that inventory. If Customer identifies discrepancies between billing and its inventory, a dispute notice should be sent by e-mail to [isdfinance@isd.sbcounty.gov](mailto:isdfinance@isd.sbcounty.gov) along with a justification and related documentation. If ISD determines that a charge was billed incorrectly, ISD will issue the applicable credit on the next monthly billing cycle.

### **III. EFFECTIVE DATE AND TERMINATION**

This Agreement shall commence on July 1, 2019, hereinafter Effective Date. This Agreement shall remain in effect for four (4) years from the Effective Date, unless the County or the Customer, terminates the Agreement by giving sixty (60) days prior written notice to the other. County may, at its sole discretion, opt not to terminate its services until replacement services are identified and in place; however, in no event shall County's services be continued beyond 120 days of the original written notice. Any such termination date shall coincide with the end of a calendar month. Neither party shall incur any liability to the other by reason of such termination.

### **IV. RATES AND PAYMENT TERMS**

Payment rates and conditions are set forth on Exhibit A, 800 MHz Radio Communications System Access/Paging Services and Payment Terms attached hereto. Services are provided and invoiced on a monthly basis starting on the Effective Date of the Agreement, or starting on the installation date, if applicable. Monthly payment shall be due upon receipt of invoice. If a change in service level is requested or required, County will provide to Customer a revised Exhibit A, incorporating such changes, which shall be signed by Customer and returned to County. Customer's subsequent invoice shall be adjusted in accordance with the changes, on a prorated basis, as necessary.

Exhibit A reflects the rates in effect at the execution of this Agreement. Any subsequent rate change shall become effective on July 1 of the County fiscal year (July 1 through June 30). County shall provide notice to Customer of rate change(s).

Customer's subsequent invoice shall be adjusted in accordance with the rate change(s). Checks shall be made payable to the County of San Bernardino.

Payment address is: Information Services Department  
670 E. Gilbert Street, First Floor  
San Bernardino, CA 92415-0915  
Attn: Administration Services

### **V. AGREEMENT AUTHORIZATION**

Customer warrants and represents that the individual signing this Agreement is a properly authorized representative of the Customer and has the full power and authority to enter into this agreement on the Customer's behalf.

### **VI. ASSIGNMENT**

The Customer may not assign this Agreement nor any rights, licenses or obligations hereunder, and any such assignment shall be void and without effect unless the County approves the assignment in writing.

### **VII. DEFAULT**

If the Customer does not make timely payment of amounts due under this Agreement or breaches any term or condition of this Agreement, County may declare immediately due and payable the entire unpaid amount, plus all other amounts due hereunder, less any unearned charges. County may also exercise all rights and remedies of a secure party under the Uniform Commercial Code (or other similar law) of the State of California and pursue any other remedies existing in law or in equity.

## VIII. INDEMNIFICATION AND INSURANCE

### A. Indemnification

The County agrees to defend and indemnify the Customer and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising solely out of the acts, errors or omissions of County in the performance of this Agreement, except where such indemnification is prohibited by law. At its sole discretion, Customer may participate at its own expense in the defense of any claim, action or proceeding, but such participation shall not relieve County of any obligation imposed by this Agreement. Customer shall notify County promptly of any claim, action or proceeding and cooperate fully in the defense. The Customer hereby agrees to defend and indemnify the County, its agents, officers and employees (hereafter collectively referred to in this paragraph as 'County') from any claim, action or proceeding against County, arising solely out of the acts or omissions of Customer in the performance of this Agreement. At its sole discretion, County may participate at its own expense in the defense of any such claim, action or proceeding, but such participation shall not relieve Customer of any obligation imposed by this Agreement. County shall notify Customer promptly of any claim, action or proceeding and cooperate fully in the defense. In the event that County and/or Customer are determined to be comparatively at fault for any claim, action, loss or damage that results from their respective obligations under this Agreement, County and/or Customer shall indemnify the other to the extent of its comparative fault.

### B. Insurance

Customer agrees to provide insurance set forth in accordance with the requirements herein. If Customer uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, Customer agrees to amend, supplement or endorse the existing coverage to do so.

- 1) Additional Insured – All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies, shall contain endorsements naming the County and its officers, employees, agents and volunteers as additional insured with respect to liabilities arising out of the performance of services hereunder.
- 2) Waiver of Subrogation Rights – Customer shall require the carriers of required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit Customer and Customer's employees or agents from waiving the right of subrogation prior to a loss or claim. Customer hereby waives all rights of subrogation against the County.
- 3) Policies Primary and Non-Contributory – All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.
- 4) Severability of Interests – Customer agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between Customer and the County or between the County and any other insured or additional insured under the policy.
- 5) Proof of Coverage – Customer shall furnish Certificates of Insurance to ISD evidencing the insurance coverage, including endorsements, as required, prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be

terminated or expire without thirty (30) days written notice to ISD, and Customer shall maintain such insurance for three (3) years after termination of the Agreement. Within fifteen (15) days of the commencement of this contract, Customer shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

- 6) Acceptability of Insurance Carrier – Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum Best Insurance Guide rating of A- VII.
- 7) Deductibles and Self-Insured Retention - Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.
- 8) Failure to Procure Coverage – In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, the County has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by the County will be promptly reimbursed by Customer.
- 9) Insurance Review – Insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.
- 10) Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this contract. Customer agrees to execute any such amendment within thirty (30) days of receipt.
- 11) Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.
- 12) Without in anyway affecting the indemnity herein provided and in addition thereto, the Customer shall secure and maintain throughout the contract term the following types of insurance with limits as shown:
  - (i) Workers' Compensation/Employers Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of Customer and all risks to such persons under this contract.
  - (ii) Commercial/General Liability Insurance –Customer shall carry General Liability Insurance covering all operations performed by or on behalf of Customer providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:
    - a. Premises operations and mobile equipment
    - b. Products and completed operations
    - c. Broad form property damage (including completed operations)
    - e. Explosion, collapse and underground hazards
    - f. Personal injury

- g. Contractual liability
- h. \$2,000,000 general aggregate limit

(iii) Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If Customer is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If Customer owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

(iv) Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a dropdown provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

## **IX. TERMINATION OR SUSPENSION OF SERVICES**

### **A. Immediate Suspension, Uncured Termination**

The County may, in its sole discretion and without prior notice, immediately suspend all or part of the Services for breach of any of the conditions identified below. The County will provide Customer a written notice of breach and allow the Customer 30 days to correct the condition giving rise to such breach. If the Customer fails to remedy the breach within the 30-day cure period, the County may immediately terminate the Services with no further notice required.

- 1) Customer shall ensure that it has all necessary licenses and permits required by the laws of the United States, State of California, County of San Bernardino and all other appropriate governmental agencies, and agrees to maintain these licenses and permits in effect for the duration of the Agreement. Customer shall notify County immediately of loss or suspension of any such licenses and permits. Customer shall comply with all applicable laws, statutes, ordinances, administrative orders, rules or regulations relating to its duties, obligations and performance under the terms of the Agreement.
- 2) Customer shall comply with all applicable laws, statutes, ordinances, administrative orders, rules or regulations relating to its duties, obligations and performance under the terms of the Agreement.
- 3) Customer represents and warrants to County that (i) the information Customer provides in connection with registration for the Services is accurate and complete; (ii) Customer's use of the System is not illegal, defamatory, malicious, harmful, or discriminatory based on race, sex, religion, nationality, disability, sexual orientation, or age; (iii) Customer's use of the Services complies with all applicable laws, rules and regulations; (iv) Customer has obtained all consents and licenses required to legally access and use the System; (v) the execution and delivery of this Agreement will not conflict with, or violate any provision of, Customer's charter, by-laws or other governing documents; and (vi) Customer has otherwise taken all necessary steps to legally execute this Agreement.
- 4) Customer agrees to abide by all existing and future security practices, policies and protocols established by the County, which the County has established to ensure the integrity of the System. Customer understands that the County closely monitors the System and may perform periodic security audits

- 5) Customer agrees to implement measures that are reasonable for Customer's use of the System to prevent interference with the operation of the System. NEITHER COUNTY NOR ANY OF ITS EMPLOYEES, AGENTS, REPRESENTATIVES, SERVICE SUPPLIERS OR LICENSORS WILL BE LIABLE FOR UNAUTHORIZED ACCESS TO, MISUSE OF, CUSTOMER'S INABILITY TO ACCESS, OR DAMAGE TO THE SYSTEM OR CUSTOMER'S FIELD EQUIPMENT, UNLESS AND ONLY TO THE EXTENT THAT THIS DISCLAIMER IS PROHIBITED BY APPLICABLE LAW.

## **B. Immediate Termination**

The County may, in its sole discretion and without prior notice, immediately suspend or terminate all or part of the Services for any of the conditions identified below. The County will promptly provide Customer a written notice of termination or suspension of Services to Customer.

- 1) County discovers that Customer provided false registration information, or that Customer lacked the capacity to enter into this Agreement at the time of its consummation;
- 2) County determines, in its sole discretion, that Customer's use of the Services poses a threat to the security or performance of the System or to any of County's other users or suppliers;
- 3) County determines, in its sole discretion, that Customer's use of the Services is illegal;
- 4) County reasonably believes that Customer's use of the Services has or will subject County to civil or criminal liability;
- 5) Customer fails to make any payment when due; or
- 6) Customer breaches any of the other material terms and conditions in this Agreement.

## **X. GENERAL TERMS AND CONDITIONS**

- A. Permits** - Customer is responsible for obtaining and paying any costs of all permits, licenses or approvals by any regulatory bodies having jurisdiction over the uses authorized herein, as appropriate.
- B. Attorneys' Fees.** If any legal action is instituted to enforce any party's rights hereunder, each party agrees to bear its own attorneys' fees and costs regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney fees directly arising from a third-party legal action against a party hereto and payable under Section VIII(A)(a) Indemnification.
- C. Waiver** - No waiver of a breach of any provision of this Agreement shall constitute a waiver of any other breach, or of such provision. Failure of County to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. The remedies herein reserved shall be cumulative and additional to any other remedies in law or equity.
- D. Validity** - The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.
- E. Caption and Paragraph Headings** - Captions and paragraph headings used herein are for convenience only and are not a part of this agreement and shall not be used in construing it.
- F. Exhibits** - All Exhibits attached hereto, if any, are an integral part of this Agreement and are incorporated herein by reference.

**G. Entire Agreement** - This Agreement shall be governed by the laws of the State of California and constitutes the entire Agreement between the parties and supersedes all prior negotiations, discussions, and preliminary understanding. This Agreement may be amended as County and the Customer mutually agree in writing. Any such amendment must be in a physical writing and manually signed by authorized representatives of the County and Customer.

**H. Notifications** - All notices or demands required or permitted to be given or made hereunder shall be in writing and shall be deemed duly given: (a) Upon actual delivery, if given in person; (b) upon receipt, as evidenced by transmission confirmation, if sent by facsimile; (c) within three (3) days after deposit if sent via United States First Class mail, postage prepaid; or (d) upon receipt as evidenced by proof of delivery if sent by commercial overnight courier. Each such notice is to be sent to the respective party at the address indicated below or to any other address or person that the respective parties may designate by written notice delivered pursuant hereto:

Customer: City of Upland  
1499 W. 13<sup>th</sup> Street  
Upland, CA 91786  
(909) 946-7624 ext 3233  
Attention: Sue Gutierrez

County: County of San Bernardino  
Information Services Department  
670 E. Gilbert Street, First Floor  
San Bernardino, CA 92415-0915  
(909) 388-5555  
Attn: Administration Services

## **XI. INFORMATION SERVICES DEPARTMENT AUTHORIZATION**

The County's Information Services Department, through the Chief Executive Officer or its Chief Information Officer or designee, is authorized to discharge all functions ascribed to County in this Agreement, except those specifically reserved by law to the Board of Supervisors.

## **XII. FORCE MAJEURE**

County shall not be held liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence, such as acts of God, acts of civil or military authority, government regulations, strikes, labor disputes, embargoes, epidemics, war, terrorist acts, riots, insurrections, fire, explosions, earthquakes, nuclear accidents, floods, power blackouts, brownouts, or surges, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure product or services of other persons or transportation facilities, or acts or omissions of transportation common carriers.

IN WITNESS WHEREOF, the parties have hereto executed this Agreement on the date set forth below their respective signatures.

COUNTY OF SAN BERNARDINO

CITY OF UPLAND

▶ \_\_\_\_\_  
Larry Ainsworth, Interim Chief Information Officer

\_\_\_\_\_  
*(State if corporation, company, etc.)*

Dated \_\_\_\_\_

By ▶ \_\_\_\_\_  
*(Authorized Signature)*

Dated \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

Approved as to Legal Form  
▶ \_\_\_\_\_  
Bonnie Uphold, Deputy County Counsel  
Date \_\_\_\_\_

Reviewed by Contract Compliance  
\_\_\_\_\_  
Date \_\_\_\_\_

**EXHIBIT A**

**800 MHz RADIO COMMUNICATIONS SYSTEM ACCESS/PAGING SERVICES  
AND PAYMENT TERMS**

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**PAYMENT SCHEDULE**

**Monthly Invoicing:** County will invoice Customer monthly for services rendered.

Payments are due upon receipt of invoice and payable within sixty (60) days of invoice date.

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**CHARGES FOR SERVICES**

<b>Service(s)</b>	<b>No of Units</b>	<b>Monthly Unit Charge</b>	<b>Monthly Charge</b>
Radio Access & Maintenance	164	\$59.49	\$9,756.36
Dispatch Console Access, Maintenance, & Replacement	5	\$671.44	\$3,357.20
<b>Total Estimated Monthly Cost</b>			<b>\$13,113.56</b>
<b>Total Estimated Yearly Cost</b>			<b>\$157,362.72</b>



## STAFF REPORT

**ITEM NO. 11.H.**

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**DATE:** December 9, 2019  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:** ROSEMARY HOERNING, INTERIM CITY MANAGER  
**PREPARED BY:** KERI JOHNSON, CITY CLERK  
**SUBJECT:** CONSIDERATION OF A RESOLUTION TO PERMANENTLY CANCEL THE LAST REGULAR MEETINGS IN AUGUST AND DECEMBER OF THE CITY COUNCIL

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### **RECOMMENDED ACTION**

It is recommended that the City Council adopt a Resolution to rescind Resolution No. 6378 and permanently cancel the last regular meetings in August and December of the City Council.

### **GOAL STATEMENT**

The proposed action supports the City's goal to address City business in a transparent manner.

### **BACKGROUND**

Resolution No. 6146, adopted in 2012, permanently cancelled the last meeting in August and December of the City Council.

At the December 12, 2016 City Council meeting, Mayor Stone requested that staff provide information on the process to end the cancellation of the last regular meeting of August and December of the City Council. The request was seconded by Councilmember Filippi.

Resolution No. 6378, adopted in 2017, rescinded Resolution No. 6146 and reinstated the last meeting in August and December of the City Council. Since that time the City has continued to traditionally cancel the second meetings in August and December.

## **ISSUES/ANALYSIS**

Past practice of cancelling the second meetings in August and December is, in part, to accommodate holiday and vacation schedules, and recognizing that public participation was traditionally lower in those months. Staff plans accordingly in advance to ensure business is addressed in a timely manner. Permanently cancelling these meetings will formalize past practice and eliminate the preparation of certain documents related to the cancellation.

Should there be a need to address City business in late August or December a special meeting can be scheduled.

## **FISCAL IMPACTS**

There is no fiscal impact associated with this action.

## **ALTERNATIVES**

Provide alternative direction to staff.

## **ATTACHMENTS:**

**Resolution canceling the last meetings in August and December  
Resoltuion No. 6387**

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UPLAND TO RESCIND RESOLUTION NO. 6378 AND PERMANENTLY CANCEL THE LAST REGULAR MEETINGS IN AUGUST AND DECEMBER OF THE CITY COUNCIL

Intent of the Parties and Findings

(i) Pursuant to the Municipal Code the City Council has established the second and fourth Monday of each month for regular meetings; and

(ii) The City Council adopted Resolution No. 6146 in December 2012 permanently canceling the last regular meetings in August and December of the City Council; and

(iii) The City Council adopted Resolution No. 6378 in January 2017 rescinding Resolution No. 6146 and reinstating the last regular meetings in August and December; and

(iv) Since that time the City has continued to traditionally cancel the last regular meetings in August and December; and

(v) The City Council has historically cancelled the last meeting in August and December to accommodate vacation and holiday schedules; and

(vi) These meetings typically result in a decrease in public participation.

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

Section 1. Resolution No. 6378 is hereby rescinded in its entirety; and

Section 2. That the last regular meetings in August and December will be cancelled. Nothing herein shall be construed to preclude the City Council from scheduling a special meeting in the second half of August or December should it be deemed necessary.

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

PASSED, APPROVED and ADOPTED this 9th day of December, 2019.

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Debbie Stone, Mayor

Resolution No.  
Page 2

I, Keri Johnson, City Clerk of the City of Upland, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Council held on the 9th day of December, 2019, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAINED:

ATTEST: \_\_\_\_\_  
Keri Johnson, City Clerk

RESOLUTION NO. 6378

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UPLAND RESCINDING RESOLUTION NO. 6146 AND REINSTATING THE LAST REGULAR MEETINGS IN AUGUST AND DECEMBER OF THE CITY COUNCIL

Intent of the Parties and Findings

(i) On December 10, 2012, the City Council adopted Resolution No. 6146 to permanently cancel the last meeting in August and December of the City Council; and

(ii) A permanent cancellation of these meetings requires that any timely business of the City council be delayed or addressed at special meeting; and

(iii) The City Council believes that there is greater flexibility in reinstating these meetings permanently and reserving the right to cancel a meeting if there is a lack of City business for the Council to address.

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

Section 1. Resolution No. 6146 is hereby rescinded in its entirety; and

Section 2. Certification. The City Clerk of the City of Upland shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED and ADOPTED this 23rd day of January, 2017.

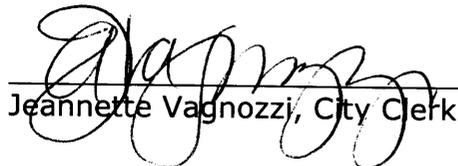


Debbie Stone, Mayor

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 23rd day of January, 2017, by the following vote:

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

ATTEST:



Jeannette Vagnozzi, City Clerk



## STAFF REPORT

**ITEM NO. 11.I.**

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**DATE:** December 9, 2019  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:** ROSEMARY HOERNING, INTERIM CITY MANAGER  
**PREPARED BY:** ROBERT D. DALQUEST, DEVELOPMENT SERVICES DIRECTOR  
JOSHUA WINTER, ASSOCIATE PLANNER  
**SUBJECT:** 2019 MILLS ACT CONTRACTS FOR SEVEN HISTORIC PROPERTIES

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### RECOMMENDED ACTION

It is recommended that the City Council approve the Mills Act contracts for seven (7) historic properties and authorize the Interim City Manager to execute the documents, subject to review and approval of the Mills Act contracts by the City Attorney.

### GOAL STATEMENT

The proposed action supports the City's efforts to preserve, protect and restore the sites, structures and districts which have architectural and historical significance to the City of Upland.

### BACKGROUND

On May 24, 1993, the City Council adopted Upland's Historic Preservation Ordinance (Ordinance No. 1580), which contains citywide policies and procedures for historic preservation. The recently updated and adopted Historic Preservation Ordinance (UMC Chapter 17.26) promotes the use of appropriate preservation incentives to encourage owners to maintain their cultural resources through preservation incentives, such as Mills Act contracts.

The Mills Act, adopted as State Law in 1972 and codified under California Revenue and Taxation Code Section 439, created an alternative method for determining assessed value for certain qualified historic properties. This legislation allows owners of properties listed on Upland's Local Register of Historic Places to obtain a reduction of property taxes in exchange for preservation or rehabilitation of their properties. The Mills Act process involves the County Tax Assessor's re-evaluation of property values using the income/capitalization method rather than calculating market value of the properties. This method is calculated by determining

what the property could reasonably be expected to yield or produce and divided by a capitalization rate. The Mills Act process could save a property owner an average of 40 percent on their property taxes for approved properties.

Each historical property within the City has been assigned a National Register of Historical Places eligibility code to determine the level of significance and potential for listing on the local, state, or national level. See attached Table 1 - National Register of Historic Places Eligibility Codes.

To be eligible for a Mills Act contract, a property must be on the City's Local Register of Historic Places and be rated at least a 5D. There are currently 585 properties listed on the City's Local Register of Historic Places of which, 158 properties have Mills Act contracts.

## **ISSUES/ANALYSIS**

The property owners of seven (7) single-family residences are requesting the City Council's authorization to enter into Mills Act contracts for their historic properties. See attached Table 2 - Properties Applying for Mills Act Contracts.

In return for lower property taxes, the property owners would commit to restoring and/or rehabilitating their property over a ten-year period. These improvements include restoring or replacing both the interior and exterior elements of the property such as roofs, floors, windows, exterior and interior paint, siding, landscaping, and fencing. A list of specific improvements for each of the properties is attached to each contract. The proposed improvements meet the following requirements:

- Improvements should meet or exceed the annual savings in tax dollars to the property owners;
- At least one of the improvements is to be completed annually over the ten-year duration of the contract.

The proposed Mills Act contracts include the following general provisions:

- A ten-year duration with automatic renewal on an annual basis unless notice of non-renewal is filed by the owner or the City.
- Requirements for restoration improvements or preservation of the property over a minimum ten-year period.
- Transferable with no re-assessment of the property upon sale.
- Cancellation provisions by the City, if the contract terms are breached.
- A penalty of 12.5% of full property value, assessed to the property owner for early cancellation.

The Mills Act contract, remains with the property, and would keep taxes at a reduced rate for the benefit of a future owner. Therefore the Mills Act is a good selling point for future buyers, due to the prospect of lower property taxes.

All of these provisions are implemented to provide an incentive-based program to assist in the continuing improvement of Upland's historic districts and resources. This program is consistent with Community Character Element Goal CC-9 of the General Plan and is endorsed by Upland Heritage, whose purpose is to preserve and promote the historic heritage of the City. Attached, please find a sample Standard Mills Act Contract (Attachment 1) and Proposed Mills Act Improvement Lists for each application (Attachment 2), as well as a letter of support from Upland Heritage for the Mills Act applications (Attachment 3).

## **FISCAL IMPACTS**

Since the City of Upland fire services were annexed by the County of San Bernardino, the City of Upland receives approximately 8.04% of the 1% ad valorem tax levied by the County of San Bernardino Tax Assessor. As shown in the attached Table 3, the San Bernardino County Tax Assessor's estimates of annual tax savings for the seven (7) historic properties and the estimated annual reduction in property tax revenue to the City.

As shown in the attached Table 3, with approval of the proposed Mills Act Contracts the approximate reduction in City tax revenue will be approximately \$1,441.00. The annual reduction will change from year to year as property valuations are reassessed due to fluctuations in the economy, or the properties being rented which are assessed at a higher tax rate. On average, the County Assessor estimates that the typical or average increase in property valuation is 2% per year; the most allowed under Proposition 13. The properties will be reassessed in early 2020, with the tax relief for the property owners reflected on the fall 2020 property tax bills.

The total approximate fiscal impact of all existing Mills Act contracts on the City's revenue was also analyzed. To estimate the annual property tax reduction associated with the existing contracts, staff used an average of \$2,100 per property per year after a review of contracts from previous years. Because the City of Upland only receives 0.08 cents for every dollar of property tax collected, the average loss of revenue per property is estimated at \$168.00. Currently, a total of 158 properties have active Mills Act Contracts which result in an approximate total loss of \$26,544.00 in property tax revenue for the City. The approval of the seven (7) applications this year would bring the annual total of lost revenue to approximately \$27,985.00.

As noted in the previous section, it is mandated that tax dollars saved by the property owners be reinvested into the property for the completion of specific improvements included in the Standard Residential Mills Act Contract. The estimated tax losses are expected to be offset by the overall enhancement, stabilization, and increased value of the surrounding properties, which could otherwise age and become a potential blight to the City.

## **ALTERNATIVES**

1. The City Council could deny the Mills Act contracts for the properties. This would save the City approximately \$1,441.00 per year in lost property tax revenue, however this alternative is not consistent with the City's goal of promoting historic preservation. Also, the proposed improvements to the historic homes and buildings have much greater value to those properties, as well as the neighborhoods in which they are located.
2. Provide alternative direction to staff.

## **ATTACHMENTS:**

**Table 1 -National Registry of Historical Places eligibility codes**

**Table 2 - Properties applying for Mills Act Contracts**

**Table 3 - Approximate reduction in tax revenue to the City**

**Attachment 1 - Standard Mills Act Agreement 2019**

**Attachment 2 - Mills Act Improvement Lists**

**Attachment 3 - Upland Heritage Mills Act Support letter**

**Table 1**

**National Register of Historic Places Eligibility Codes**

<b>1</b>	Listed in the National Register
<b>2</b>	Determined eligible for listing in the National Register in a formal process
<b>3</b>	Appears individually eligible for listing in the National Register in the judgment of the person completing or reviewing the inventory.
<b>3D</b>	Appears eligible for listing only as a contributor to a potential National Register District
<b>4</b>	May become individually eligible for listing in the National Register when: <ul style="list-style-type: none"><li>• More architectural or historical research is performed;</li><li>• The property is restored to an earlier appearance;</li><li>• More significant examples of the property’s architectural style are demolished; or</li><li>• The property becomes old enough to meet the Register’s 50 year requirement.</li></ul>
<b>4D</b>	May become individually eligible for listing in the National Register (as above) only as a contributor to a district.
<b>5</b>	Is individually listed or is eligible for listing under a local preservation landmark ordinance
<b>5D</b>	Is listed or eligible for listing as a contributor to a locally designated district or preservation area
<b>5S3</b>	Is not eligible for separate listing under an existing or likely local ordinance, but is eligible for special consideration in the planning process
<b>5D3</b>	Is a contributor to a district that is unlikely to be designated as a local district, but is eligible for special consideration in the planning process
<b>6</b>	Locally Significant, but not eligible for the Local Register.

**Table 2**  
**Properties Applying for Mills Act Contracts**

	<b>Applicant</b>	<b>Address</b>	<b>APN</b>	<b>District</b>	<b>Year Built</b>	<b>Historic Code</b>	<b>Local Register</b>
<b>MA 19-01</b>	Everardo Carvajal, Jr. and Coral Arias	233 N. Laurel Ave	1046-362-08	Arrow/Laurel Bungalow District	1914	5D	4/28/2004
<b>MA 19-02</b>	Lottie Miller	843 Washington Blvd	1046-443-12	Pleasant View District	1913	5D	5/28/2003
<b>MA 19-04</b>	Eleanor Blanchard	755 N. Euclid Ave	1046-283-13	Euclid Avenue District	1912	3D	4/28/2004
<b>MA 19-05</b>	Hovig Meguerditchian	1007 E. 9 <sup>TH</sup> Street	1046-454-21	Pleasant View District	1915	5D	5/28/2003
<b>MA 19-06</b>	Matthew Saul	111 W 17 <sup>th</sup> Street	1044-351-21	Individual Listing	1895	4	11/13/2019
<b>MA 19-0001</b>	Carolyn Lecour	1435 N. Euclid Ave	1045-271-03	Euclid Avenue District	1927	5D	4/28/2004
<b>MA 18-0002</b>	Nathan Price	776 N. 2 <sup>nd</sup> Ave	1046-273-08	Old Magnolia District	1929	4D	5/31/2000

**Table 3**  
**Approximate reduction in City tax revenue**

<b>Address</b>	<b>APN</b>	<b>Approximate Tax Savings After Reassessment</b>	<b>Approximate Annual Loss to Upland</b>
233 N. Laurel Ave	1046-362-08	\$2,123.00	\$170.00
843 Washington Blvd	1046-443-12	\$976.00	\$78.00
755 N. Euclid Ave	1046-283-13	\$2,575.00	\$206.00
1007 E. 9 <sup>TH</sup> Street	1046-454-21	\$2,048.00	\$163.00
111 W 17 <sup>th</sup> Street	1044-351-21	\$3,893.00	\$311.00
1435 N. Euclid Ave	1045-271-03	\$4,256.00	\$340.00
776 N. 2 <sup>nd</sup> Ave	1046-273-08	\$2,169.00	\$173.00

## **HISTORIC PROPERTY PRESERVATION AGREEMENT**

THIS AGREEMENT is made and entered into this December 9, 2019, by and between the CITY OF UPLAND, a municipal corporation (hereinafter referred to as the “City”) and Property Owner as show on Deed (hereinafter referred to as the “Owner”).

### **WITNESSETH:**

#### **A. Recitals.**

(i) California Government Code Sections 50280, et seq. authorize cities to enter into contracts with the owners of qualified historical property to provide for the use, maintenance and restoration of such historical property so to retain its characteristics as a property of historical significance;

(ii) Owner possess fee title in and to that certain real property, together with associated structures and improvements thereon, generally located at Address, Upland, California, (hereinafter such property shall be referred to as the “Historic Property”). A legal description of the Historic Property is attached hereto, marked as Exhibit “A” and is incorporated herein by this reference;

(iii) On December 9, 2019, the Planning Commission of the City of Upland adopted its Resolution No. XXXX thereby declaring and designating the Historic Property as a historic landmark pursuant to the terms and provisions of the Upland Municipal Code; and,

(iv) City and Owner, for their mutual benefit, now desire to enter into this agreement both to protect and preserve the characteristics of historical significance of the Historic Property and to qualify the Historic Property for an assessment of valuation pursuant to the provisions of Chapter 3, of Part 2, of Division 1 of the California Revenue and Taxation Code.

#### **B. Agreement.**

NOW, THEREFORE, City and Owner, in consideration of the mutual covenants and conditions set forth herein, do hereby agree as follows:

1. Effective Date and Term of Agreement. This Agreement shall be effective and commence on December 9, 2019, and shall remain in effect for a term of ten (10) years thereafter.

2. Renewal. After the initial ten (10) year term, each year on the anniversary thereafter of the effective date of this Agreement (hereinafter referred to as the “renewal date”), this Agreement shall extend for an additional year unless notice of nonrenewal is mailed as provided herein. If either Owner or City desires in any year not to renew the Agreement, Owner or City shall serve written notice of nonrenewal of the Agreement on the other party in advance of the annual renewal date of the Agreement within the timeframes set forth herein. In the event Owner does not wish to renew this Agreement, Owner shall provide City written notice at least ninety (90) days prior to the annual nonrenewal date. In the event City does not wish to renew this Agreement, City shall provide written notice to Owner not less than sixty (60) days prior to the annual renewal date. Upon receipt by Owner of a notice of nonrenewal from City, Owner may make a written protest of the notice. City may, at any time prior to the annual renewal date of the Agreement, withdraw its notice to Owner of nonrenewal. If either City or owner serves notice to the other of nonrenewal in any year, the Agreement shall remain in effect for the balance of the term then remaining, either from its original execution or from the last renewal of the Agreement, whichever may apply.

3. Standards for Historical Property. During the term of this Agreement, the Historic Property shall be subject to the following conditions, requirements and restrictions:

a. Owner shall restore, preserve and maintain the characteristics of historical significance of the Historic Property. Attached hereto, marked as Exhibit "B", and incorporated herein by this reference, is a list of those minimum standards and conditions for maintenance, use and preservation of the Historic Property, which shall apply to such property throughout the term of this Agreement. If this Agreement is renewed after the Initial Term, any modifications of the standards adopted by the City of Upland in Exhibit B shall apply to the Historic Property.

b. Owner shall, where necessary, restore and rehabilitate the property according to the rules and regulations of the office of the Historic Preservation of the State Department of Parks and Recreation. Attached hereto, marked as Exhibit “C”, and incorporated herein by this reference, is a list of those conditions pertaining to the restoration or rehabilitation of the Historic Property.

c. At least every five (5) years, Owner shall allow reasonable periodic examinations, by prior appointment, of the interior and exterior of the Historic Property by representatives of the County Assessor, State Department of Parks and Recreation, State Board of

Equalization and City, as may be necessary to determine owner's compliance with the terms and provisions of this Agreement.

d. Owner shall provide written notice of this Agreement to the Office of Historic Preservation within six months of execution of this Agreement.

4. Provision of Information of Compliance. Owner hereby agrees to furnish City with any and all information requested by the City which may be necessary or advisable to determine compliance with the terms and provisions of this Agreement.

5. Cancellation. City, following a duly noticed public hearing as set forth in California Government Code Sections 50280, et seq., may cancel this Agreement if it determines that owner breached any of the conditions of this Agreement or has allowed the property to deteriorate to the point that it no longer meets the standards for a qualified historic property. City may also cancel this Agreement if it determines that the Owner has failed to restore or rehabilitate the property in the manner specified in subparagraph 3(b) of this Agreement. In the event of cancellation, Owner may be subject to payment of those cancellation fees set forth in California Government Code Sections 50280, et seq.

6. Enforcement of Agreement. In lieu of and/or in addition to any provisions to cancel the Agreement as referenced herein, City may specifically enforce, or enjoin the breach of, the terms of this Agreement. In the event of a default under the provisions of this Agreement by owner, City shall give written notice to Owner by registered or certified mail addressed to the address stated in this Agreement, and if such a violation is not corrected to the reasonable satisfaction of the City within thirty (30) days thereafter, or if not corrected within such a reasonable time as may be required to cure the breach or default if said breach or default cannot be cured within thirty (30) days (provided that acts to cure the breach or default must be commenced within thirty (30) days and must thereafter be diligently pursued to completion by Owner), then City may, without further notice, declare a default under the terms of this Agreement and may bring any action necessary to specifically enforce the obligations of Owner growing out of the terms of this Agreement, apply to any court, state or federal, for injunctive relief against any violation by Owner or apply for such other relief as may be appropriate.

City does not waive any claim of default by Owner if City does not enforce or cancel this Agreement. All other remedies at law or in equity which are not otherwise provided for in this Agreement or in City's regulations governing historic properties are available to the City to pursue in the event that there is a breach of this Agreement. No waiver by City of any breach

or default under this Agreement shall be deemed to be a waiver of any other subsequent breach thereof or default hereunder.

7. Binding Effect of Agreement. The Owner hereby subjects the Historic Property described in Exhibit "A" hereto to the covenants, reservations and restrictions as set forth in this Agreement. City and Owner hereby declare their specific intent that the covenants, reservations and restrictions as set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the owner's successors and assigns in title or interest to the Historic Property. Each and every contract, deed or other instrument hereinafter executed, covering or conveying the Historic Property, or any portion thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, reservations and restrictions expressed in this Agreement regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instrument.

Owner hereby declare understanding and intent that the burden of the covenants, reservations and restrictions set forth herein touch and concern the land in that owner's legal interest in the Historic Property is rendered less valuable thereby. City and Owner hereby further declare their understanding and intent that the benefit of such covenants, reservations and restrictions touch and concern the land by enhancing and maintaining the historic characteristics and significance of the Historic Property for the benefit of the public and Owner.

8. Notice. Any notice required to be given by the terms of this Agreement shall be provided at the address of the respective parties as specified below or at any other address as may be later specified by the parties hereto.

To City: City of Upland  
460 North Euclid Avenue  
P.O. Box 460  
Upland, California 91785  
Attention: Development Services Director

To Owner: Owner  
Street Address  
Upland, CA 91786

9. General Provisions.

a. None of the terms, provisions or conditions of this Agreement shall be deemed to create a partnership between the parties hereto and any of their heirs, successors or

assigns, nor shall such terms, provisions or conditions cause them to be considered a joint venture or members of any joint enterprise.

b. Owner agrees to and shall hold City and its elected officials, officers, agents and employees harmless from liability for damage or claims for damage for personal injuries, including death, and claims for property damage which may arise from the direct or indirect use or operations of Owner or those of any contractor, subcontractor, agent, employee or other person acting on Owner's behalf which relate to the use, operation and maintenance of the Historic Property. Owner hereby agrees to and shall defend the City and its elected officials, officers, agents and employees with respect to any and all actions for damages caused by, or alleged to have been caused by, reason of owner's activities in connection with the Historic Property. This hold harmless provision applies to all damages and claims for damages suffered, or alleged to have been suffered, by reason of the operations referred to in this agreement regardless of whether or not the City prepared, supplied or approved the plans, specifications or other documents for the Historic Property.

c. All of the agreements, rights, covenants, reservations and restrictions contained in this Agreement shall be binding upon and shall accrue to the benefit of the parties herein, their heirs, successors, legal representatives, assigns and all persons acquiring any part or portion of the Historic Property, whether by operation of law or in any manner whatsoever.

d. In the event legal proceedings are brought by any party or parties to enforce or restrain a violation of any of the covenants, reservations or restrictions contained herein, or to determine the rights and duties of any party hereunder, the prevailing party in such proceeding may recover all reasonable attorney's fees to be fixed by the court, in addition to court costs and other relief ordered by the court.

e. In the event that any of the provisions of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, or by subsequent preemptive legislation, the validity and enforceability of the remaining provisions, or portions thereof, shall not be effected thereby.

f. This Agreement shall be construed and governed in accordance with the laws of the State of California.

10. Recordation. No later than twenty (20) days after the parties execute and enter into this Agreement, City shall cause this Agreement to be recorded in the office of the County Recorder of the County of San Bernardino.

11. Amendments. This Agreement may be amended, in whole or in part, only by a written and recorded instrument executed by the parties hereto.

12. Exhibits. The following exhibits are attached:

Exhibit "A" Legal Description.

Exhibit "B" Improvements List.

Exhibit "C" Standards of Rehabilitation.

IN WITNESS WHEREOF, City and Owner have executed this Agreement on the day and year first written above.

CITY OF UPLAND

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Rosemary Hoerning, Interim City Manager

OWNER

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Property Owner

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Dated: \_\_\_\_\_

By: \_\_\_\_\_

ALL CAPACITY 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 \_\_\_\_\_, \_\_\_\_\_, before me, \_\_\_\_\_  
(here insert name and title of the officer)

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  
FOR**

**Address, Upland, CA 91786**

**Legal Description**

**APN: 1046-223-01**

**EXHIBIT “B”**

**IMPROVEMENTS LIST  
FOR**

**Address, Upland, CA 91786**

**YEAR**

**IMPROVEMENTS**

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

# EXHIBIT “C”

## Standards of Rehabilitation

1. Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration of the building structure, or site and its environment, or to use a property for its originally intended purpose.
2. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
3. All buildings, structures, and sites shall be recognized as products of their own time. Alterations which have no historical basis and which seek to create an earlier appearance shall be discouraged.
4. Changes, which may have taken place in the course of time, are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
5. Distinctive stylistic features or examples of skilled craftsmanship, which characterize a building, structure, or site shall be treated with sensitivity.
6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
8. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to any acquisition, protection, stabilization, preservation, rehabilitation, restoration, or reconstruction project.

**ATTACHMENT 2**

**IMPROVEMENTS LIST**  
**FOR MILLS ACT APPLICATIONS 2019**

**IMPROVEMENTS LIST  
FOR**

233 N. Laurel Ave

**YEAR**

**IMPROVEMENTS**

1. Remove existing chain-link at front of house and install river rock columns and cedar gates.
2. Repair/replace shingle siding and exterior paint in public view.
3. Repair/replace shingle siding and exterior paint out of public view.
4. Front porch repair (railing, lighting, walkway repair).
5. Repair/replace shingle siding and exterior paint in public view on garage.
6. Install lighting fixtures (exterior).
7. Repair/replace siding on rear of home.
8. Repair (Replace as needed) windows.
9. Repair/replace interior wainscoting.
10. Structural repair in rear room addition.

**IMPROVEMENTS LIST  
FOR**

**843 Washington Blvd**

**YEAR**

**IMPROVEMENTS**

1. Repair rear door and framing.
2. Add drip irrigation and weather smart irrigation system
3. Remove and replace wood fence on east side of property.
4. Remove and replace wood fence along alley and install automated gate.
5. Remove broken cement patio and replace with paver patio.
6. Install removable clothesline.
7. Install decomposed granite walkways on side yards.
8. Re-roof.
9. Replace hot water heater.
10. Refinish hardwood floors.

**IMPROVEMENTS LIST  
FOR**

**755 N. Euclid Ave**

**YEAR**

**IMPROVEMENTS**

1. Re-roof.
2. Landscape Front yard.
3. Landscape Back yard.
4. Paint Exterior.
5. Restore Window Pains.
6. Paint Interior.
7. Upgrade Electrical.
8. Upgrade Plumbing.
9. Restore hardwood floors.
10. Replace kitchen cabinets.

**IMPROVEMENTS LIST  
FOR**

**1007 E. 9<sup>TH</sup> Street**

**YEAR**

**IMPROVEMENTS**

1. Repair/replace flooring, Termite repair and treatment, Exterior Paint.
2. Interior Paint.
3. Kitchen Remodel.
4. Two (2) bathroom remodels.
5. Repair (replace as needed) windows.
6. Replacement of rotten wood.
7. Re-landscaping.
8. Upgrade Electrical Panel.
9. Upgrade old plumbing to new standards.
10. Central AC, Garage repair and addition

**IMPROVEMENTS LIST  
FOR**

**111 W 17<sup>th</sup> Street**

**YEAR**

**IMPROVEMENTS**

1. Restore 30 original double-hung windows.
2. Seismic upgrades (bolt house to foundation, etc).
3. Exterior painting and repair of shutters and doors.
4. Repair crack in foundation. (Currently the crack is cosmetic, but repair is needed to ensure conditions doesn't worsen)
5. Landscape front yard, remove and replace chain-link fencing.
6. Re-roof.
7. Restore carriage house to original condition. (e.g. remove aluminum doors, etc.)
8. Driveway repair.
9. Relocate chimney to original location.
10. Restore bathrooms to original condition.

**IMPROVEMENTS LIST  
FOR**

**1435 N. Euclid Ave**

**YEAR**

**IMPROVEMENTS**

1. Re-landscape
2. Rebuild existing fence on north side.
3. Refinish original hardwood floors.
4. Rebuild driveway and add entry gate.
5. Construct new 2 car garage.
6. Exterior Paint (House and Garage).
7. Remodel master bathroom.
8. Remodel guest bathroom.
9. Interior paint.
10. Remodel utility room.

**IMPROVEMENTS LIST  
FOR**

**776 N. 2<sup>nd</sup> Ave**

**YEAR**

**IMPROVEMENTS**

1. Install rain gutters.
2. Rebuild fencing at North property line. Remove chain-link at north property line and construct a redwood fencing matching existing.
3. Concrete repair to correct drainage to flow away from house.
4. Re-grout rock porch.
5. Exterior Painting.
6. Restore Original windows (front of house).
7. Restore Original windows (back of house).
8. Restore original doors and baseboards.
9. Restore original Built-in Cabinets.
10. Interior paint.



UPLAND HERITAGE  
PO Box 1828 Upland, CA 91785  
www.uplandheritage.org  
909 981-0280

**"Preserving the Past to Enrich our Future"**

October 30, 2019

City of Upland  
Mayor and City Council Members  
460 N Euclid Avenue  
Upland, CA 91786

Dear City Council,

The Mills Act has been a huge benefit to homeowners in the City of Upland. We are seeing continued benefits from the Mills Act in that historic homes are improving and are creating wonderful neighborhoods. In turn this enhances the Cities property values, which means higher values in the future that will bring in more taxes. Since implemented, the Mills Act has helped save some of our most beautiful historic homes, which allows us to preserve our wonderful history as a city.

Upland Heritage fully supports the Mills Act for the following homes:

233 N Laurel Avenue  
843 Washington Blvd  
755 N Euclid Avenue  
1007 E 9<sup>th</sup> Street  
111 W 17<sup>th</sup> Street  
776 N 2<sup>nd</sup> Avenue  
1435 N Euclid Avenue

The Mills Act is a great tool to entice homeowners to improve their homes as well as their neighborhoods. Upland Heritage supports the Mills Act and hopes that the City will continue their support as well. Please approve the above listed Mills Act Applications.

Best Regards,

Kati Parker  
Upland Heritage President



## STAFF REPORT

**ITEM NO. 11.J.**

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**DATE:** December 9, 2019  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:** ROSEMARY HOERNING, INTERIM CITY MANAGER  
**PREPARED BY:** ROSEMARY HOERNING, INTERIM CITY MANAGER  
**SUBJECT:** WATER RATE ADJUSTMENT - STATUS UPDATE

---

### RECOMMENDED ACTION

It is recommended that the City Council defer the water rate increase scheduled for January 1, 2020 until the water rate check-in study is completed.

### GOAL STATEMENT

The proposed action supports the City's goal to ensure customer rates are cost effective, equitable and generate the necessary revenue to cover operational, debt service, capital investments, and reserves for the program requirements.

### BACKGROUND

On April 23, 2018 the City Council adopted Resolution No. 6438 approving a multi-year water rate adjustment schedule. The next scheduled adjustment would go into effect January 1, 2020. The City Council requested a review of the rates to determine if any adjustments can be provided. This water rate check-in effort is underway and is anticipated to be completed in early 2020. The findings of this review will be presented to City Council for consideration and possible action.

### ISSUES/ANALYSIS

The Water Utility is responsible for providing safe, reliable, and compliant water services to the community. The City's water utility is a not for profit program. Water rates are established to provide sufficient revenue to cover operational, debt service, capital investments, and reserves for the program requirements. The Proposition 218 public notification and adoption by resolution of the multi-year rates was completed. The City Council may, if determined appropriate, implement rate adjustments lower than those

approved without processing a new Proposition 218 notification process. A 30 day prior notice in the utility bill of a change in the rates is sufficient.

**FISCAL IMPACTS**

The rate review check-in will determine whether any adjustments can be implemented to the planned rate schedule. Deferring the rate adjustment will result in the loss of potential revenue.

**ALTERNATIVES**

Provide alternative direction to staff.

**ATTACHMENTS:**

No Attachments Available



## STAFF REPORT

**ITEM NO. 11.K.**

---

**DATE:** December 9, 2019  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:** ROSEMARY HOERNING, INTERIM CITY MANAGER  
**PREPARED BY:** ROBERT D. DALQUEST, DEVELOPMENT SERVICES DIRECTOR  
LIZ CHAVEZ, DEVELOPMENT SERVICES MANAGER  
GIOVANNI ARELLANO, CONTRACT REHABILITATIONS  
PROGRAMS ADMINISTRATOR  
**SUBJECT:** APPROVAL OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)  
EMERGENCY REPAIRS PROGRAM GUIDELINES/POLICIES  
MODIFICATIONS

---

### RECOMMENDED ACTION

It is recommended that the City Council approve the current modifications to the Emergency Repairs Program ("ERP" or "Program") guidelines/policies.

### GOAL STATEMENT

The proposed action supports the City's goal to promote the development and implementation of housing projects to increase, improve or provide/preserve affordable housing and prevent homelessness within the City for persons or families of low- to moderate-incomes.

### BACKGROUND

The City administers the U.S Department of Housing and Urban Development's ("HUD") Community Development Block Grant ("CDBG") funded ERP to assist low- to moderate-income homeowners, at or below 80% of the Area Median Income for Riverside - San Bernardino County Metropolitan Area (as established by HUD) make needed rehabilitation repairs; inclusive of immediate or exigent health and safety housing repairs, municipal code violations, building code violations, deferred and/or general housing maintenance, Americans with Disability Act (ADA) improvements and/or any other housing repairs deemed necessary to meet the City's affordable housing goals.

On June 24, 2019, Council approved revised ERP guidelines/policies granting Council the authority to approve ERP grants. On November 11, 2019, City Council redirected staff to modify the ERP guidelines/policies reverting authority back to the Development Services Director to approve and expedite ERP grants (Attachment A). This position provides the City the ability to immediately address health and safety needs of eligible City residents that may arise during the administration of the program and prevent any undue delays in providing housing rehabilitation assistance.

### **ISSUES/ANALYSIS**

The funding limits of ERP grants are within the established City's signature authority for the Development Services Director which is up to \$25,000. Due to the fact that the ERP is administered in the Development Services Department, this authority is consistent with City policy and can expedite assistance as needed.

The ERP provides initial grants up to a maximum to \$10,000 and an additional \$1:\$1 match from the applicant up to \$2,000, if needed. Additionally, up to a maximum of \$15,000.00 in lead based paint and/or asbestos abatement funding may be provided for abatement purposes, if required. Lastly, the cost of installing code required minimum items (i.e. smoke detectors, carbon monoxide detectors, seismic water heater straps, low flow toilets and ground fault circuit interrupter outlets) will be additionally provided by the ERP.

### **FISCAL IMPACTS**

This item represents a policy change only and has no fiscal impact.

### **ALTERNATIVES**

Provide alternative direction to staff.

### **ATTACHMENTS:**

**Attachment A - Guidelines/Policies**

# CITY OF UPLAND



## EMERGENCY REPAIRS PROGRAM GUIDELINES AND POLICIES

**CITY OF UPLAND  
HOUSING REHABILITATION  
EMERGENCY REPAIRS PROGRAM POLICIES  
(Amended November 26, 2019)**

**I. PROGRAM DESCRIPTION**

The Housing Rehabilitation Emergency Repairs Program ("Program") is designed to assist low to moderate-income Upland homeowners (whose income does not exceed 80% of the County median income as adjusted by family size as promulgated by the U.S. Department of Housing and Urban Development [HUD]), citywide, by providing up to a \$10,000 primary grant and up to a \$2,000 supplemental grant on an equal matching basis (i.e. dollar-for-dollar match for construction funds provided to the City by the applicant) for emergency repairs to their home as approved by City Council. This Program may be used in conjunction with any other housing program offered by the City of Upland.

**II. ASSISTANCE TYPE AND FUNDING LIMITS**

The assistance will be in the form of up to a \$10,000 primary grant for pre-approved work done by any appropriately licensed contractor. Moreover, up to an additional \$2,000 worth of assistance is available on an equal matching Program grant basis; match must come from the program applicant to the City in the form of a cashier's check or money order payable to the City of Upland. Pursuant to the definition of eligible improvements (as described below) the cost of installing GFCI outlets, garbage disposal, smoke/carbon detectors, water heater strapping, and "low flow" toilets are in addition to the \$12,000 annual Program maximum limit. The cost of abatement and mitigation of lead, asbestos or mold hazards shall be in addition to the primary Program grant. Mobile homeowners will only be allowed to apply for the Program every five (5) years while homeowners other than mobile homeowners will only be able to apply for the Program every ten (10) years.

**III. ELIGIBLE APPLICANTS**

Eligible applicants are owner-occupants of single-family residences, condominiums/townhomes and mobile/manufactured homes located within Upland's city limits whose household income does not exceed 80% of the San Bernardino County median, as adjusted by family size. Applicants must provide satisfactory evidence of their income and certify that with the Application form that they meet the income requirements of the Program.

City Councilmembers and any employee, official or agent of the City who exercises any policy or program decision-making function in connection with the Program, are ineligible for assistance under the Program for a period of one-year after their association with the City ends.

#### **IV. ELIGIBLE IMPROVEMENTS**

All repairs for emergency conditions that immediately affect the health and/or safety of the household or occupants of surrounding properties. Eligible repairs shall include structural or mechanical system repairs and any other housing repair deemed necessary by the City to alleviate deficient housing conditions as categorized below:

- Correction of code violations;
- Correction of incipient violations of the uniform building code;
- Removal of lead-based paint/asbestos hazards;
- Removal of barriers to the handicapped;
- Removal of termites/vermin (pest control);
- Repair/Replace roofing;
- Repair/Replace heating;
- Repair/Replace plumbing;
- Repair/Replace screens;
- Install new smoke/CO2 alarms;
- Repair/Replace bath fixtures;
- Repair/Replace countertops;
- Repair/Replace water heaters;
- Repair/Replace electrical work;
- Repair/Replace windows;
- Repair/Replace stucco;
- Exterior/Interior painting;
- Install new dead bolt locks;
- Replace floor coverings;
- Repair/Replace kitchen or bath cabinets;
- Repair/Replace fencing;
- Installation of new insulation;
- Permit costs, engineering, architectural and other reports deemed necessary to correct deficient housing conditions
- Any other housing repair items determined eligible by the City; and
- The elimination of specific conditions detrimental to public health and safety, which have been identified by City Building Inspector or Code Enforcement Officer

In addition to the maximum assistance, the Program will also provide funds for installation of GFCI outlets, garbage disposal, smoke and carbon monoxide detectors in each bedroom (if missing), provide funds to secure the water heater, if needed, and, if requested or necessary, provide "Low Flow" toilets. Similarly, the costs associated with lead, asbestos or mold abatement shall be in addition to the primary Program grant.

Any work requiring the off-premises relocation of occupants is not eligible under this Program unless the applicant waives all claims for relocation assistance. Because the Program is not a handyman program, maintenance items as determined by the City, other than those directly related to any eligible construction, reconstruction, repair or replacement are not eligible under this Program.

## **V. PROCEDURES**

1. Applications for participation in the Program are available from City Hall or any other location that may be designated by staff (as used herein, the term "staff" may include employees or consultants of the City's Development Services Department). Upon submittal of an application to staff, staff shall visit the subject property and evaluate the request. If the requested repairs are deemed eligible, and the applicant can provided staff with the following household supporting documents: 1) Grant Deed, Deed of Trust or HCD Registration Card (for mobile homes or other title evidencing document); 2) household annual income for all adults over the age of 18 that are living in the home inclusive of most recent federal tax returns, payroll stubs and bank statements; 3) recent utility bills 4) current property tax bill; 5) valid photographic government issued identification card such as a California Drivers License, Identification Card or Passport; and/or 6) other documents that may be requested by staff to determined household size or household income. Program policies and procedures shall be fully explained to the applicant at application submittal stage including the contractor procurement/selection process.

2. Upon receipt, the applicant shall complete the Application form, sign it acknowledging program policies and procedures and return the form to staff with all accompanying applicant supporting documentation.

3. Contractor procurement/selection: The applicant may either (1) authorize the City to engage contractors from its pre-approved vendor list; or (2) engage their own contractors to perform the required work that meets the city's procurement policy (minimum three bids required). If the applicant chooses the City supplied vendor option, staff will informally obtain cost quotes for the needed work from contractor(s) listed on the City's pre-approved vendor list. Once all project cost quotes are received, staff will inform the applicant of the outcome, specify the name(s) of the contractor(s) who would perform the required work and if necessary coordinate any adjustments to the scope of work or financing plan as may be required. Subsequent to obtaining the applicant's concurrence with respect to these matters, appropriate Program purchase orders may be issued to the affected contractor(s).

4. The City shall not be committed to fund a rehabilitation project prior to the Development Services Director authorizing the grant funds. Projects will be taken by Staff to the Development Services Director for funding consideration and final approval. The Development Services Director has authority to expedite projects based on a case-by-case basis based on the nature of the emergency.

5. After grant approval, the applicant, contractor and Development Services Director will sign a Work Order form to allow the work to proceed. Staff will set up a purchase order and issue a notice to proceed to the contractor to carry out the work under the supervision of staff. Work program changes may only be authorized for change orders resulting from physical conditions experienced during inspection or construction, the identification of additional emergency repair items or to reduce the amount of requested assistance. The Development Services Director has authority to sign change orders as needed up to \$25,000 (director signature authority), if needed.

7. If the applicant agrees to proceed with a City-approved vendor/contractor, the City will pay the vendor directly for all approved work. The applicant will not have any financial responsibility other than the amount needed to match the City \$2,000 supplemental grant or any amount needed to finance project costs exceeding program-funding limits. The City will collect the owner contribution amount prior to engaging the vendor/contractor.

4. If the applicant chooses to directly engage their own contractor(s), the applicant may use any contractor of their choice as long as they hold appropriate professional licenses and a City of Upland business license and meet insurance minimums set by the program. Contractors that are not pre-approved will be paid the lower of a staff's confidential job cost estimate or the contractor's bid. Staff's estimate will not be made public until after submittal of the contractor's bid. If the applicant chooses to use a contractor/vendor other than one on the City's pre-approved list, said contractor must be approved by staff and sign a form acknowledging the necessary work, amount to be rebated for work performed. If the contractor feels he (or she) cannot do the work for that price, the applicant must pay the difference or choose a contractor or subcontractor from the approved list or the work will not be performed. Under the rebate approach, the applicant is primarily responsible for the contractor's payment. The City will only provide a rebate for the agreed upon work in the agreed upon amount. The applicant is solely responsible for any work or costs exceeding the pre-approved scope and amount. Repair work shall not exceed City's estimated scope and amount without written authorization of staff.

5. If the City supplied vendor approach is selected, upon completion of the work, the applicant or vendor shall so notify staff. Staff will verify the completion of work and obtain the applicant's approval. Once approved, the amount owed the pre-approved vendor will be processed for payment. If an applicant selected vendor approach is chosen, upon work completion, the applicant will submit the invoice to staff for payment. Staff will then conduct an inspection of the quality and substance of the repairs made, and if deemed appropriate, process the invoice for payment approval. In this case, payment will be issued to the applicant and vendor. Payment shall not be made for substandard work.

6. Individual projects will be financially closed subsequent to staff's approval of the work performed and affected owner signing a Notice of Completion, which will be filed with the County.

**VI. APPROVAL OF PROGRAM LEGAL DOCUMENTS**

All Program legal documents shall be approved as to form by legal counsel prior to their use.

**VII. AUTHORITY TO ADMINISTER**

The preparation and use of all required Program procedure manuals; forms, documents and agreements shall be administered by the City Manager or their designee in accordance with these Program policies.



## STAFF REPORT

ITEM NO. 11.L.

---

**DATE:** December 9, 2019  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:** ROSEMARY HOERNING, INTERIM CITY MANAGER  
**PREPARED BY:** ROSEMARY HOERNING, INTERIM CITY MANAGER  
PONCE YAMBOT, PRINCIPAL ENGINEER  
**SUBJECT:** ASSIGNMENT AND ASSUMPTION AGREEMENT BETWEEN BRAVEPARK PROPERTY, LLC, KB HOME, INC., 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.

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### 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), KB Home Coastal, Inc., a California corporation (KB Home), 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. Other improvements include underground utilities, Baseline Road improvements including a landscaped median, a new City entry monument, installation of new traffic control signals and construction of the Parkview Promenade. Planning Area 3 grading is nearing completion for residential development.

## **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 (KB Home) 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 KB Home 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**

There is no fiscal impact associated with this action.

## **ALTERNATIVES**

Provide alternative direction to staff.

## **ATTACHMENTS:**

**Assignment and Assumption Agreement**  
**Development Agreement**  
**Sycamore Hills Specific Plan Land Use Map**

RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:

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

(Exempt from Recording Fees Pursuant  
To Government Code Section 6103 and 27383)

SPACE ABOVE FOR RECORDER'S USE ONLY

### ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "**Assignment**") is made as of December \_\_, 2019, by and among BRAVEPARK PROPERTY LLC, a Delaware limited liability company ("**Assignor**"), KB HOME COASTAL INC., a California corporation ("**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 September 13, 2019, as amended by that certain First Amendment to Purchase and Sale Agreement, dated as of October 1, 2019, as further amended by that certain Second Amendment to Purchase and Sale Agreement, dated as of October

17, 2019, as further amended by that certain Third Amendment to Purchase and Sale Agreement, dated as of October 24, 2019, as further amended by that certain Fourth Amendment to Purchase and Sale Agreement, dated as of October 28, 2019, as further amended by that certain Fifth Amendment to Purchase and Sale Agreement, dated as of October 29, 2019, as further amended by that certain Sixth Amendment to Purchase and Sale Agreement, dated as of November 25, 2019, and as further amended by that certain Seventh Amendment to Purchase and Sale Agreement, dated as of December 2, 2019 (as amended, the “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 for any of the foregoing previously assigned to Taylor Morrison of California, LLC, a California limited liability company (“TMC”) pursuant to that certain Assignment and Assumption Agreement between and Seller and TMC, as approved and signed by the City, dated as of September 20, 2017 and recorded as Document # 2017-0389104 in the Official Records of San Bernardino County, and except for those obligations under the Development Agreement that are being retained by Assignor as identified on attached **Exhibit “B”** and depicted on attached **Exhibit “C”** (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, subject to later assignment to Assignee as provided in Section 8.10 of the PSA.

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

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:

KB HOME Coastal Inc.  
36310 Inland Valley Drive, Suite 300  
Wildomar, California 92595  
Attention: John Fenn and Lori Schmid  
Telephone: (951) 691-5300

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.

[Signature pages follow]

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:**

**ASSIGNEE:**

BRAVEPARK PROPERTY LLC,  
a Delaware limited liability company

KB HOME COASTAL INC.,  
a California corporation

By: \_\_\_\_\_  
Name: Steven Vining  
Title: Authorized Person

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CITY OF UPLAND**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
City Clerk

**REVIEWED AND APPROVED AS TO  
FORM:**

City Attorney

By: \_\_\_\_\_  
City Attorney

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

STATE OF \_\_\_\_\_ )

\_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 2019, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_

(Seal)

EXHIBIT "A"

THE PROPERTY

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

PARCEL "B" AS SHOWN BY LOT LINE ADJUSTMENT NO. 15-01, APPROVED BY THE CITY OF UPLAND BY DOCUMENT RECORDED APRIL 07, 2016 AS INSTRUMENT NO. 2016-0130509, OF OFFICIAL RECORDS AND RE-RECORDED AUGUST 31, 2016 AS INSTRUMENT NO. 2016-0352894 OF OFFICIAL RECORDS, 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, ALSO BEING A PORTION OF THAT CERTAIN PARCEL OF LAND AS DESCRIBED IN CERTIFICATE OF COMPLIANCE CC-O4-01, RECORDED ON MARCH 30, 2005, AS INSTRUMENT NO. 2005-218618, OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE SOUTHEASTERLY LINE OF THE LAND CONVEYED TO THE STATE OF CALIFORNIA (PARCEL 14368-1) RECORDED DECEMBER 30, 1999 AS INSTRUMENT NO. 19990535100, OF OFFICIAL RECORDS AND THE LOS ANGELES AND SAN BERNARDINO COUNTY LINE;

THENCE NORTH 49°15'04" EAST, 110.55 FEET ALONG SAID SOUTHEASTERLY LINE TO THE POINT OF BEGINNING;

THENCE SOUTH 44°49'05" EAST, 817.32 FEET;

THENCE SOUTH 00°16'18" EAST, 118.88 FEET TO A POINT ON A LINE PARALLEL WITH AND 44.00 FEET NORTHERLY OF THE CENTERLINE OF BASELINE ROAD, SAID LINE ALSO BEING THE NORTHERLY LINE OF THE LAND DESCRIBED IN GRANT DEED TO THE STATE OF CALIFORNIA, RECORDED MARCH 11, 1997, AS INSTRUMENT NO. 97-0083819, OF OFFICIAL RECORDS;

THENCE NORTH 89°28'11" EAST, 300.12 FEET ALONG SAID PARALLEL LINE TO A POINT IN THE EAST LINE OF SAID SOUTHWEST ONE-QUARTER;

THENCE NORTH 00°58'30" WEST, 1430.54 FEET ALONG SAID EAST LINE TO A POINT IN SAID SOUTHEASTERLY LINE;

THENCE SOUTH 49°15'04" WEST, 1125.20 FEET ALONG SAID SOUTHEASTERLY LINE TO THE POINT OF BEGINNING.

CONTAINING 690,121 SQUARE FEET (15.843 ACRES) OF LAND, MORE OR LESS.

AND AS SHOWN ON THE MAP ATTACHED HERETO AS EXHIBIT "A" AND MADE A PART  
HEREOF.

THIS LEGAL DESCRIPTION WAS PREPARED BY ME OR UNDER MY DIRECTION.

*Mark A. Monroe*

MARK A, MONROE, P.L.S. 8170  
LICENSED LAND SURVEYOR

12/13/18  
DATE





0' 100' 200'



SCALE: 1"=200'

LOS ANGELES COUNTY  
SAN BERNARDINO COUNTY

SOUTHEASTERLY LINE OF GRANT  
DEED TO THE STATE OF  
CALIFORNIA (PCL 14368-1) PER  
INST. NO. 99-0535100 O.R.

STATE ROUTE 210  
S49°15'04"W 1235.75'  
1125.20'

EAST LINE OF THE  
SW 1/4, SECTION 35,  
T1N., R8W., S.B.M.

TRACT NO. 1836  
MAP OF THE  
EUCLID WATER  
COMPANY TRACT  
M.B. 26/60

CERT. OF COMPLIANCE  
CC-04-01  
INST. NO. 2005-218618 O.R.

P.O.B.

110.55'

P.O.C.

PARCEL "B"  
LLA NO. 15-01  
INST. NO. 2016-0130509  
& 2016-0352894 O.R.

(690,121 S.F.)  
(15.843 AC.)

S44°49'05"E 817.32'

N00°56'30"W 1430.54'

LOT 1  
TRACT NO. 18707  
M.B. 347/81-85

270.68'  
N79°30'42"W

S89°28'11"W 537.69'

N00°31'49"W 31.46'

42.32'

S00°16'18"E 118.88'

300.12'

BASELINE ROAD

342.45'

N89°28'11"E

SOUTHEASTERLY LINE OF GRANT  
DEED TO THE STATE OF  
CALIFORNIA PER INST. NO.  
97-0083819 O.R.

**LEGEND**

P.O.C. POINT OF COMMENCEMENT  
P.O.B. POINT OF BEGINNING

**WestLAND**  
Group, Inc.

Land Surveyors • Civil Engineers • GIS  
4150 CONCOURS STREET, SUIT 100  
ONTARIO, CALIFORNIA, 91764  
PHONE: (909) 989-9789  
FAX: (909) 989-9660

**EXHIBIT "A"**

CITY OF UPLAND  
COUNTY OF SAN BERNARDINO, CALIFORNIA

DRAWN BY MZ

DATE 12-12-18

APPROVED BY MARK MONROE, P.L.S. 8170

DATE 12-12-18

SCALE: 1" = 200'

PROJECT No. 2017-315

SHEET 1 OF 1

**PLAT TO ACCOMPANY  
LEGAL DESCRIPTION**

P:\Year\_2017\2017-315 Sycamore Hills - PA 3\04 Survey\01 Mapping\Legals & Exhibits\PA-3\2017-315\_EX A.dwg

## 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 all landscaping, and street lighting located within the rights-of-way of Parkview Promenade and Baseline Road and the property owned by the City of Upland identified as the Linear Park pursuant to the Sycamore Hills Baseline Road Median, Parkway and Linear Park Landscape Improvement Plans. (Section 3.7.2 of the DA).
4. Installation of Off Site dry utility facilities (SCE Rule 15). (Section 3.7.3 of the DA, Exhibit F "Off Site Public Improvements").
5. 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").
6. 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")
7. 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")
8. 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")
9. 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 (16<sup>th</sup> Street) and Park View Promenade.
10. 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")
11. 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

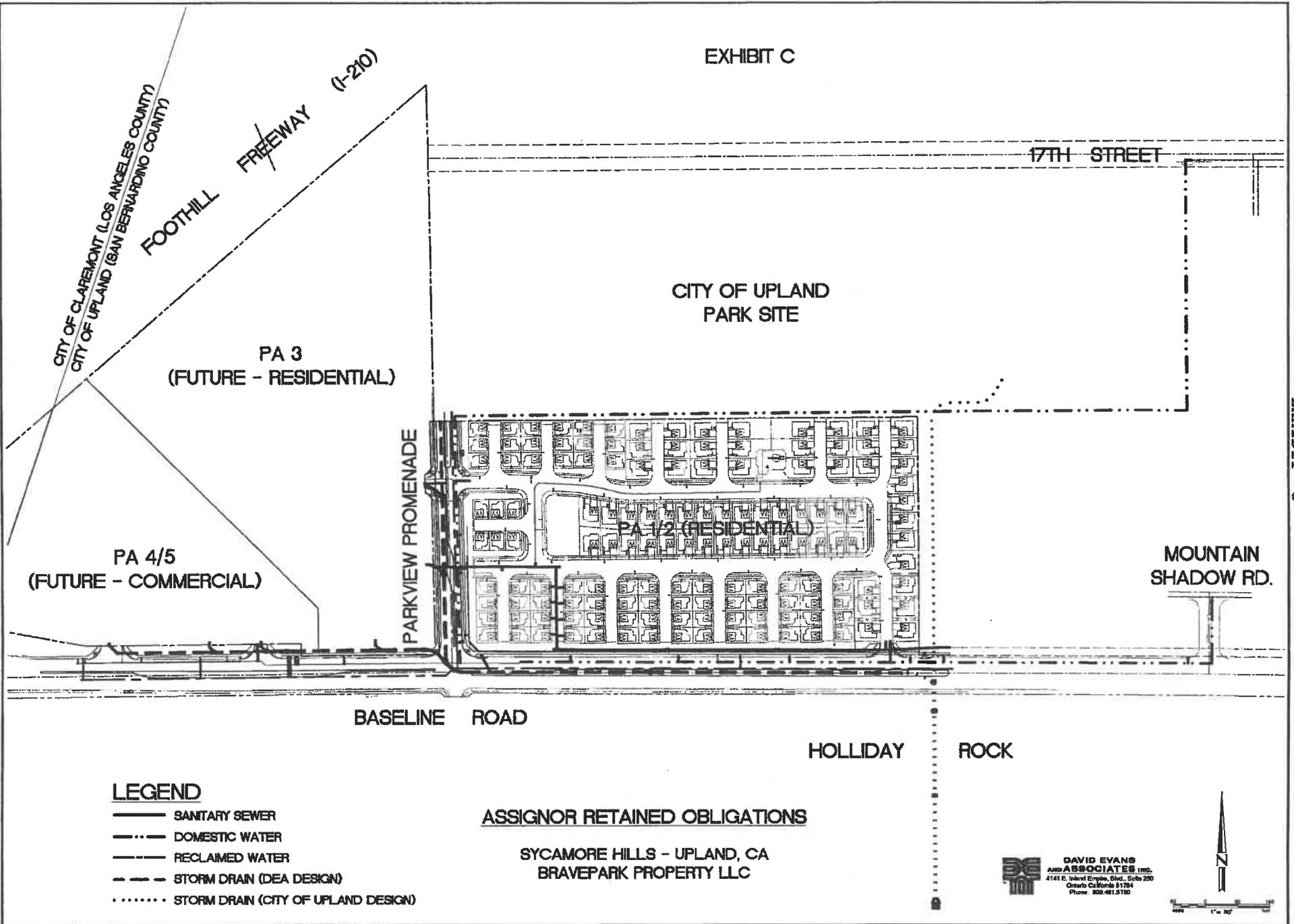
Baseline Road (16th Street) Line “A”, Line “B”. (Section 3.7.3 of DA, Exhibit F “Off Site Public Improvements”)

**EXHIBIT "C"**

**DEPICTION OF ASSIGNOR RETAINED OBLIGATIONS**

[See attached]

EXHIBIT C



PA 3  
(FUTURE - RESIDENTIAL)

PA 4/5  
(FUTURE - COMMERCIAL)

PA 1/2 (RESIDENTIAL)

PARKVIEW PROMENADE

BASELINE ROAD

HOLLIDAY ROCK

17TH STREET

MOUNTAIN  
SHADOW RD.

**LEGEND**

- SANITARY SEWER
- - - DOMESTIC WATER
- - - RECLAIMED WATER
- - - STORM DRAIN (DEA DESIGN)
- ..... STORM DRAIN (CITY OF UPLAND DESIGN)

**ASSIGNOR RETAINED OBLIGATIONS**

SYCAMORE HILLS - UPLAND, CA  
BRAVEPARK PROPERTY LLC



DAVID EVANS  
ASSOCIATES, INC.  
4141 E. Inland Empire Blvd., Suite 250  
Oceanside, California 92054  
Phone: 959-461-5180

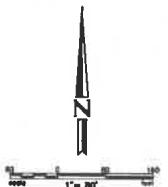


EXHIBIT "C"

**EXHIBIT "D"**

**TRANSFERRED IMPACT FEE CREDITS**

None.

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, 5<sup>th</sup> 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 Steen 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.

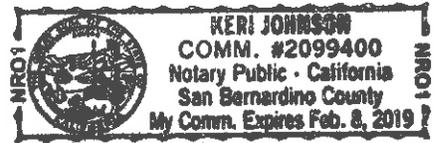
State of California  
County of San Bernardino )

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.

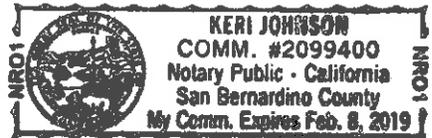
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

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)

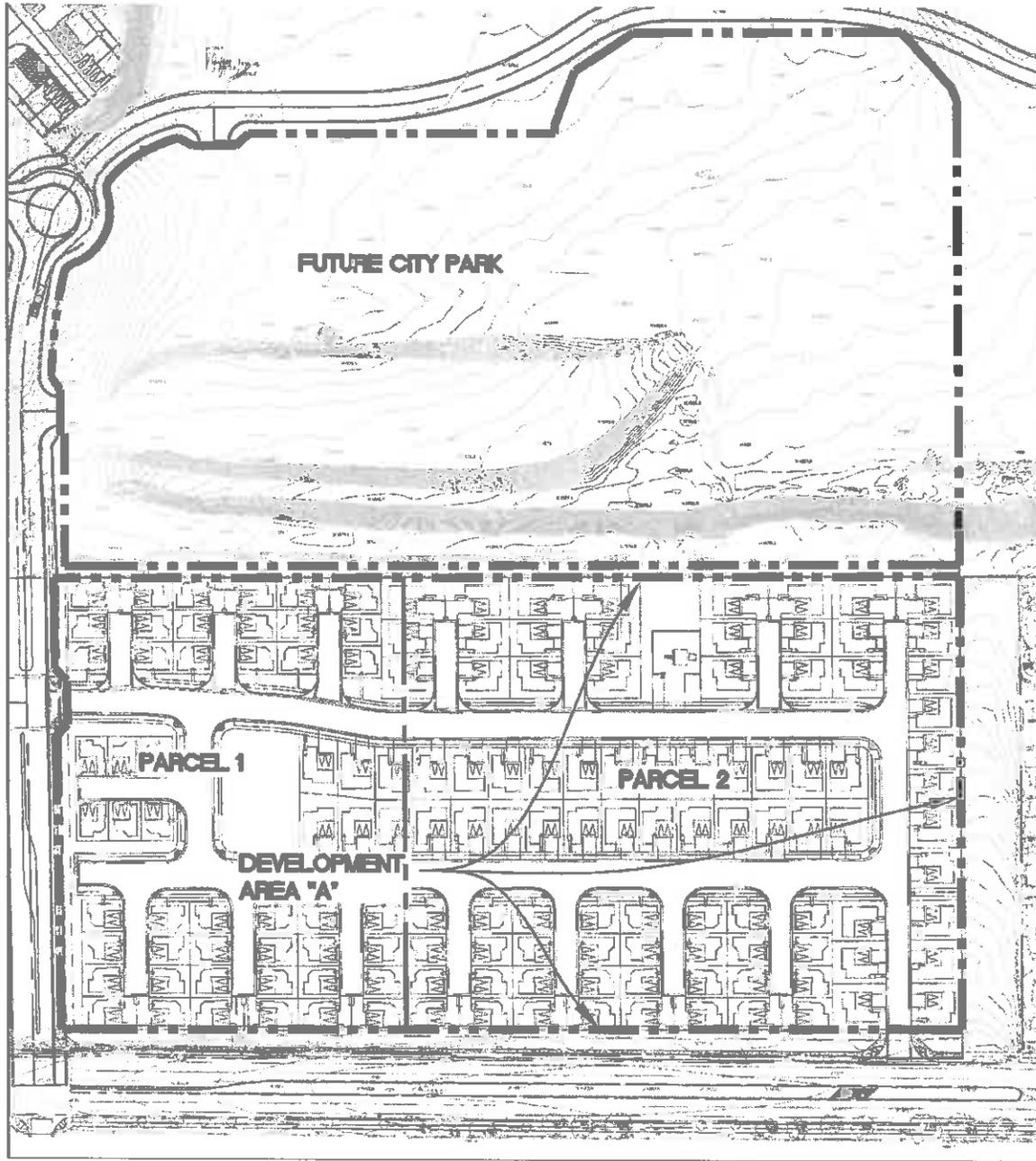


EXHIBIT A (2 OF 2)



**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)

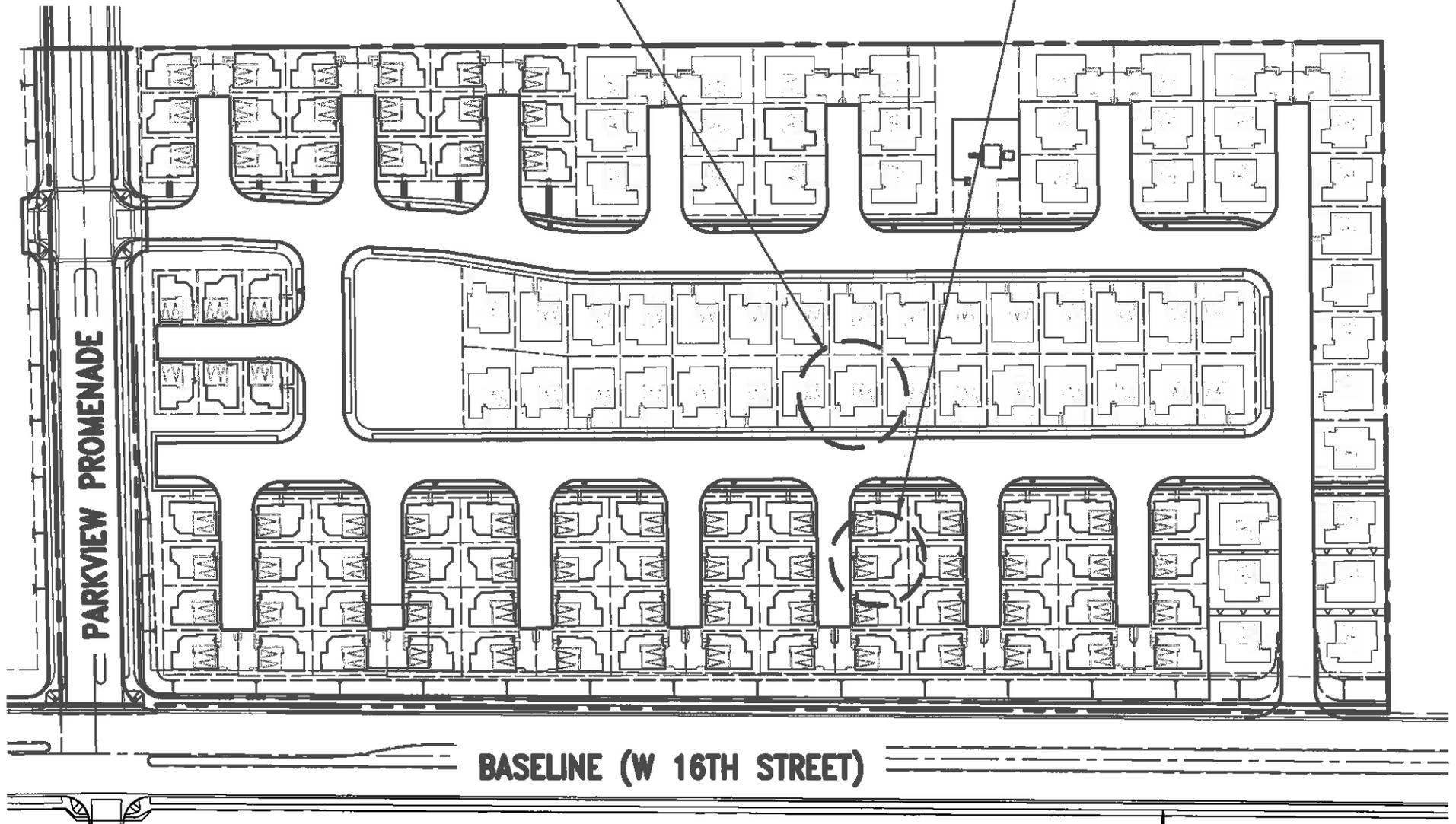
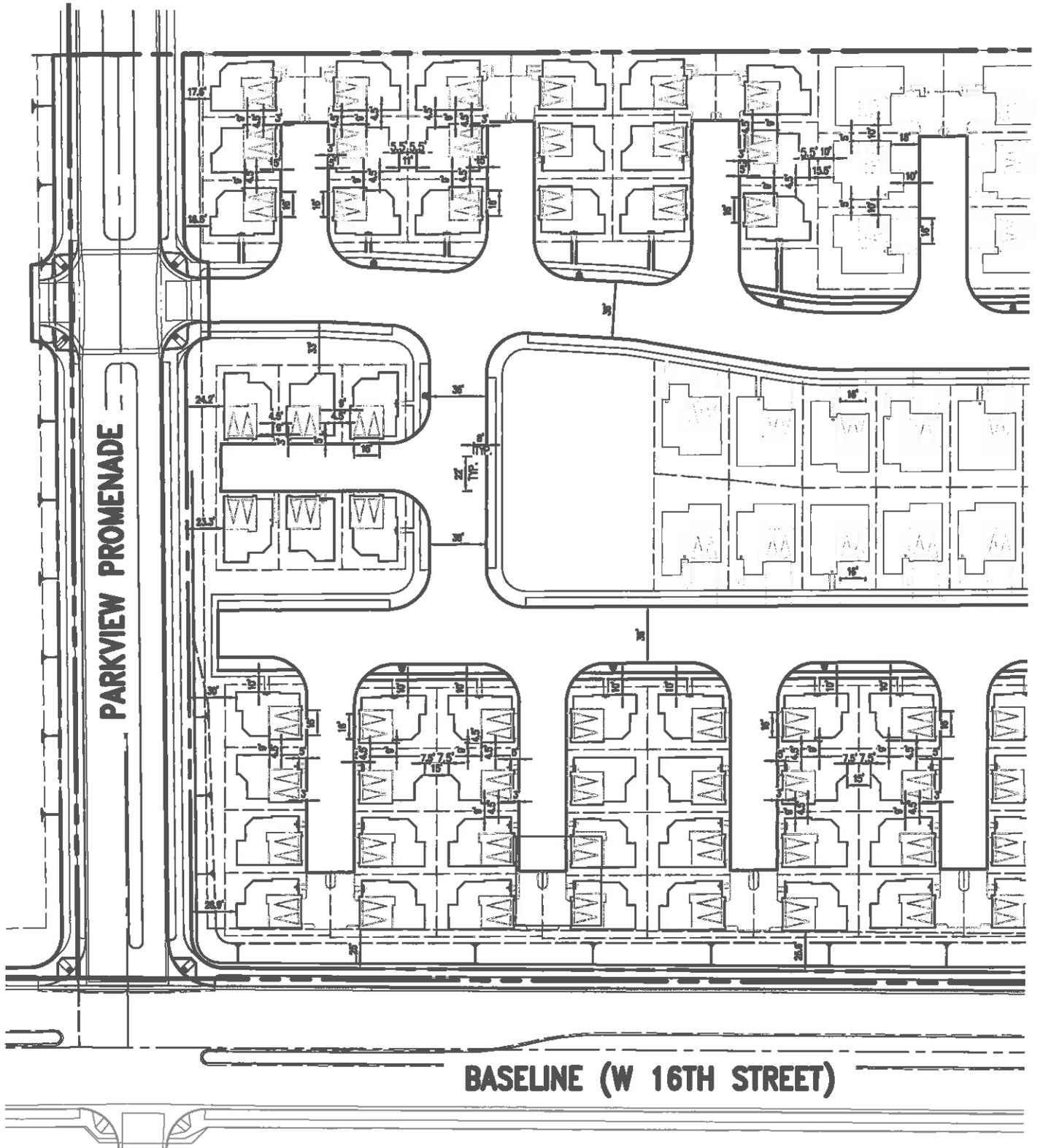


EXHIBIT C

SHEET 1 OF 5



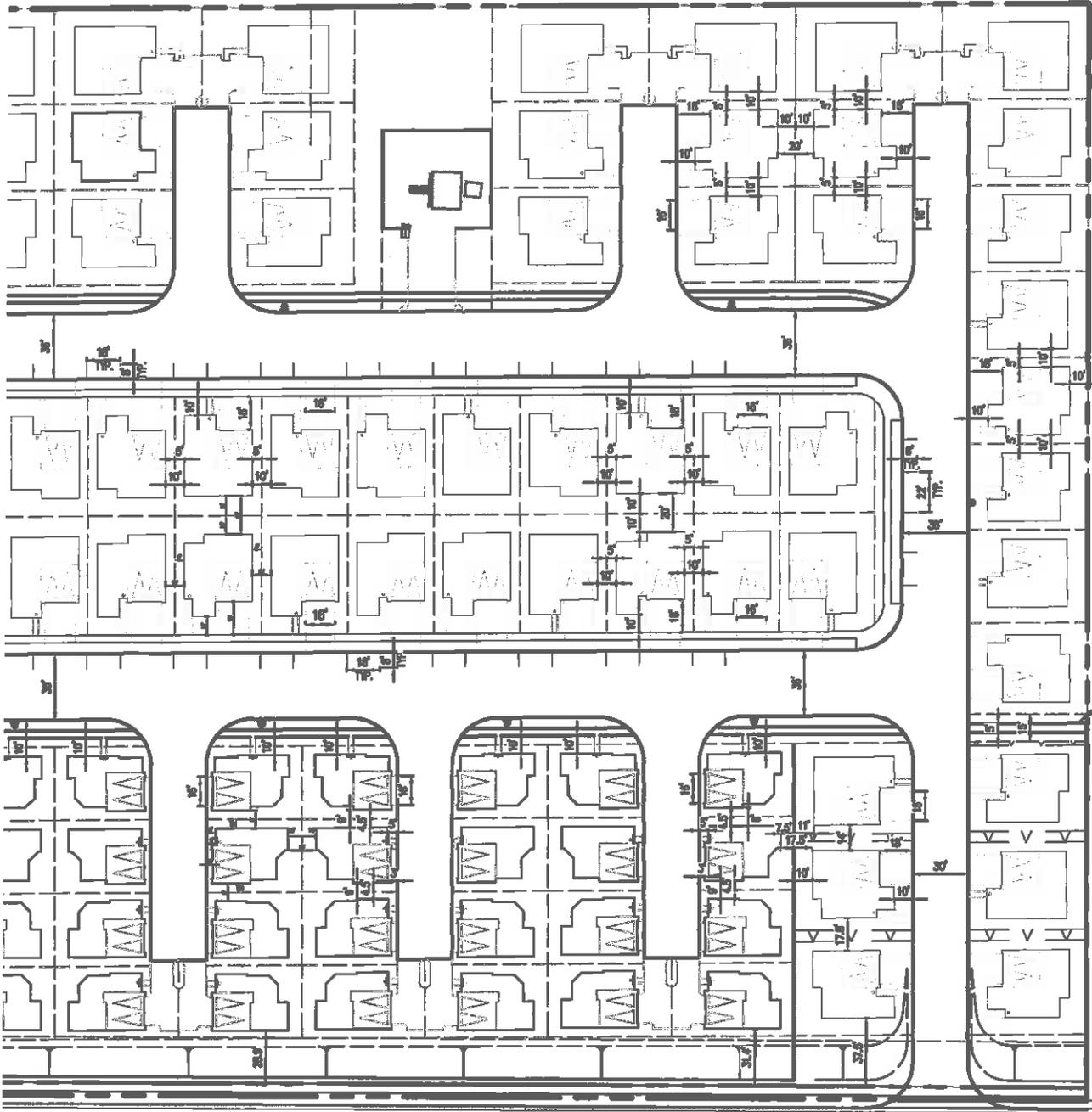
**PARKVIEW PROMENADE**

**BASELINE (W 16TH STREET)**



**EXHIBIT C**

**SHEET 2 OF 5**



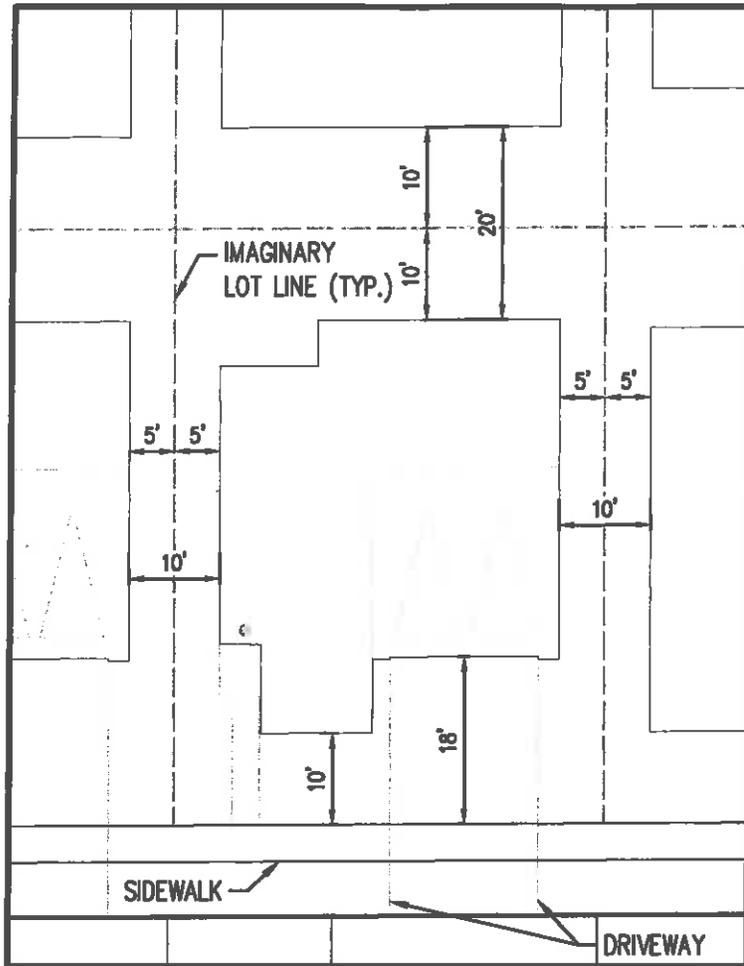
**BASELINE (W 16TH STREET)**

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



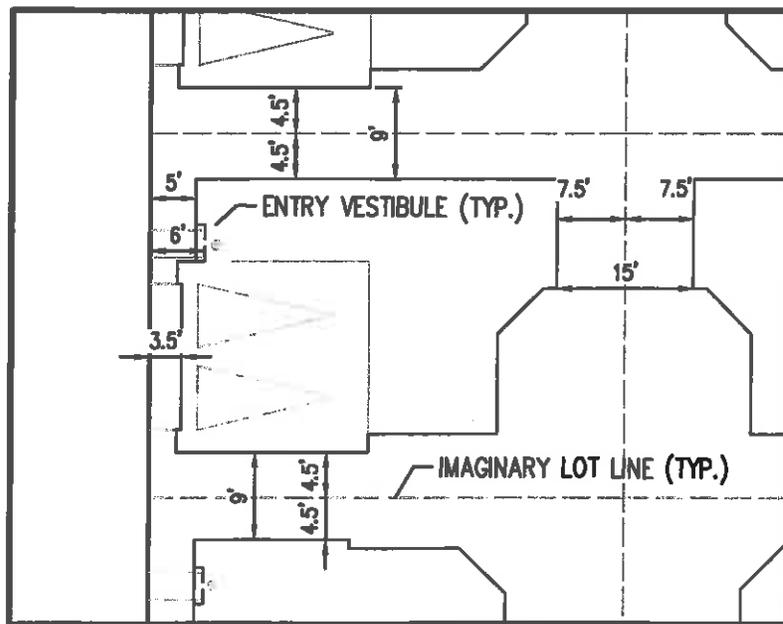
**EXHIBIT C**

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 16<sup>TH</sup> 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 (16<sup>th</sup> 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-**

TT-18707

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.

Page 1

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 25<sup>th</sup> 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 16<sup>th</sup> 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 (16<sup>th</sup> 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 16<sup>th</sup> 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 16<sup>th</sup> Street (Baseline Road) shall be undergrounded from the first pole on the north side of 16<sup>th</sup> 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 25<sup>th</sup> day of June 2008, by the following roll call vote:

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

NAYS: None ABSENT: Commissioner Tundis

  
\_\_\_\_\_  
Gary 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
<b>AESTHETICS AND VISUAL QUALITY</b>			
		<p>Neon and similar types of lighting are prohibited in all areas of Park View Specific Plan.</p> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> </ul> <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>
<b>AIR QUALITY</b>			
<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
<b>BIOLOGICAL RESOURCES</b>			
<p><b>BIO-1:</b> 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><b>BIO-1:</b> 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><b>BIO-2:</b> 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><b>BIO-2:</b> 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
<b>CULTURAL RESOURCES (Continued)</b>			
	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"> <li>• 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.</li> <li>• 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.</li> </ul>	San Bernardino County Coroner/Planning Department

**TABLE 9-1  
MITIGATION MONITORING PROGRAM**

IDENTIFIED IMPACTS	COMPLIANCE/ MONITORING PROCEDURE	MITIGATION MEASURES/ REGULATORY REQUIREMENTS	RESPONSIBLE PARTY
<b>GEOLOGY AND SOILS (Continued)</b>			
<p><b>G-2:</b> 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><b>G-2:</b> Grading activities shall be minimized and performed immediately prior to any new construction activities.</p> <p><b>G-3:</b> Disturbed soils shall be watered at least twice daily to ensure the control of fugitive dust escaping off-site.</p> <p><b>G-4:</b> 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><b>G-5:</b> 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>
<b>HAZARDS AND HAZARDOUS MATERIALS</b>			
<p><b>H-1:</b> 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><b>H-1:</b> 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><b>H-2:</b> 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**

<b>IDENTIFIED IMPACTS</b>	<b>COMPLIANCE/ MONITORING PROCEDURE</b>	<b>MITIGATION MEASURES/ REGULATORY REQUIREMENTS</b>	<b>RESPONSIBLE PARTY</b>
<b>HYDROLOGY AND WATER QUALITY</b>			
<p><b>IIWQ-1:</b> 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><b>IIWQ-1:</b> 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><b>IIWQ-2:</b> 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><b>IIWQ-2:</b> 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><b>IIWQ-3:</b> 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><b>IIWQ-3:</b> 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><b>IIWQ-4:</b> 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><b>IIWQ-5:</b> 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
<b>NOISE (Continued)</b>			
<p><b>NOI-2:</b> 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><b>NOI-3:</b> 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><b>NOI-4:</b> 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
<b>NOISE (Continued)</b>			
<p><b>NOI-3:</b> 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><b>NOI-8:</b> 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>
<b>TRAFFIC AND CIRCULATION</b>			
<p><b>TC-1:</b> 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><b>TC-1: Baseline Road, adjacent to the project site:</b> Widen and improve Baseline Road bordering the project site to ultimate half-section width per the City of Upland Circulation Element.</p> <p><b>Baseline Road at Driveway #1:</b> 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><b>Baseline Road at Driveway #2:</b> 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><b>Baseline Road at Park View Promenade:</b> 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><b>Baseline Road at Driveway #4:</b> 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
<b>PUBLIC UTILITIES AND INFRASTRUCTURE (Continued)</b>			
<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 <sup>1</sup>
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 FEES<sup>2</sup>

IEUA FEES <sup>3</sup>	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 <sup>4</sup>	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

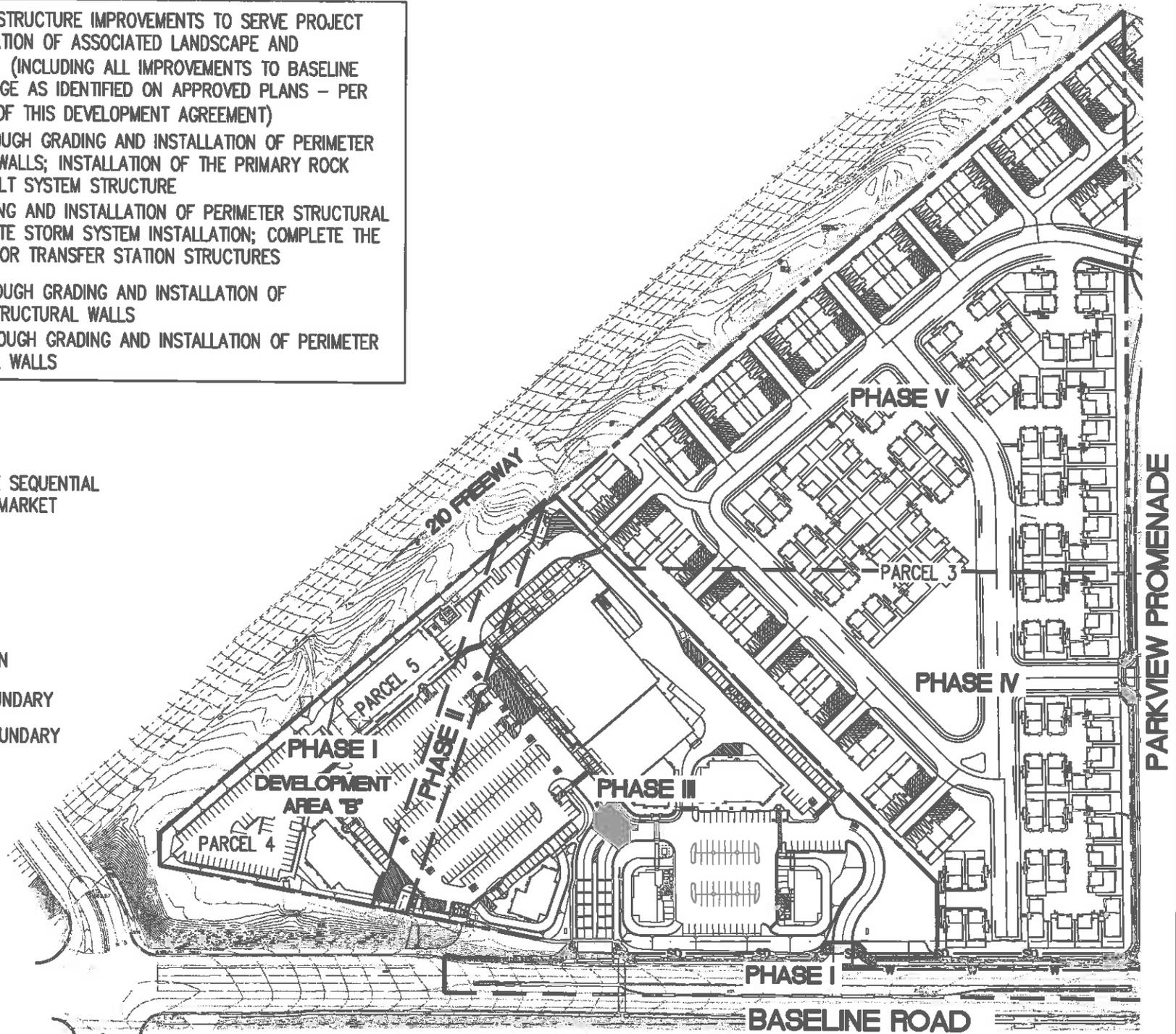
**NOTE:**  
 PHASING IS INTENDED TO BE SEQUENTIAL  
 BUT MAY BE ADJUSTED AS MARKET  
 DEMANDS MAY APPLY

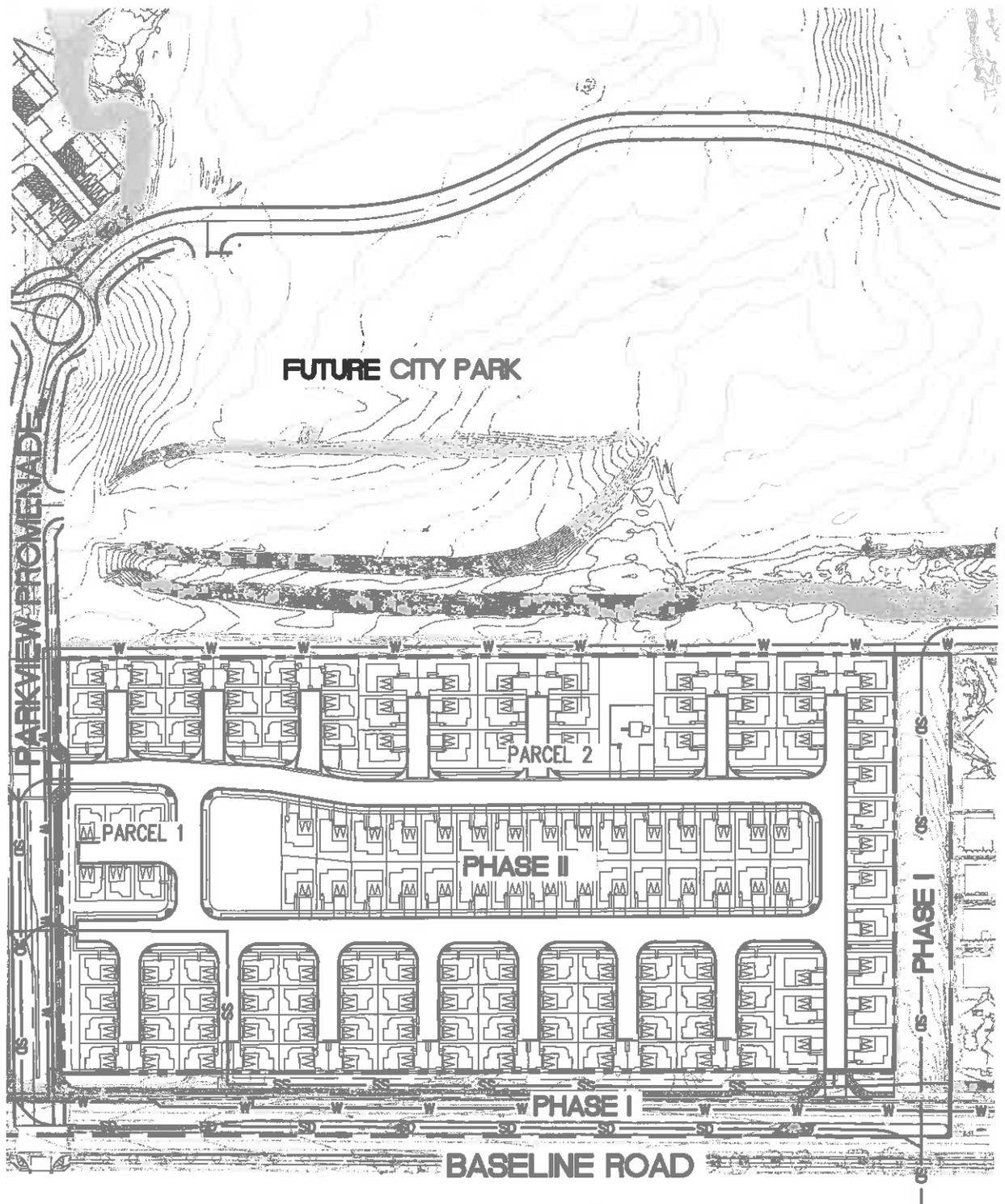
- LEGEND:**
- SS— SEWER
  - W— WATER
  - SD— STORM DRAIN
  - - - - - PARCEL BOUNDARY
  - — — — PHASING BOUNDARY



# 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)

**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

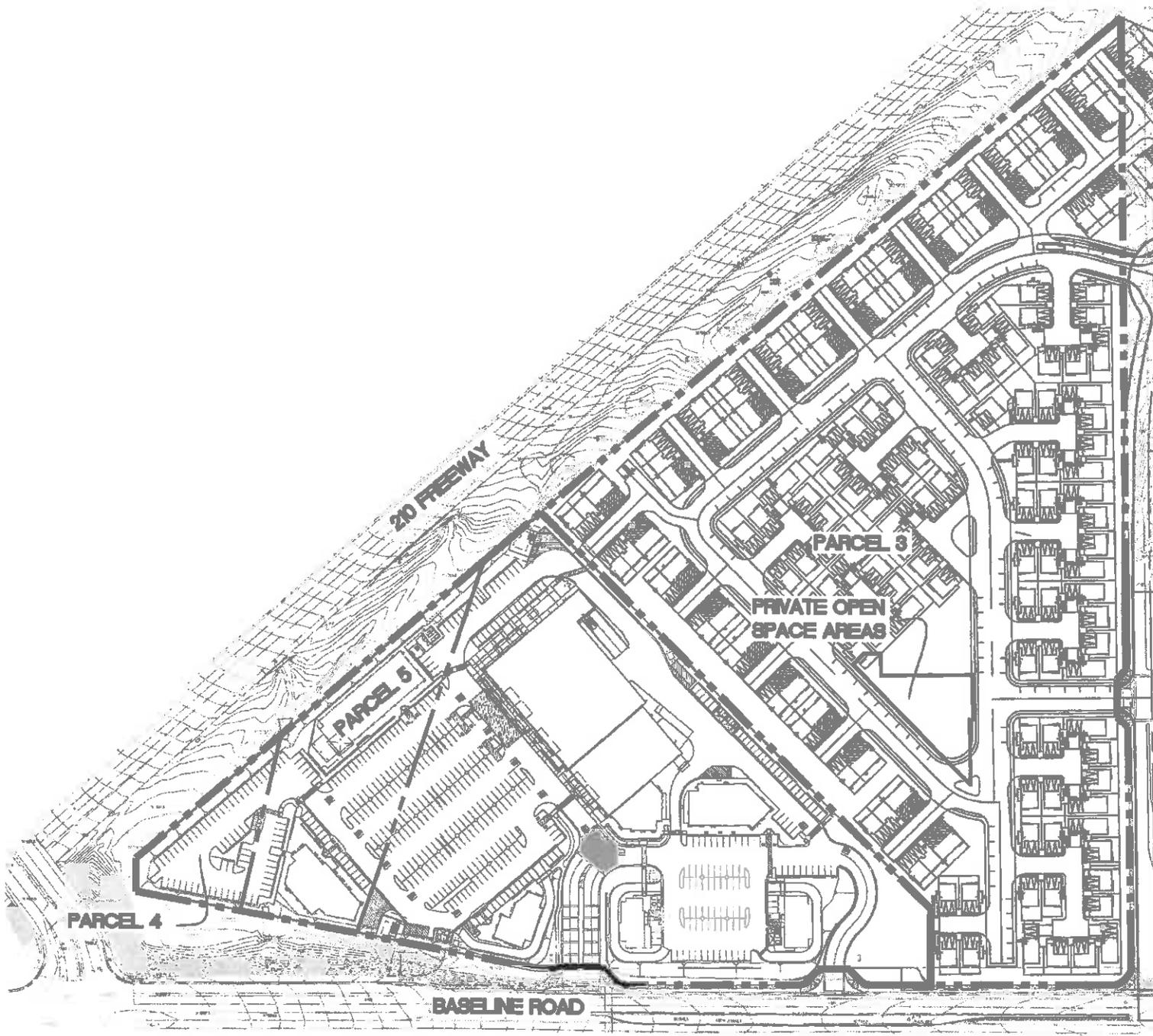
**NOTE:**  
PHASING IS INTENDED TO BE SEQUENTIAL BUT MAY BE ADJUSTED AS MARKET DEMANDS MAY APPLY

**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)

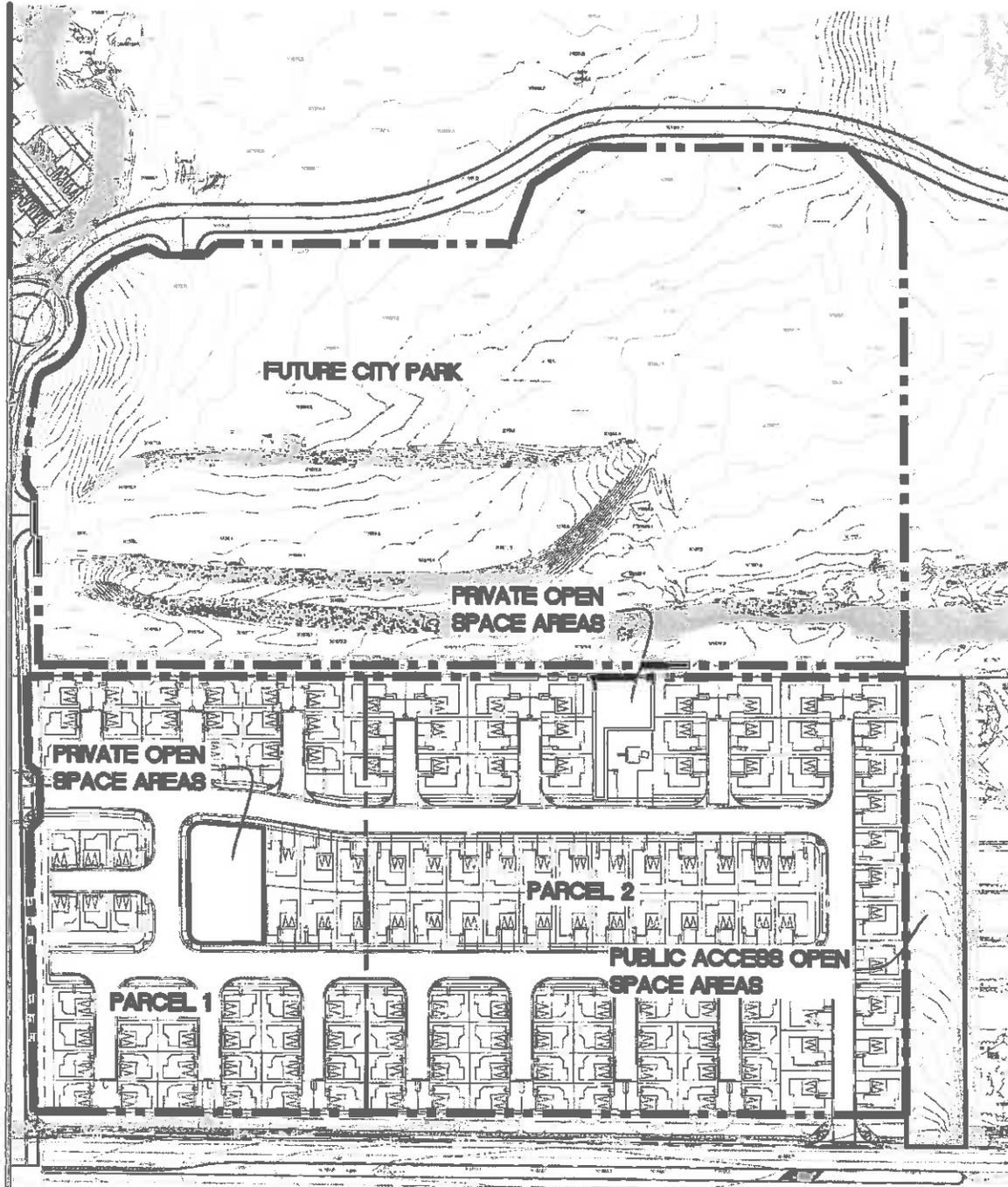


EXHIBIT H (2 OF 2)



**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
<b>Total:</b>				<b>\$ 793,932.30</b>			<b>\$ 660,068.95</b>	<b>\$ 133,863.35</b>



**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](mailto: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

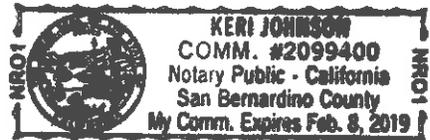
On April 26, 2016 before me, Keri Johnson, Notary Public  
(insert name and title of the officer)

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.

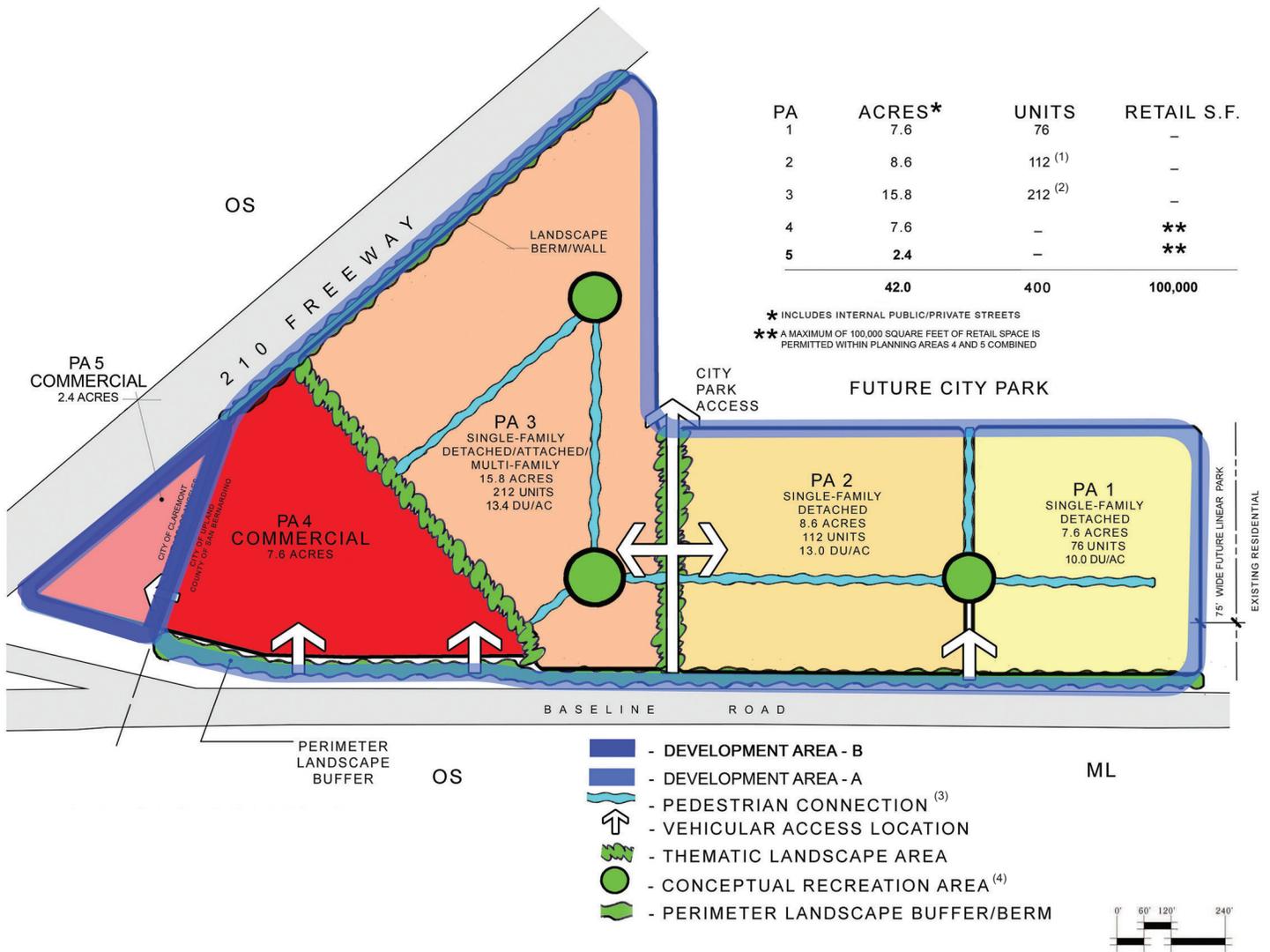
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

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. 11.M.**

---

**DATE:** December 9, 2019  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:** ROSEMARY HOERNING, INTERIM CITY MANAGER  
**PREPARED BY:** ROSEMARY HOERNING, INTERIM CITY MANAGER  
PONCE YAMBOT, PRINCIPAL ENGINEER  
**SUBJECT:** ACCEPTANCE OF STREET RIGHT OF WAY DEDICATION AND  
ONSITE UTILITY AND ACCESS EASEMENTS FROM THE RANCHO  
MONTEVISTA ANNEX, LLC LOCATED AT 365 NORTH CENTRAL  
AVENUE

---

## RECOMMENDED ACTION

It is recommended that the City Council accept the street right of way offer of dedication and dedication of onsite utility and access easements from Rancho Monte Vista Annex, LLC and authorize the recordation of the documents.

## GOAL STATEMENT

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

## BACKGROUND

On May 27, 2017, the Planning Commission conditionally approved CUP 16-34 through Resolution No. 4855. This resolution allows Rancho Monte Vista Annex, LLC, the Developer, to develop 23 apartment units on 1.19 acre vacant parcel. These 23 units are adjacent to the existing Rancho Monte Vista Luxury Apartment complex and is generally located at 365 N. Central Avenue, Upland as depicted on attached location map.

Furthermore, Resolution 4855 requires the developer to dedicate additional 17-foot wide right of way on Central Avenue to comply with the City's Master Plan of Streets and Highways. This dedication will allow the developer constructed street improvements to make Central Avenue consistent with the adjoining properties to the north and to the south. In addition, the developer was also required to dedicate onsite utility and access easements.

## **ISSUES/ANALYSIS**

In compliance with the requirements, the developer submitted legal plats and dedication documents that the City has found acceptable and is recommending acceptance. The additional right of way dedication will provide Central Avenue development consistency while onsite utility and access easement will allow ingress and egress onsite.

## **FISCAL IMPACTS**

There is no fiscal impact associated with this action.

## **ALTERNATIVES**

Provide alternative direction to staff.

## **ATTACHMENTS:**

**Location Map**

**Offer to dedicate right of way and exhibits**

**Offer to dedicate easement and exhibits**



**CUP 16-35 RANCHO MONTE VISTA ANNEX**



Recording requested by  
and when recorded mail to:

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

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

THIS SPACE FOR RECORDERS USE

**IRREVOCABLE OFFER OF DEDICATION IN FEE**

Assessor Parcel Number(s)  
\_\_\_\_\_

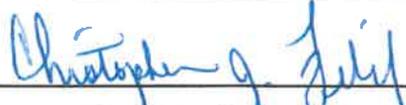
Grantor(s) Declares:  
\$ \_\_\_\_\_

Grantor(s) \_\_\_\_\_  
\_\_\_\_\_

**FOR VALUABLE CONSIDERATION**, receipt of which is hereby acknowledged, Grantor(s) does hereby, pursuant to the procedures set forth in California Government Code Section 7050, irrevocably offer to dedicate in fee for any lawful public purpose(s), to **THE CITY OF UPLAND, A MUNICIPAL CORPORATION**, all that certain real property situated in the City of Upland, County of San Bernardino, State of California, more fully described as in Exhibit "A" and depicted in Exhibit "B" attached hereto and made a part thereof.

Dated: December 2, 2019

Grantor(s) RMV Annex, LLC

  
\_\_\_\_\_  
By: Christopher J. Felix  
\_\_\_\_\_  
President of Managing Member

(Attach Notary Acknowledgement)

## ACKNOWLEDGMENT

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

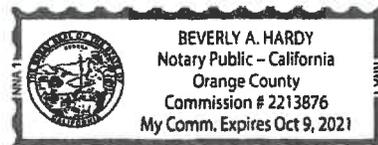
State of California  
County of Orange )

On December 2, 2019 before me, Beverly A. Hardy, Notary Public  
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.



Signature Beverly A. Hardy (Seal)

EXHIBIT "A"  
RIGHT-OF-WAY DEDICATION

THE FOLLOWING DESCRIBED REAL PROPERTY IS SITUATED IN THE CITY OF UPLAND,  
COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA; BEING MORE PARTICULARLY  
DESCRIBED AS FOLLOWS:

THE EASTERLY 17.00 FEET OF THE SOUTH 126.22 FEET OF THE NORTH 230.22 FEET OF LOT  
85, COLLEGE HEIGHTS TRACT, IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO,  
STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 17 OF MAPS, PAGES 77 AND 78,  
RECORDS OF SAID COUNTY.

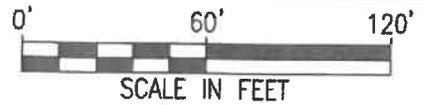
THE ABOVE DESCRIBED PARCEL IS SHOWN ON THE PLAT ATTACHED HEREWITH AND  
MADE A PART HEREOF, ENTITLED EXHIBIT "B".

THE ABOVE DESCRIPTION WAS PREPARED UNDER MY DIRECTION.

   
\_\_\_\_\_  
ANTHONY HARO DATE  
P.L.S. No. 7635  
EXPIRATION DATE: 12/31/2020  
JN: 952-2722



EXHIBIT "B"  
PUBLIC RIGHT OF WAY



SCALE: 1"=60'

**NOTES**

SEE SHEET 3 FOR VICINITY MAP.  
ALL EXISTING EASEMENTS TO REMAIN.

**GENERAL LEGEND**

- DEDICATION BOUNDARY
- - - EXISTING CENTERLINE
- - - EXISTING ROW
- - - EXISTING PROPERTY LINE

- POR. LOT 85 INDICATES RECORDED DATA AS NOTED.
-  DEDICATION AREA
- ( ) RECORD DATA PER RECORD OF SURVEY 32/98

POR. LOT 85  
COLLEGE HEIGHTS TRACT  
M.B. 17/77-78

POR. LOT 85  
COLLEGE HEIGHTS TRACT  
M.B. 17/77-78

POR. LOT 85  
COLLEGE HEIGHTS TRACT  
M.B. 17/77-78

R.S. 32/98

SEE SHEET 2

17' DEDICATION

83'

66' EX.

33'

33'

83'

CENTRAL AVENUE

PACIFIC ELECTRIC RAILROAD

*Anthony Haro* 12/2/19  
ANTHONY HARO P.L.S. 7635  
EXP. 12/31/2020



PREPARED BY:

**MADOLE**  
& ASSOCIATES, INC.  
Engineering Communities for Life

9302 PITTSBURGH AVE., SUITE 230  
RANCHO CUCAMONGA, CA. 91730  
PHONE: 909.481.6322  
FAX: 909.481.6320

CITY OF UPLAND, CALIFORNIA

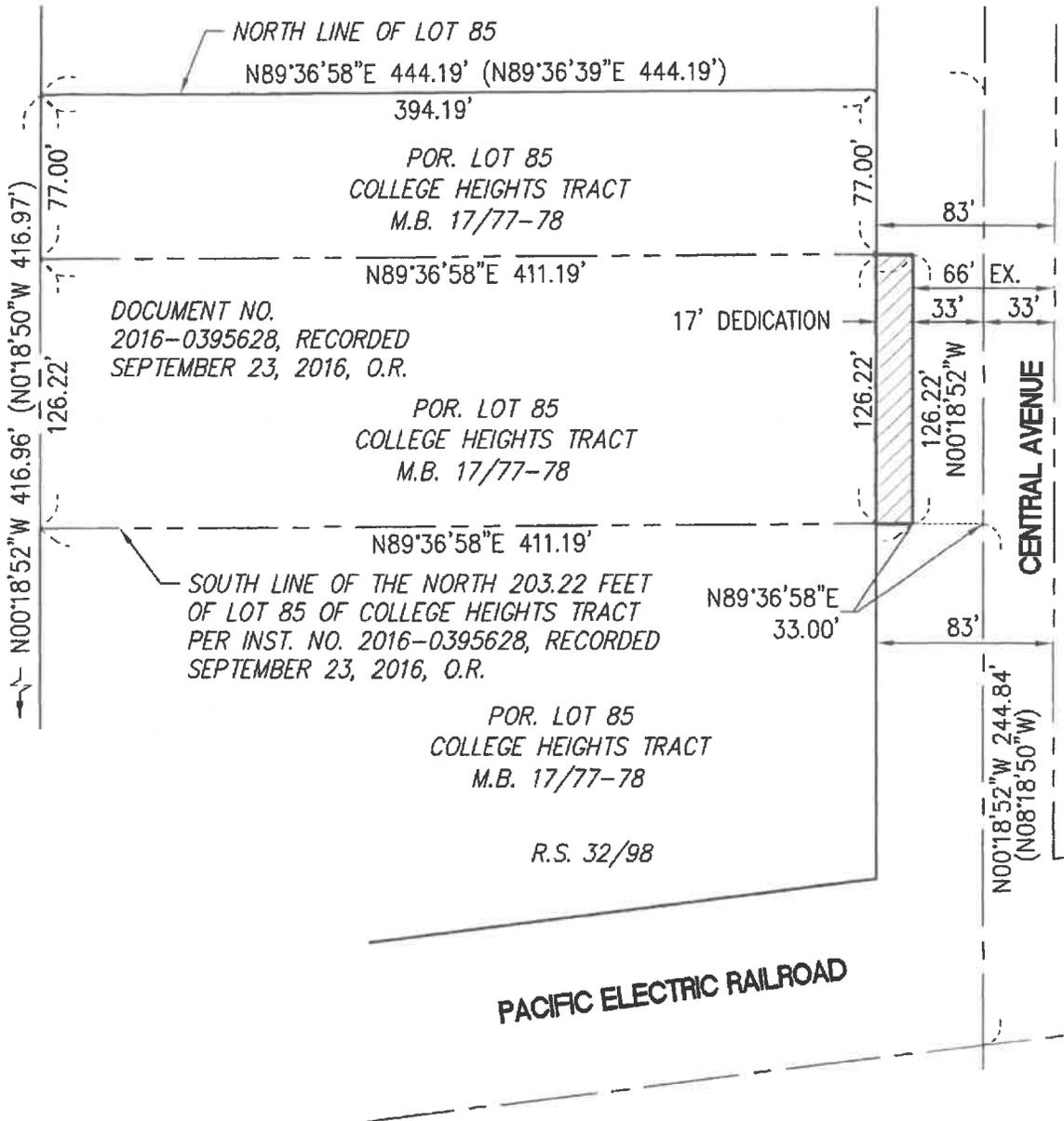
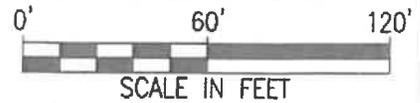
SECTION: SW1/4, SEC 11, T1S, R8W, SBM

THIS PLAT IS SOLELY TO BE USED AS AN AID  
IN LOCATING THE PARCEL(S) DESCRIBED IN  
THE ATTACHED DOCUMENT. ALL PRIMARY CALLS  
ARE LOCATED IN THAT WRITTEN DOCUMENT.

SUBJECT:  
PUBLIC RIGHT OF WAY

J.N.: 952-2722  
DATE: 12-02-19  
DRAWN BY: CCK  
SCALE: SEE PLAN  
SHEET: 1 OF 3

**EXHIBIT "B"**  
**PUBLIC RIGHT OF WAY**



SCALE: 1"=60'

**NOTES**

- SEE SHEET 1 FOR LEGEND.
- SEE SHEET 3 FOR VICINITY MAP.
- ALL EXISTING EASEMENTS TO REMAIN.

DEDICATION AREA  
(AREA = 2,146 S.F.)

PREPARED BY:



9302 PITTSBURGH AVE, SUITE 230  
RANCHO CUCAMONGA, CA. 91730  
PHONE: 909.481.6322  
FAX: 909.481.6320

**CITY OF UPLAND, CALIFORNIA**

SECTION: SW1/4, SEC 11, T1S, R8W, SBM

THIS PLAT IS SOLELY TO BE USED AS AN AID  
IN LOCATING THE PARCEL(S) DESCRIBED IN  
THE ATTACHED DOCUMENT. ALL PRIMARY CALLS  
ARE LOCATED IN THAT WRITTEN DOCUMENT.

SUBJECT:

**PUBLIC RIGHT OF WAY**

J.N.:	952-2722
DATE:	12-02-19
DRAWN BY:	CCK
SCALE:	SEE PLAN
SHEET:	2 OF 3

**EXHIBIT "B"**  
**PUBLIC RIGHT OF WAY**



PREPARED BY:



9302 PITTSBURGH AVE, SUITE 230  
RANCHO CUCAMONGA, CA. 91730  
PHONE: 909.481.6322  
FAX: 909.481.6320

**CITY OF UPLAND, CALIFORNIA**

SECTION: SW1/4, SEC 11, T1S, R8W, SBM

THIS PLAT IS SOLELY TO BE USED AS AN AID  
IN LOCATING THE PARCEL(S) DESCRIBED IN  
THE ATTACHED DOCUMENT. ALL PRIMARY CALLS  
ARE LOCATED IN THAT WRITTEN DOCUMENT.

SUBJECT:  
**PUBLIC RIGHT OF WAY**

J.N.:	952-2722
DATE:	12-02-19
DRAWN BY:	CCK
SCALE:	N/A
SHEET:	3 OF 3

NAME: J:\952-2722\Exhibits\Eosements\952-2722 ROW Dedication\952-2722 ROW ESMT - 03.dwg

**CERTIFICATE OF ACCEPTANCE**

THIS IS TO CERTIFY that the interest in the real property conveyed by the deed or grant dated \_\_\_\_\_ from \_\_\_\_\_ Grantor(s), to the CITY OF UPLAND, CALIFORNIA, a California Municipal Corporation, is hereby accepted by order of the City Council on February 17, 1965 by Resolution No. 1736, and the grantee consents to the recordation thereof by its duly authorized officer.

Dated \_\_\_\_\_

**CITY OF UPLAND**

By: \_\_\_\_\_  
Keri Johnson, City Clerk

Provides for: \_\_\_\_\_  
\_\_\_\_\_

Recorded at the request of,  
and when recorded mail to:

**City of Upland  
City Clerk's Office  
P.O. Box 460  
Upland, California 91786**

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

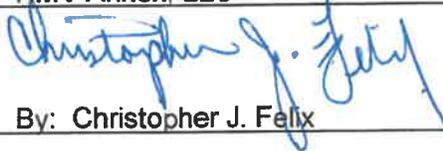
THIS SPACE IS FOR

### Offer To Dedicate Easement

Assessor Parcel Number  
Grantor(s) Declares:

\$

Grantor(s) RMV Annex, LLC



By: Christopher J. Felix

President of Managing Member

**FOR A VALUABLE CONSIDERATION**, receipt of which is hereby acknowledged, Grantor(s) hereby irrevocably offer to dedicate to **THE CITY OF UPLAND, A MUNICIPAL CORPORATION**, a permanent easement and right of way for street, utilities, highway, water, sewer, storm drain, landscaping, public service easement, and incidental purposes, including the right to construct, reconstruct, inspect, maintain, operate, replace, remove, renew, and repair the

# ACKNOWLEDGMENT

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

State of California  
County of Orange )

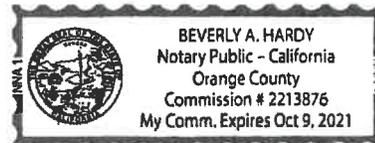
On December 2, 2019 before me, Beverly A. Hardy, Notary Public  
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature Beverly A. Hardy (Seal)



**EXHIBIT "A"**  
**PUBLIC UTILITY AND ACCESS EASEMENT**

THAT PORTION OF THE SOUTH 126.22 FEET OF THE NORTH 203.22 FEET OF LOT 85, COLLEGE HEIGHTS TRACT, IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER PLAT RECORDED IN BOOK 17 OF MAPS, PAGES 77 AND 78, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE SOUTHEAST CORNER OF SAID NORTH 203.22 FEET OF LOT 85;

THENCE, ALONG THE EASTERLY LINE OF SAID LOT 85, NORTH 00°18'52" WEST 25.83 FEET;

THENCE, LEAVING SAID EASTERLY LINE, SOUTH 90°00'00" WEST 17.00 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF CENTRAL AVENUE, SAID POINT BEING A POINT ON THE WESTERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THAT CERTAIN DEED RECORDED \_\_\_\_\_, 2019 AS INSTRUMENT No. 2019-\_\_\_\_\_, SAID POINT ALSO BEING THE **POINT OF BEGINNING**;

THENCE THE FOLLOWING (5) COURSES:

SOUTH 90°00'00" WEST 63.70 FEET;

SOUTH 00°00'00" WEST 18.95 FEET;

NORTH 90°00'00" WEST 11.54 FEET;

NORTH 00°00'00" EAST 18.95 FEET;

SOUTH 90°00'00" WEST 318.96 FEET TO A POINT ON THE WESTERLY LINE OF SAID LOT 85;

THENCE, ALONG SAID WESTERLY LINE, NORTH 00°18'52" WEST 26.00 FEET;

THENCE, LEAVING SAID WESTERLY LINE, THE FOLLOWING (9) COURSES:

NORTH 90°00'00" EAST 123.33 FEET;

NORTH 00°00'00" EAST 5.58 FEET;

NORTH 90°00'00" EAST 15.00 FEET;

SOUTH 00°00'00" WEST 5.58 FEET;

NORTH 90°00'00" EAST 200.24 FEET;

NORTH 00°00'00" EAST 5.00 FEET;

SOUTH 90°00'00" EAST 5.03 FEET;

NORTH 58°42'00" EAST 21.17 FEET;

NORTH 90°00'00" EAST 32.42 FEET TO A POINT ON SAID WESTERLY RIGHT-OF-WAY LINE;  
THENCE, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, SOUTH 00°18'52" EAST 42.00 FEET  
TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL IS SHOWN ON THE PLAT ATTACHED HERewith AND  
MADE A PART HEREOF, ENTITLED EXHIBIT "B".

THE ABOVE DESCRIPTION WAS PREPARED UNDER MY DIRECTION.

   
\_\_\_\_\_  
ANTHONY HARO DATE

P.L.S. No. 7635  
EXPIRATION DATE: 12/31/2020  
JN: 952-2722



# EXHIBIT "B"

## PUBLIC UTILITY AND ACCESS EASEMENT

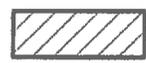
### GENERAL LEGEND

- PROPOSED EASEMENT
- - - - - EXISTING EASEMENT AS NOTED.
- ——— EXISTING CENTERLINE
- ——— EXISTING ROW
- - - - - EXISTING PROPERTY LINE

PARCEL 5 INDICATES RECORD DATA AS NOTED.



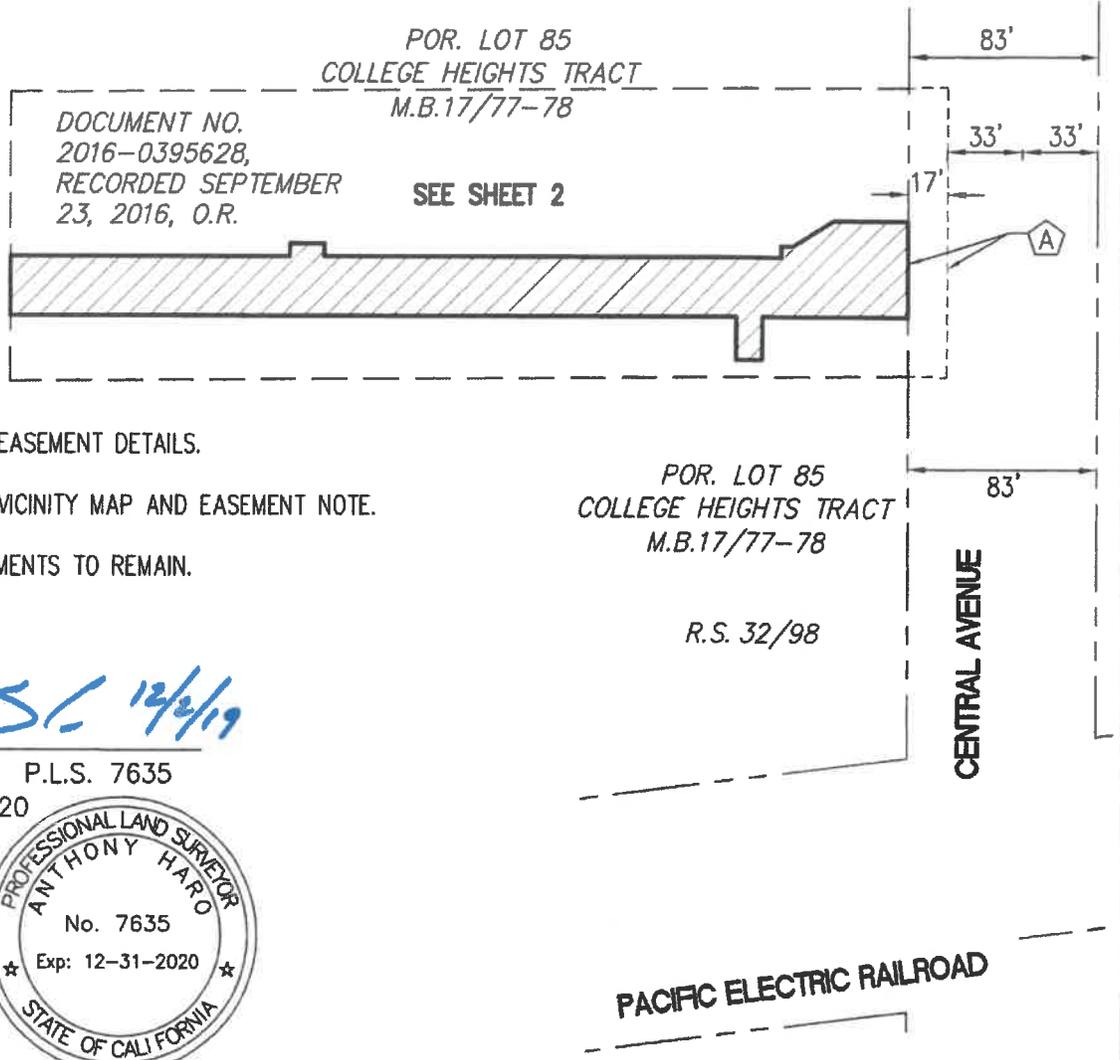
RIGHT OF WAY DEDICATION IN FAVOR OF THE CITY OF UPLAND, RECORDED IN BOOK \_\_\_\_\_, PAGE \_\_\_\_\_, OFFICIAL RECORDS.



EASEMENT AREA



SCALE: 1"=80'



### NOTES

- SEE SHEET 2 FOR EASEMENT DETAILS.
- SEE SHEET 3 FOR VICINITY MAP AND EASEMENT NOTE.
- ALL EXISTING EASEMENTS TO REMAIN.

*Anthony Haro* 12/2/19

ANTHONY HARO P.L.S. 7635  
EXP. 12/31/2020



PREPARED BY: <b>MADOLE &amp; ASSOCIATES, INC.</b> <i>Engineering Communities for Life</i>	<b>CITY OF UPLAND, CALIFORNIA</b> SECTION: SW1/4, SEC 11, T1S, R8W, SBM	SUBJECT: <b>PUBLIC UTILITY AND ACCESS EASEMENT</b>
	9302 PITTSBURGH AVE, SUITE 230 RANCHO CUCAMONGA, CA. 91730 PHONE: 909.481.6322 FAX: 909.481.6320	THIS PLAT IS SOLELY TO BE USED AS AN AID IN LOCATING THE PARCEL(S) DESCRIBED IN THE ATTACHED DOCUMENT. ALL PRIMARY CALLS ARE LOCATED IN THAT WRITTEN DOCUMENT.

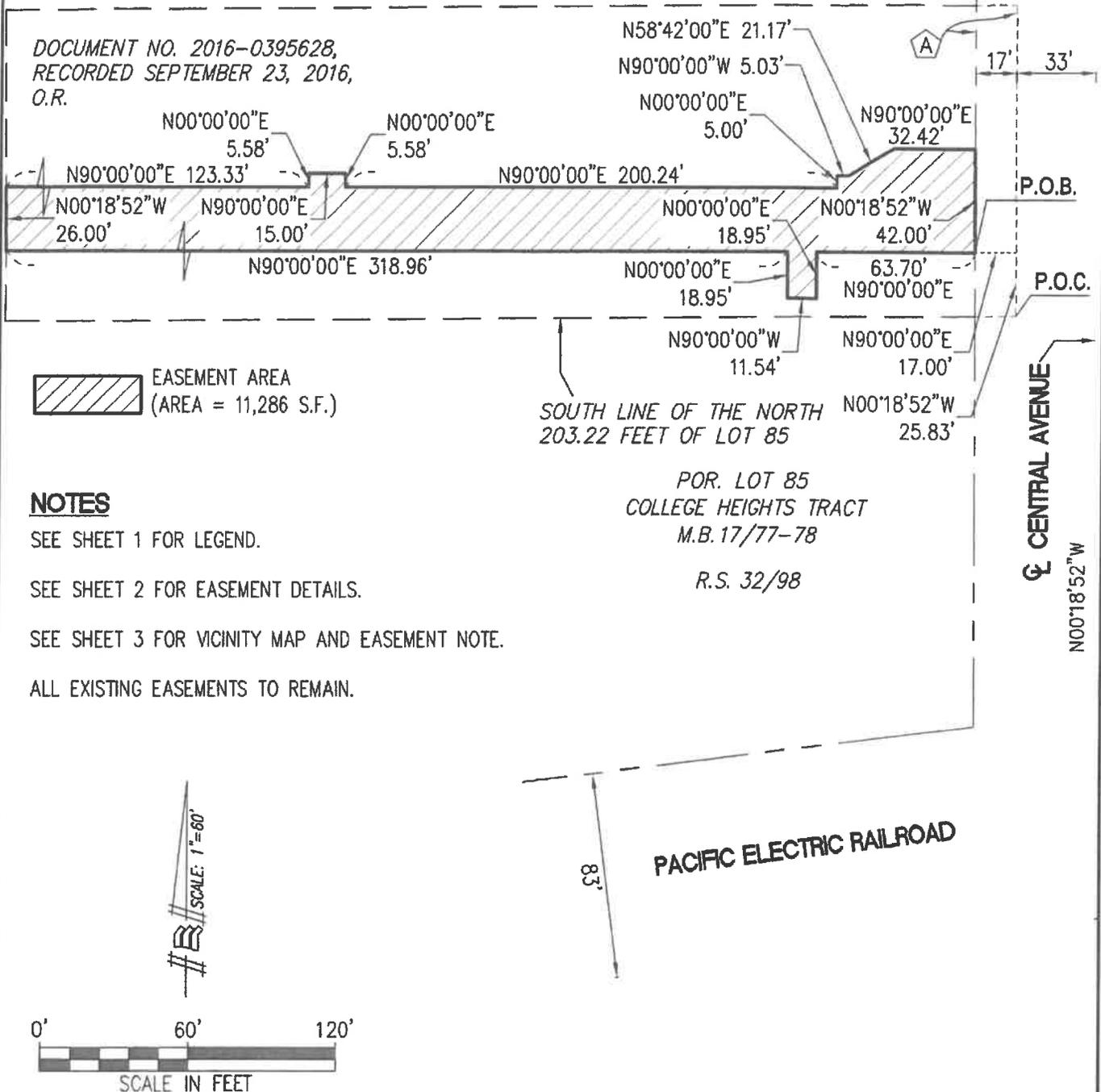
NAME: J:\952-2722\Exhibits\Easements\952-2722 PUE & ACCESS\952-2722 PUE ESMT -- 01.dwg

# EXHIBIT "B"

## PUBLIC UTILITY AND ACCESS EASEMENT

POR. LOT 85  
COLLEGE HEIGHTS TRACT  
M.B. 17/77-78

DOCUMENT NO. 2016-0395628,  
RECORDED SEPTEMBER 23, 2016,  
O.R.



EASEMENT AREA  
(AREA = 11,286 S.F.)

**NOTES**

- SEE SHEET 1 FOR LEGEND.
- SEE SHEET 2 FOR EASEMENT DETAILS.
- SEE SHEET 3 FOR VICINITY MAP AND EASEMENT NOTE.
- ALL EXISTING EASEMENTS TO REMAIN.

POR. LOT 85  
COLLEGE HEIGHTS TRACT  
M.B. 17/77-78  
  
R.S. 32/98

PREPARED BY:



9302 PITTSBURGH AVE, SUITE 230  
RANCHO CUCAMONGA, CA. 91730  
PHONE: 909.481.6322  
FAX: 909.481.6320

**CITY OF UPLAND, CALIFORNIA**

SECTION: SW1/4, SEC 11, T1S, R8W, SBM

THIS PLAT IS SOLELY TO BE USED AS AN AID  
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THE ATTACHED DOCUMENT. ALL PRIMARY CALLS  
ARE LOCATED IN THAT WRITTEN DOCUMENT.

SUBJECT: **PUBLIC UTILITY  
AND ACCESS EASEMENT**

J.N.:	952-2722
DATE:	12-02-19
DRAWN BY:	CCK
SCALE:	SEE PLAN
SHEET:	2 OF 3

NAME: J:\952-2722\Exhibits\Easements\952-2722 PUE & ACCESS\952-2722 PUE ESMT - 02.dwg

**EXHIBIT "B"**  
**PUBLIC UTILITY AND ACCESS EASEMENT**



PREPARED BY:



9302 PITTSBURGH AVE., SUITE 230  
 RANCHO CUCAMONGA, CA. 91730  
 PHONE: 909.481.6322  
 FAX: 909.481.6320

**CITY OF UPLAND, CALIFORNIA**

SECTION: SW1/4, SEC 11, T1S, R8W, SBM

THIS PLAT IS SOLELY TO BE USED AS AN AID  
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SUBJECT: **PUBLIC UTILITY  
 AND ACCESS EASEMENT**

J.N.:	952-2722
DATE:	12-02-19
DRAWN BY:	CCK
SCALE:	N/A
SHEET:	3 OF 3

NAME: J:\952-2722\Exhibits\Easements\952-2722 PUE & ACCESS\952-2722 PUE ESMT - 03.dwg

**CERTIFICATE OF ACCEPTANCE**

THIS IS TO CERTIFY that the interest in the real property conveyed by the deed or grant dated \_\_\_\_\_ from RMV Annex. LLC Grantor(s), to the CITY OF UPLAND, CALIFORNIA, a California Municipal Corporation, is hereby accepted by order of the City Council on February 17, 1965 by Resolution No. 1736, and the grantee consents to the recordation thereof by its duly authorized officer.

Dated \_\_\_\_\_

**CITY OF UPLAND**

By: \_\_\_\_\_  
Keri Johnson, City Clerk

Provides for: Permanent dedication for utilities, and incidental purposes, including the right to construct, reconstruct, inspect, maintain, operate, replace, remove, renew, and repair.

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## STAFF REPORT

**ITEM NO. 11.N.**

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**DATE:** December 9, 2019  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:** ROSEMARY HOERNING, INTERIM CITY MANAGER  
**PREPARED BY:** ROSEMARY HOERNING, INTERIM CITY MANAGER  
PONCE YAMBOT, PRINCIPAL ENGINEER  
**SUBJECT:** ACCEPTANCE OF PUBLIC IMPROVEMENTS AT BENSON AVENUE  
AND 13TH STREET AND SECURITY REDUCTION (1301 BENSON  
AVENUE)

---

### RECOMMENDED ACTION

It is recommended that the City Council accept the sewer and street intersection restoration work and authorize the Interim City Manager to release the cash security posted for the project and further to authorize the Interim City Manager to accept a substitute performance guaranty bond of fifty percent (50%) and Labor and Materials bond of fifty percent (50%).

### GOAL STATEMENT

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

### BACKGROUND

Permit 19-271 was issued to RS Construction & Development (RS) for the construction of a public sewer main to serve the residence at 1301 Benson Avenue and for the street restoration improvements. Mr. Mario Sosa posted a \$34,000 cash security to insure the work would be satisfactorily completed.

### ISSUES/ANALYSIS

Mr. Sosa through his contractor performed the required sewer installation and the street restoration work at the intersection of Benson Avenue and 13th Street. All the work has been completed according to standards and is to the satisfaction of our Public Works Inspector.

Mr. Sosa has requested the cash security be released and a substitute fifty percent (50%) performance guaranty bond be accepted. This performance guaranty bond will be held for 12 month after acceptance of the work. The labor and materials bond will be released six months after acceptance of the work provided there is no claim or lien filed.

**FISCAL IMPACTS**

There is no fiscal impact associated with this action.

**ALTERNATIVES**

Provide alternative direction to staff.

**ATTACHMENTS:**

**Location Map**

**Permit 19-271**

**Receipt #7471**

**Completion Report**

**Performance Bond**

**Labor and Materials Bond**



Received  
5/2/2019



Finance Stamp Here  
**RECEIVED**  
MAY 08 2019  
FINANCE DIVISION

\*UPDATED\*

Construction Permit No. 19-271  
Street/Lane Closure Permit No: 19-271PC  
PUBLIC WORKS INSPECTOR SIGN/DATE @ PRECON:  
  
(VALID ONLY W/ PRECON INSPECTOR SIGN/DATE)  
Final Inspection By: \_\_\_\_\_

**NOTE TO PERMITTEES: ANY WORK NOT LISTED ON THE CITY'S ACTIVE CONSTRUCTION MONITORING LIST, WILL BE SHUT DOWN IMMEDIATELY. PERMIT HOURS 7:00 AM TO 3:30 PM (M-F)**

**This Permit is not valid without the following items completed.**

- Pre-Construction Meeting is **MANDATORY**. Email **PWINSPECTIONS@CI.UPLAND.CA.US** to schedule pre-construction meeting for each permit. **WORK SHALL NOT COMMENCE UNTIL THE PRE-CON MEETING HAS TAKEN PLACE. PRE-CONSTRUCTION MEETINGS MAY BE SCHEDULED FROM THE PERMIT ISSUANCE DATE; PRE-CON MEETING WILL BE HELD AT 3 DAYS (MIN.) AFTER REQUEST. Permittee will receive email response within 24 hours.**
- A "Temporary Street Closure Permit" is required. No Street shall be closed and vehicular traffic or pedestrian access impeded in any way without said permit, please allow 4 to 8 City business days for permit processing. Please contact the Permit Engineer at **PWPERMITS@CI.UPLAND.CA.US** for permit information.
- A "Truck Access Plan" is required before the work begins; please contact the Permit Engineer at **PWPERMITS@CI.UPLAND.CA.US** for necessary information to complete the Access Plan.
- "At Risk Improvements" applies to Contractors requesting to work in the Public Right-Of-Way without approved plans. The Developer/Contractor is proceeding at their own risk in commencing this work without City Approved Plans. The Developer/Contractor has supplied the appropriate bonding and Indemnity Letter.
- Underground Service Alert at 1-800-227-2600 shall be notified by applicant at least 2 working days in advance of any excavation and an Underground Service Alert Inquiry Identification Number shall be obtained from Underground Service Alert. **CONTACTING U.S.A. DOES NOT RELIEVE CONTRACTOR OF RESPONSIBILITY FOR LOCATING OR PROTECTING EXISTING UTILITIES.**

Reference (Tract, P.M., S.P., C.U.P., or Address): 1301 N. BENSON AVE

General Location/City Plan#/Project #: \_\_\_\_\_

Contact Name: Ric Serna E-mail Address: info@rscdinc.com

Contractor: RS Construction & Development Telephone: (909) 920-1144

License Number: 1005429 Expiration Date: 10/31/2019

Address: 1042 N. Mountain Ave Ste-B-552, Upland CA 91786

Developer (Owner): Mario Sosa Telephone: 626-466-7063

Address: 1623 2nd ST Duarte Ca 91010

**Applicant's Statement**

The undersigned hereby applies for permission to undertake, or to have undertaken, construction work within public right-of-way in the City of Upland. Said undersigned has read the conditions provided as **Supplemental Permit Information**. Said undersigned hereby agrees to observe and comply with all permit provisions. All applicable Sections of the Upland Municipal Code and all applicable Sections of the City of Upland Standard Specification for Public Works Construction, and to complete said construction work all in accordance with the approved plan, and/or standard drawing and/or engineering directives and/or special conditions.

R. SERNA

R. Serna

4/26/19

Applicant's Printed Name

Signature

Date Signed

This Permit Expires on: 8/12/19 Extension 9/27/19 Approved By [Signature] (7/25/19)

Permit Approval: [Signature] City Engineer or Authorized Representative Date 5/7/19

**Items to be constructed or activities with this Permit**

- |   |   |  |   |
|---|---|--|---|
| <p><b>Street</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> AC Paving</li> <li><input type="checkbox"/> Curb &amp; Gutter</li> <li><input type="checkbox"/> Drive Approach</li> <li><input type="checkbox"/> Sidewalk</li> <li><input type="checkbox"/> Miscellaneous Items</li> <li><input checked="" type="checkbox"/> Per Attached Plans</li> </ul> | <p><b>Sewer</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Sewer Main</li> <li><input type="checkbox"/> Manhole</li> <li><input checked="" type="checkbox"/> Sewer Lateral</li> </ul> <div style="border: 1px solid black; padding: 5px; width: fit-content;"> <p>Paid with Receipt Number<br/><b>R7320</b></p> </div> | <p><b>Water</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Water Main</li> <li><input type="checkbox"/> Water Lateral</li> <li><input type="checkbox"/> Fire Hydrant</li> </ul> <p><b>Storm drain</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Storm drain Main</li> </ul> | <p><b>Miscellaneous</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Pole Replacement</li> <li><input type="checkbox"/> Vault Inspection</li> <li><input type="checkbox"/> Utility Trench / Pot Hole</li> <li><input type="checkbox"/> Splice Pit</li> <li><input type="checkbox"/> Aerial Work</li> <li><input type="checkbox"/> Traffic Control Inspection</li> <li><input type="checkbox"/> Grading</li> <li><input type="checkbox"/> Stockpile/Material Placement</li> <li><input type="checkbox"/> Square Feet Soil Disturbed _____</li> <li><input type="checkbox"/> Parkway Landscaping</li> <li><input type="checkbox"/> Pavement Repairs</li> </ul> |
|---|---|--|---|

*Connection to Sewer & placement of arm traffic control devices / signs in City of Upland Right of Way Only.*

<b>Fees</b>	<b>Account Number</b>
Permit Fee: <i>See Receipt 7319 + R7471</i>	1010000-4205
Inspection Deposit: <i>See R7319 + R7471</i>	1010000-4645
Total Due this Permit: <i>\$ 325.00 + Bond</i>	

**NO WORK ON WEEKENDS AND HOLIDAYS ALLOWED BY THIS PERMIT**

**Permit Work Hours**

Permit work hours are from **7:00 AM to 3:30 PM**, Monday through Friday (excluding holidays). Any work after 3:30 PM is subject to the overtime inspection rate. Any work outside of the permit hours must be submitted in writing a minimum of four (4) business days/permit hours in advance

**PERMIT IS VALID ONLY WITHIN CITY RIGHT-OF-WAY. WORKS ON PRIVATE PROPERTIES NEED OWNER'S PERMISSION/CONSENT. ALL PERTINENT ORDINANCES APPLY. PAVING WORKS MUST BE COMPLETED WITHIN 30 DAYS FROM BACKFILL IF INCLUDED IN SCOPE OF WORKS AND MUST FOLLOW ORDINANCE 1841.**

**Temporary Street Closure**

Temporary Street Closures require a separate permit and a minimum of 4 to 8 permit business days for processing. Prior to the start of any temporary street and/or lane closure, the applicant is required to notify and receive City approval a minimum of 72 permit business hours in advance. Permit business hours are Monday through Thursday from 8:00 AM to 5:00 PM.

**Permit Fee Structure**

The minimum fee for a Construction Permit is \$325.00 and is non-refundable. This minimum fee is for minor construction usually for a utility tie-in for a single-family home. Projects that are more extensive require a review on a case-by-case basis.

**Public Works Inspection Deposit (Defined)**

Inspections are based on an hourly rate. Staff performs an audit when the Inspector final a Construction Permit. This audit consists of deducting the Inspector's documented time (shown on their time sheet) from the deposit.

**Permit Extensions**

Each permit extension will be assessed a new processing fee. The minimum fee is \$190.00 for each extension. Extension fees will automatically be assessed until the Permittee provides written notification to the City that the construction and all associated activities have been completed and that the permit has been finalized/signed-off by the Public Works Inspector.

Additional Comments: *Precon Required  
See conditions attached.*



**CITY OF UPLAND  
PUBLIC WORKS DEPARTMENT**

Receipt Number: 7471

Date: July 25, 2019



Received From: RS Construction & Development (for Mario Sosa)

Address: 1042 N. Mountain Ave Ste. B-552 Upland CA 91786

Project Location: 1301 N. Benson (Sewer Connection Surety)

Permit # 19-271 Updated

PLAN CHECK DESCRIPTION	PLAN CHECK FEES				
	QTY	1ST TWO SHTS/MAP	ADD'L SHTS/LOTS	ADDITIONAL SHEET / LOT <sup>1,2</sup>	TOTAL
Final Tract Map or Parcel Map		\$ 2,500		\$ 50.00	\$ -
Lot Line Adjustment / Lot Merger (Each)		\$ 1,200		\$ -	\$ -
Rough Grading Plan (1st 2 sheets + each additional sheet)		\$ 1,500		\$ 500.00	\$ -
Precise Grading Plan (1st 2 sheets + each additional sheet)		\$ 2,000		\$ 500.00	\$ -
<b>Improvement Plan Check</b>					
Water (1st 2 sheets + each additional sheet)		\$ 2,500		\$ 800.00	\$ -
Sewer (1st 2 sheets + each additional sheet)		\$ 2,500		\$ 800.00	\$ -
Storm drain (1st 2 sheets + each additional sheet)		\$ 2,500		\$ 800.00	\$ -
Street (1st 2 sheets + each additional sheet)		\$ 2,500		\$ 800.00	\$ -
Other (1st 2 sheets + each additional sheet)		\$ 2,500		\$ 800.00	\$ -
Erosion Control, Horiz. Control, Demo (1st 2 + each add'l sheet)		\$ 1,800		\$ 800.00	\$ -
On-Site Utility Plan (1st 2 sheets + each additional sheet)		\$ 1,800		\$ 800.00	\$ -
Traffic Control Plan (1st 2 sheets + each additional sheet)		\$ 1,800		\$ 800.00	\$ -
Private Landscape (Minimum Fee + Per Lot Fee)		\$ 1,200		\$ 45.00	\$ -
PLAN CHECK DESCRIPTION			UNIT	COSTS <sup>1,2</sup>	TOTAL
<b>Waste Management Plan</b>					
Demo/Remodel < 1,000 sf		\$ 250.00	EA	\$ -	\$ -
Demo/Remodel > 1,000 sf		\$ 375.00	EA	\$ -	\$ -
New Construction Residential		\$ 375.00	EA	\$ -	\$ -
New Construction Residential > 3,000 sf		\$ 375.00	EA	\$ -	\$ -
New Construction Commercial/Industrial (per 1,000 sf)			SF		\$ -
Sub -Total of Plan Check Fees					\$ -
Sub -Total of Plan Check Fees (from Page 2)					\$ -
<b>TOTAL PLAN CHECK FEE</b>		<b>1010000-4646</b>		<b>(101646)</b>	\$ -
<b>TOTAL WASTE MANAGEMENT PLAN FEES</b>		<b>1010000-4646</b>		<b>(101646)</b>	\$ -
<b>TOTAL TRANSPORTATION FEES (Page 2)</b>		<b>1010000-4205</b>		<b>(101205)</b>	\$ -
<b>SEWER AND WATER CONNECTION</b>					
Sewer Connection (Cost Recovery)		<b>6450000-4687</b>		<b>(645687)</b>	\$ -
Sewer Facilities Expansion Fee - SSFEF		<b>6450000-4210</b>		<b>(645210)</b>	\$ -
Sewer Facilities Expansion Fee - CCRA		<b>2070000-4209</b>		<b>(207209)</b>	\$ -
Water Connection Fee		<b>6400000-4690</b>		<b>(640690)</b>	\$ -
<b>DEPOSITS</b>					
Public Works Inspection Deposit (\$1,370 or 2% of estimated construction cost whichever is greater; per each permit)		<b>1010000-4645</b>		<b>(101645)</b>	\$ -
Cash Surety: (Grading:Monument:Performance/L&M)		<b>1010000-2361</b>		<b>(DGF361)</b>	\$ 34,000.00
Cash Surety: WQMP - Maintenance Deposit (\$10,000)		<b>6400000-2375</b>		<b>(D40375)</b>	\$ -
Expediting Fee		<b>1010000-4646</b>		<b>(101646)</b>	\$ -
<b>GRAND TOTAL</b>					<b>\$ 34,000.00</b>

1. Additional costs for hourly rates for staff, consultants, plus pass through fees, and/or attorney's fees applicable.  
2. 15% additional outside agency and/or consultant costs applicable.



## Ponce Yambot

---

**From:** Mark Liles  
**Sent:** Monday, October 21, 2019 1:21 PM  
**To:** Ponce Yambot  
**Subject:** Benson & 13th st  
**Attachments:** SKM\_C45819102113080.pdf

Hi Ponce

Permit # 19-271 Benson & 13<sup>th</sup> sewer main has been completed and finalized.

Thank you.

Mark Liles  
Senior Public Works Inspector

City Of Upland  
Public Works Department  
Engineering Division  
1370 N. Benson Avenue  
Upland, CA 91786  
Direct: (909)931-4370  
Cell: (909)931-4370

**SUBDIVISION IMPROVEMENTS  
PERFORMANCE BOND**

BOND NO. 02434315  
\$ 255.00 premium is for  
a term of ONE (1) year(s)

KNOW ALL MEN BY THESE PRESENTS:

That we, MARIO R. SOSA HERRERA, as Principal,  
and THE OHIO CASUALTY INSURANCE COMPANY, a corporation organized and doing business  
under and by virtue of the laws of the State of NEW HAMPSHIRE and duly licensed  
to conduct a general surety business in the State of California as Surety, are held and firmly bound unto the CITY OF UPLAND  
as Obligee, in the penal sum of SEVENTEEN THOUSAND NO/100

(\$ 17,000.00) Dollars, for which payment, well and truly to be made, we bind ourselves, our heirs, successors, executors  
and administrators, jointly and severally firmly by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH THAT:

Whereas the Obligee and Principal have entered into an agreement whereby Principal agrees to install and complete certain  
designated public improvements, which agreement, identified as 1301 BENSON SEWER MAIN INSTALLATION,  
is hereby referred to and made a part hereof; and

Whereas, said Principal is required under the terms of said agreement to furnish a bond for the faithful performance of said  
agreement.

Now therefore, the condition of this obligation is such that if the above bounden Principal, his or its heirs, executors,  
administrators, successor or assigns, shall in all things stand to and abide by, well and truly keep and perform the covenants,  
conditions and provisions in the said agreement and any alteration thereof made as therein provided, on his or their part, to be  
kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning;  
and shall indemnify and save harmless Obligee, its officers, agents and employees, as therein stipulated, then this obligation shall  
become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the penal sum specified therefor, there shall be included costs  
and reasonable expenses and fees, including reasonable attorney's fees, incurred by Obligee in successfully enforcing such  
obligation, all to be taxed as costs and included in any judgement rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement  
or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on  
this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement  
or to the work or to the specifications.

In witness whereof, this instrument has been duly executed by the Principal and Surety above named, on 20TH  
NOVEMBER, 2019

PRINCIPAL: MARIO R. SOSA HERRERA

SURETY: THE OHIO CASUALTY INSURANCE COMPANY

PHILIP E. VEGA

Attorney-in-Fact



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8201903-969577

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Britton Christiansen; Myrna Smith; Philip E. Vega; Kevin E. Vega

all of the city of Covina state of California each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 15th day of August, 2019.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: [Signature]
David M. Carey, Assistant Secretary

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 15th day of August, 2019 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By: [Signature]
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 20 day of NOVEMBER, 2019.



By: [Signature]
Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

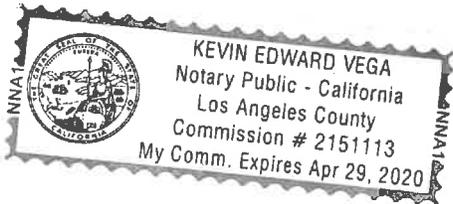
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of LOS ANGELES )  
On NOV 20 2019 before me, KEVIN EDWARD VEGA, NOTARY PUBLIC,  
Date Here Insert Name and Title of the Officer  
personally appeared PHILIP E. VEGA  
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



Signature [Handwritten Signature]  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

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

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_  
Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

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





This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

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all of the city of Covina state of California each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 15th day of August, 2019.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey, Assistant Secretary

State of PENNSYLVANIA ss
County of MONTGOMERY

On this 15th day of August, 2019 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By: Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 20 day of NOVEMBER, 2019.



By: Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

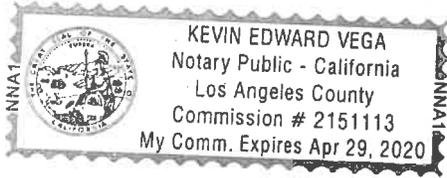
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of LOS ANGELES )  
On NOV 20 2019 before me, KEVIN EDWARD VEGA, NOTARY PUBLIC  
Date Here Insert Name and Title of the Officer  
personally appeared PHILIP E. VEGA  
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



Signature [Handwritten Signature]  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

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

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_  
Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

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

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



## STAFF REPORT

**ITEM NO. 11.O.**

---

**DATE:** December 9, 2019  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:** ROSEMARY HOERNING, INTERIM CITY MANAGER  
**PREPARED BY:** ROSEMARY HOERNING, INTERIM CITY MANAGER  
PONCE YAMBOT, PRINCIPAL ENGINEER  
**SUBJECT:** APPROVAL OF FINAL TRACT MAP 20151 FOR A CONDOMINIUM  
DEVELOPMENT LOCATED ON THE NORTHSIDE OF FOOTHILL  
BOULEVARD APPROXIMATELY 365 FEET EAST OF BENSON  
AVENUE AND ACCEPTANCE OF SUBDIVISION AGREEMENTS  
WITH GFR HOMES

---

### RECOMMENDED ACTION

It is recommended that the City Council approve the Final Tract Map 20151 for 20151, LLC (a.k.a. GFR Homes), and authorize the Interim City Manager to execute the Subdivision Improvement Agreements, both public and private improvements, and an Encroachment License Agreement with GFR Homes. It is further recommended that the City Council accept the faithful performance and labor and materials security bonds for both public and private improvements and authorize recordation of the Final Tract Map 20151 and Encroachment License Agreement.

### GOAL STATEMENT

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

### BACKGROUND

On June 27, 2018, the Planning Commission approved Resolution 4886, conditionally approving GFR Homes application for Tentative Tract Map (TTM) 20151 for condominium purposes. This project includes the development of 37 condominium units (30 three bedroom units, and 7 two bedroom units) within the commercial Mixed Use Zone. The project site is generally located approximately 365 linear feet easterly from the intersection of Foothill Boulevard and Benson Avenue. The project site was the former location of Fuji Nursery.

GFR Homes was required to post performance and labor and materials bonds for both public and private improvements. These bonds will ensure that all the required improvements will be completed.

Furthermore, GFR Homes was required to enter into an Encroachment License Agreement with the City for allowing the development to use part of the frontage road as landscape area. All landscape maintenance will be the responsibility of the licensee.

### **ISSUES/ANALYSIS**

In conformance to the conditions of approval contained in Resolution No. 4886 by the Planning Commission, GFR Homes has prepared all improvement plans, executed the subdivision agreement, and posted the necessary securities. GFR Homes is requesting Final Tract Map 20151 approval.

### **FISCAL IMPACTS**

There is no fiscal impact associated with these actions.

### **ALTERNATIVES**

Provide alternative direction to staff.

### **ATTACHMENTS:**

**Tract Map 20151**

**Location Map**

**Subdivision Improvement Agreement - Public**

**Public Improvement Bonds**

**Subdivision Improvement Agreement - Private**

**Private Improvement Bonds**

**Encroachment License Agreement**

IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA  
**TRACT NO. 20151**

PARCEL 2 OF PARCEL MAP NO. 4829, IN THE CITY OF UPLAND, PER MAP RECORDED IN BOOK 45 OF MAPS,  
PAGE 79, TOGETHER WITH PARCEL 1 OF PARCEL MAP NO. 1511, IN THE CITY OF UPLAND, PER MAP RECORDED  
IN BOOK 18 OF MAPS, PAGE 22, BOTH RECORDS OF SAN BERNARDINO COUNTY, STATE OF CALIFORNIA.

ALLARD ENGINEERING  
FOR CONDOMINIUM PURPOSES

JANUARY, 2019

OWNERS STATEMENT:

WE HEREBY STATE THAT WE ARE ALL AND THE ONLY PARTIES HAVING ANY RECORD TITLE INTEREST IN THE LAND SUBDIVIDED AS SHOWN ON THE ANNEXED MAP, AND WE CONSENT TO THE PREPARATION AND RECORDATION OF THIS FINAL MAP.

20151 LLC, A DELAWARE LIMITED LIABILITY COMPANY

Felizardo Robles, Jr.  
FELIZARDO ROBLES, JR.,  
TRUSTEE OF THE FELIZARDO ROBLES LIVING TRUST  
DATED JUNE 10, 2014

BENEFICIARY

HOMESTREET BANK, A WASHINGTON STATE CHARTERED COMMERCIAL BANK, BENEFICIARY UNDER DEED OF TRUST RECORDED JULY 25, 2019 AS DOCUMENT NO. 2019-0250314, OFFICIAL RECORDS OF RIVERSIDE COUNTY

Anthony Loplato, Vice President  
BY: ANTHONY LOPLATO, VICE PRESIDENT

NOTARY 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 10/12/2019 BEFORE ME, Arlene Anaya A NOTARY PUBLIC, PERSONALLY APPEARED WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THIS 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.

Arlene Anaya  
PRINT NAME #2301940  
MY COMMISSION EXPIRES: 8-18-2023  
MY PRINCIPAL PLACE OF BUSINESS IS IN San Bernardino COUNTY.

[Signature]  
SIGNATURE

NOTARY ACKNOWLEDGMENT

A NOTARY PUBLIC OR OTHER OFFICER COMPLETING THIS CERTIFICATE VERIFIES ONLY THE IDENTITY OF THE INDIVIDUAL WHO SIGNED THE DOCUMENT TO WHICH THIS CERTIFICATE IS ATTACHED, AND NOT THE TRUTHFULNESS, ACCURACY, OR VALIDITY OF THAT DOCUMENT.

STATE OF CALIFORNIA  
COUNTY OF ORANGE

ON 10/8/2019 BEFORE ME, PHILIP KAWAI-SANATO A NOTARY PUBLIC, PERSONALLY APPEARED WHO PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/THEY EXECUTED THE SAME IN HIS/HER/THEIR AUTHORIZED CAPACITY(IES), AND THAT BY HIS/HER/THEIR SIGNATURE(S) ON THIS 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.

PHILIP KAWAI-SANATO  
PRINT NAME #2258976  
MY COMMISSION EXPIRES: 5-13-2023  
MY PRINCIPAL PLACE OF BUSINESS IS IN ORANGE COUNTY.

[Signature]  
SIGNATURE

SIGNATURE OMISSIONS:

PURSUANT TO SECTION 66436 OF THE SUBDIVISION MAP ACT, THE SIGNATURES OF THE FOLLOWING OWNERS OF EASEMENTS AND/OR OTHER INTERESTS HAVE BEEN OMITTED:

THE SIGNATURE OF THE AUTHORIZED AGENT OF THE POMONA LAND AND WATER COMPANY, THE OWNERS OF RIGHTS OF WAY FOR WATER PIPELINES FOR THE CARRIAGE OF WATER, AS RECORDED JULY 12, 1907 IN BOOK 395, PAGE 282 OF DEEDS, OFFICIAL RECORDS OF SAN BERNARDINO COUNTY.

THE SIGNATURE OF THE AUTHORIZED AGENT OF LEMON HEIGHTS WATER COMPANY, THE OWNERS OF AN EASEMENT FOR PIPELINES, AS RECORDED FEBRUARY 26, 1914 IN BOOK 561, PAGE 273 OF DEEDS, OFFICIAL RECORDS OF SAN BERNARDINO COUNTY.

SURVEYOR'S STATEMENT:

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT OF THE STATE OF CALIFORNIA AND LOCAL ORDINANCE AT THE REQUEST OF GFR ENTERPRISES IN DECEMBER, 2018. I HEREBY STATE THAT THIS TRACT MAP SUBSTANTIALLY CONFORMS TO THE APPROVED OR CONDITIONALLY APPROVED TENTATIVE MAP, IF ANY, AND THAT ALL THE MONUMENTS SHOWN HEREON ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED OR THAT THEY WILL BE SET IN SUCH POSITIONS WITHIN 24 MONTHS FROM THE FILING DATE OF THIS MAP, AND THAT SAID MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

DATED 10/1/19

[Signature]  
DAVID B. WARREN, LS 8244



CITY ENGINEER'S STATEMENT:

I HEREBY STATE THAT I HAVE EXAMINED THIS MAP, AND THAT THE SUBDIVISION AS SHOWN HEREON IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE TENTATIVE MAP AND ANY APPROVED ALTERATIONS THEREOF, AND THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT AND THE CITY OF UPLAND MUNICIPAL CODES HAVE BEEN COMPLIED WITH.

ROSEMARY HOERNING  
DIRECTOR OF PUBLIC WORKS  
CITY OF UPLAND  
R.C.E. 44766, EXPIRES 03/31/2020

I AM SATISFIED THAT THIS MAP IS TECHNICALLY CORRECT.

[Signature] 11/25/19  
MICHAEL P. THORNTON  
P.L.S. 6867, EXPIRES 09/30/2020



CITY PLANNING CERTIFICATE:

I HEREBY CERTIFY THAT THE SUBDIVISION SHOWN ON THE ANNEXED MAP, IS IN ACCORDANCE WITH THE TENTATIVE MAP APPROVED AT A MEETING OF THE PLANNING COMMISSION OF THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

ROBERT DALQUEST  
SECRETARY OF THE PLANNING COMMISSION  
CITY OF UPLAND, CALIFORNIA

CITY CLERK'S CERTIFICATE:

I HEREBY CERTIFY THAT THE CITY COUNCIL OF THE CITY OF UPLAND BY A MOTION DULY SECONDED AND PASSED, APPROVED THE ATTACHED MAP ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, AND FOUND THIS MAP TO BE CONSISTENT WITH THE APPLICABLE GENERAL OR SPECIFIC PLANS OF THE CITY OF UPLAND.

KERI JOHNSON  
CITY CLERK, CITY OF UPLAND, CALIFORNIA

AUDITOR'S CERTIFICATE

I HEREBY CERTIFY THAT ACCORDING TO THE RECORDS OF THIS OFFICE, AS OF THIS DATE, THERE ARE NO LIENS AGAINST THE REAL PROPERTY SHOWN UPON THIS MAP FOR UNPAID STATE, COUNTY, MUNICIPAL OR LOCAL TAXES, SPECIAL ASSESSMENTS COLLECTED AS TAXES, EXCEPT TAXES OR SPECIAL ASSESSMENTS NOT YET PAYABLE, ESTIMATED TO BE \$ \_\_\_\_\_.

DATE

ENSEN MASON, COUNTY AUDITOR-  
CONTROLLER/TREASURER/TAX COLLECTOR  
COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA

BY: \_\_\_\_\_ DEPUTY

BOARD OF SUPERVISOR'S CERTIFICATE

I HEREBY CERTIFY THAT A BOND IN THE SUM OF \$ \_\_\_\_\_ HAS BEEN EXECUTED AND FILED WITH THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, CONDITIONED UPON THE PAYMENT OF ALL TAXES, STATE, COUNTY, MUNICIPAL, OR LOCAL, AND ALL SPECIAL ASSESSMENTS, COLLECTED AS TAXES, WHICH AT THE TIME OF FILING OF THIS ANNEXED MAP WITH THE COUNTY RECORDER ARE A LIEN AGAINST SAID PROPERTY, BUT NOT YET PAYABLE AND THAT THE SUBDIVIDER HAS FILED WITH ME A CERTIFICATE BY THE PROPER OFFICER GIVING HIS ESTIMATE OF THE AMOUNT OF SAID TAXES AND SPECIAL ASSESSMENTS, AND SAID BOND IS HEREBY ACCEPTED.

DATE

LAURA H. WELCH  
CLERK OF THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SAN BERNARDINO

BY: \_\_\_\_\_ DEPUTY

SAN BERNARDINO COUNTY RECORDER'S CERTIFICATE

THIS MAP HAS BEEN FILED UNDER DOCUMENT NUMBER \_\_\_\_\_  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019, AT \_\_\_\_\_ M. IN BOOK \_\_\_\_\_  
OF MAPS AT PAGE(S) \_\_\_\_\_, AT THE REQUEST OF \_\_\_\_\_  
IN THE AMOUNT OF \$ \_\_\_\_\_

BOB DUTTON  
ASSESSOR-RECORDER-COUNTY CLERK  
COUNTY OF SAN BERNARDINO

BY: \_\_\_\_\_  
DEPUTY RECORDER

# TRACT NO. 20151

PARCEL 2 OF PARCEL MAP NO. 4829, IN THE CITY OF UPLAND, PER MAP RECORDED IN BOOK 45 OF MAPS, PAGE 79, TOGETHER WITH PARCEL 1 OF PARCEL MAP NO. 1511, IN THE CITY OF UPLAND, PER MAP RECORDED IN BOOK 18 OF MAPS, PAGE 22, BOTH RECORDS OF SAN BERNARDINO COUNTY, STATE OF CALIFORNIA.

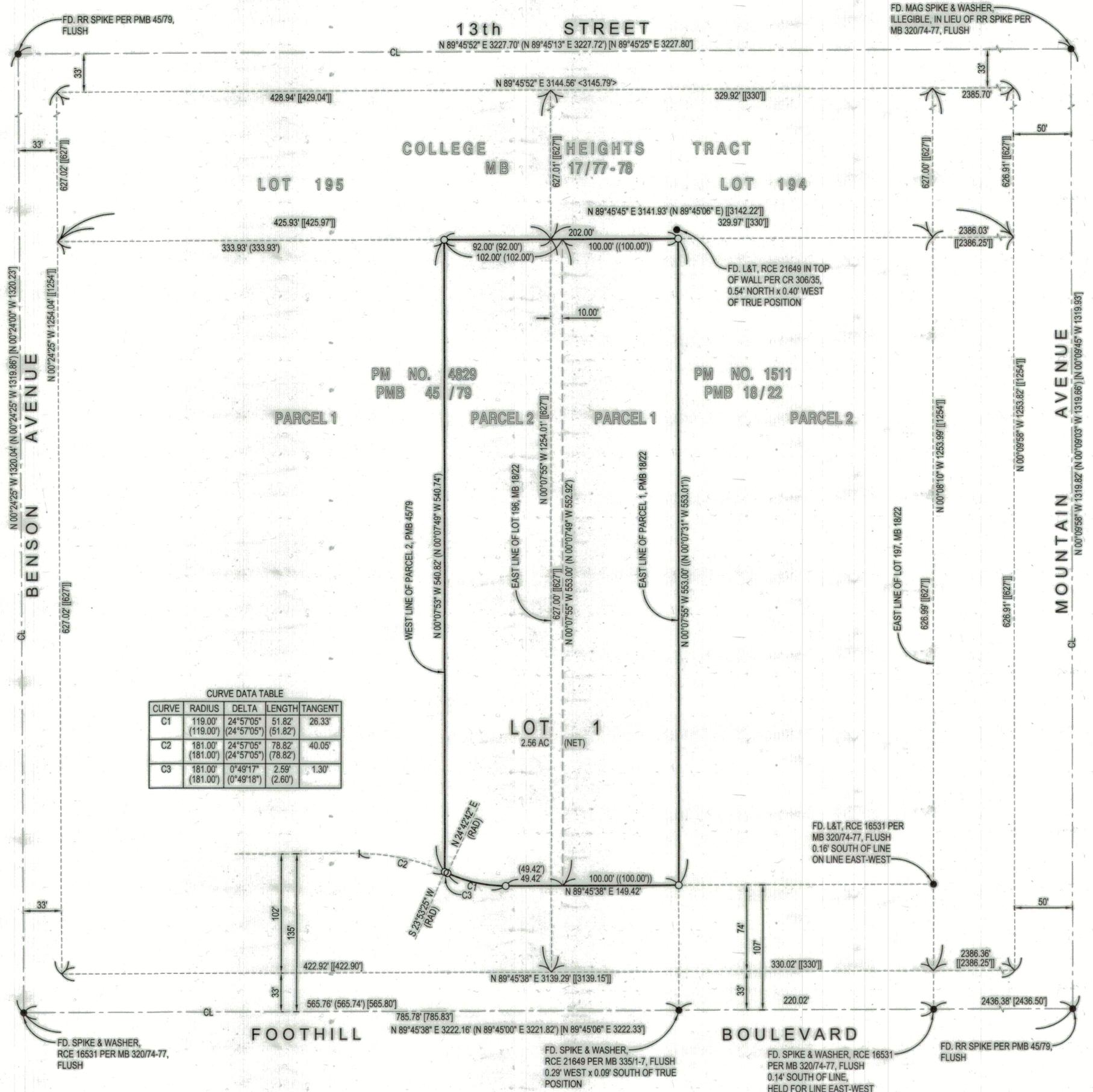
ALLARD ENGINEERING

JANUARY, 2019

FOR CONDOMINIUM PURPOSES



SCALE: 1"=60'



CURVE DATA TABLE

CURVE	RADIUS	DELTA	LENGTH	TANGENT
C1	119.00' (119.00')	24°57'05" (24°57'05")	51.82' (51.82')	26.33'
C2	181.00' (181.00')	24°57'05" (24°57'05")	78.82' (78.82')	40.05'
C3	181.00' (181.00')	0°49'17" (0°49'18")	2.59' (2.60')	1.30'

**BASIS OF BEARINGS:**

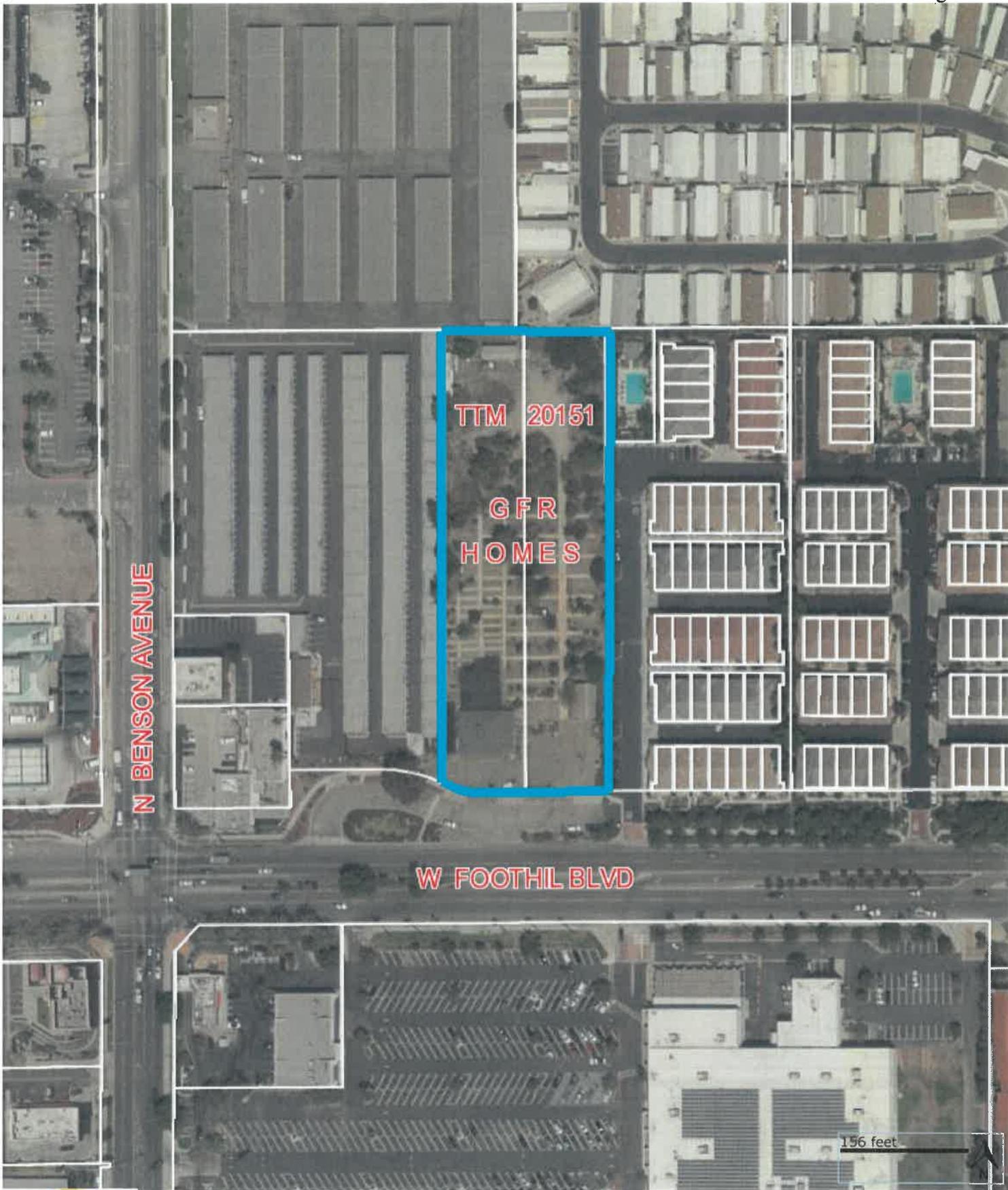
THE BEARING OF N 00°24'25" E AS SHOWN FOR THE CENTERLINE OF BENSON AVENUE ON PARCEL MAP 4829, RECORDED IN BOOK 45 OF PARCEL MAPS, PAGE 79, RECORDS OF SAN BERNARDINO COUNTY, WAS USED AS THE BASIS OF BEARINGS FOR THIS MAP.

**EASEMENT NOTE:**

AVIGATION EASEMENT DEDICATED TO CABLE AIRPORT AS SHOWN IN DOCUMENT RECORDED \_\_\_\_\_ AS INSTRUMENT NO. \_\_\_\_\_ SAID EASEMENT AFFECTS ALL PARCELS AND IS NOT PLOTTABLE.

**SURVEYOR'S NOTES:**

- INDICATES MONUMENT FOUND AS NOTED
- INDICATES 1" IRON PIPE, 18" LONG, SET AND TAGGED WITH BRASS TAG STAMPED LS 8244, SET FLUSH TO SURFACE
- FD. INDICATED FOUND
- (XXX) INDICATES RECORD DATA PER PMB 45/79
- (XXX) INDICATES RECORD DATA PER PMB 18/22
- [XXX] INDICATES RECORD DATA PER MB 320/74-77
- [XXX] INDICATES RECORD DATA PER MB 17/77-78



## SUBDIVISION AGREEMENT

Tract Map Number 20151

THIS AGREEMENT is entered into as of this 9 day of October 2019 by and between 20151 LLC (hereinafter referred to as "Subdivider") and the CITY OF UPLAND, a municipal corporation (hereinafter referred to as the "City").

### A. Recitals

- (i) The City approved a Tentative Tract Map pursuant to the California Subdivision Map Act as set forth in California Government Code Section 66410 et. seq. ("Map Act") identified as Tentative Tract Number 20151 in the City of Upland, State of California; and
- (ii) Subdivider seeks approval of a Final Map under the Map Act identified as Final Map Number 20151

### B. Agreement

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

1. In consideration of the City's approval of and filing Tentative Subdivision Tract Map Number 20151 and Final Tract Number 20151, Subdivider undertakes and agrees that it will, at Subdivider's sole cost and expense, design, construct and install all the improvements in accordance with the plans, specifications on file with the City, incorporated herein and made a part hereof, and including all conditions of approval required by the Planning Commission and City Council of the City of Upland.

2. Subdivider also undertakes and agrees upon the same consideration to design, construct and install all improvements in accordance with the ordinances and regulations of the City, and to do all other and further acts required of it pursuant to this Agreement.

3. Subdivider agrees in connection therewith to pay or cause to be paid all amounts becoming due to contractors, subcontractors, and persons renting equipment or furnishing labor or materials to the foregoing Final Tract with respect to such improvements.

4. Subdivider agrees that all such improvements shall be constructed and completed in accordance with the city standards required by the City Engineer. In case of dispute, the good faith judgment of the City Engineer shall be final and binding upon the parties.

5. Subdivider undertakes and agrees that all of the work of improvement shall be completed within three hundred sixty five (365) days from the date of execution of this Agreement.

6. Should Subdivider fail to comply with any of the terms or provisions of this Agreement, Subdivider shall be liable to the City for the reasonable value of any work or improvements not completed or improperly done or performed. In the event of any such failure, the City shall give to Subdivider written notice thereof. Unless the work or improvements covered by said notice, including defective work and improvements, are commenced by Subdivider within fifteen (15) days of the date of said notice and diligently prosecuted to completion, the City may at its option:

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

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

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

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

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

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

(a) A bond in the amount of \$ 446,000 - guaranteeing full performance of all the terms of this Agreement, see Performance Bond No. 0611394;

(b) A bond in the amount of \$ 223,000 - securing payment to the contractor, his subcontractor and to persons renting equipment or furnishing labor or materials to them with respect to said public improvements, see Labor and Materials Bond No. 0611394;

(c) A cash deposit in the amount of \$ 4,200. - securing the setting of monuments.

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

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

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

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

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

20151, LLC  
 BY Felizardo Robles  
 Felizardo Robles Jr, President of JEC Enterprises Inc  
 Name and Company Its: Manager

BY \_\_\_\_\_  
 \_\_\_\_\_  
 Name and Company

CITY OF UPLAND, a municipal Corporation

BY \_\_\_\_\_  
 City Manager

BY \_\_\_\_\_  
 City Clerk



**SUBDIVISION IMPROVEMENTS  
PERFORMANCE BOND**

Bond No. 0611394  
Initial Premium \$ 8,135.00  
Subject to Renewal

KNOW ALL MEN BY THESE PRESENTS: That we, 20151, LLC as Principal, and International Fidelity Insurance Company, a corporation duly authorized under the laws of the State of New Jersey to become surety on bonds and undertakings, as Surety, are held and firmly bound unto City of Upland, as Obligee in the full and just sum of Four Hundred Forty Six Thousand and NO/100ths Dollars, (\$ 446,000 ) lawful money of the United States of America, to be paid to the said Obligee, successors or assigns; for which payment, well and truly to be made, we bind ourselves, our heirs, executors, successors, administrators and assigns, jointly and severally, firmly by these presents.

**THE CONDITION OF THE OBLIGATION IS SUCH THAT:**

Whereas, the Principal and Obligee have entered into an agreement whereby principal agrees to install and complete certain designated public improvements, which said agreement, dated October 9, 2019, and identified as project TR #20151, is hereby referred to and made a part hereof; and

Whereas, said Principal is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement.

Now, Therefore, the condition of this obligation is such that if the above bounded Principal, its heirs executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, on their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the Obligee, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by Obligee in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

**IN WITNESS WHEREOF**, the seal and signature of said Principal is hereto affixed and the corporate seal and the name of the Surety is hereto affixed and attested by its duly authorized Attorney-in-Fact this 9th day of October, 2019.

20151, LLC, a Delaware limited liability company

Principal

By: [Signature]

International Fidelity Insurance Company

By: [Signature]  
Joshua Sanford / Attorney-in-Fact

**NOTARY ACKNOWLEDGMENT OF SURETY:**

State of Connecticut

County of Hartford ss.

On this the 9th day of October, 2019, before me, Kristopher Pisano, the undersigned officer, personally appeared Joshua Sanford, known to me (or satisfactorily proven) to be the person whose name is subscribed as Attorney-In-Fact for International Fidelity Insurance Company, and acknowledged that s/he executed the same as the act of his/her principal for the purposes therein contained.

In witness whereof I hereunto set my hand.



Signature of Notary Public

Date Commission Expires: September 30, 2024

Kristopher Pisano

Printed Name of Notary

**KRISTOPHER PISANO**  
**NOTARY PUBLIC - CT 179836**  
**MY COMMISSION EXPIRES SEPT. 30, 2024**

**POWER OF ATTORNEY  
INTERNATIONAL FIDELITY INSURANCE COMPANY  
ALLEGHENY CASUALTY COMPANY**

Bond # 0611394

One Newark Center, 20<sup>th</sup> Floor, Newark, New Jersey 07102-5207 PHONE: (973) 624-7200

**KNOW ALL MEN BY THESE PRESENTS:** That **INTERNATIONAL FIDELITY INSURANCE COMPANY**, a corporation organized and existing under the laws of the State of New Jersey, and **ALLEGHENY CASUALTY COMPANY** a corporation organized and existing under the laws of the State of New Jersey, having their principal office in the City of Newark, New Jersey, do hereby constitute and appoint

AIZA ANDERSON, MICHELLE ANNE MCMAHON, JOSHUA SANFORD, DONNA M. PLANETA, DANIELLE D. JOHNSON, BRIAN PETERS, NOAH WILLIAM PIERCE, JENNY ROSE PHOTHIRATH, BETHANY STEVENSON, ERIC STRBA, TANYA NGUYEN, LORINA MONIQUE GARCIA, SAYKHAM CHANTHASONE, JYNELL MARIE WHITEHEAD, MERCEDES PHOTHIRATH, SAMUEL E. BEGUN, AIMEE R. PERONDINE

Hartford, CT

their true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise, and the execution of such instrument(s) in pursuance of these presents, shall be as binding upon the said **INTERNATIONAL FIDELITY INSURANCE COMPANY** and **ALLEGHENY CASUALTY COMPANY**, as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by their regularly elected officers at their principal offices.

This Power of Attorney is executed, and may be revoked, pursuant to and by authority of the By-Laws of **INTERNATIONAL FIDELITY INSURANCE COMPANY** and **ALLEGHENY CASUALTY COMPANY** and is granted under and by authority of the following resolution adopted by the Board of Directors of **INTERNATIONAL FIDELITY INSURANCE COMPANY** at a meeting duly held on the 20<sup>th</sup> day of July, 2010 and by the Board of Directors of **ALLEGHENY CASUALTY COMPANY** at a meeting duly held on the 10<sup>th</sup> day of July, 2015 :

**"RESOLVED**, that (1) the Chief Executive Officer, President, Executive Vice President, Vice President, or Secretary of the Corporation shall have the power to appoint, and to revoke the appointments of, Attorneys-in-Fact or agents with power and authority as defined or limited in their respective powers of attorney, and to execute on behalf of the Corporation and affix the Corporation's seal thereto, bonds, undertakings, recognizances, contracts of indemnity and other written obligations in the nature thereof or related thereto; and (2) any such Officers of the Corporation may appoint and revoke the appointments of joint-control custodians, agents for acceptance of process, and Attorneys-in-fact with authority to execute waivers and consents on behalf of the Corporation; and (3) the signature of any such Officer of the Corporation and the Corporation's seal may be affixed by facsimile to any power of attorney or certification given for the execution of any bond, undertaking, recognizance, contract of indemnity or other written obligation in the nature thereof or related thereto, such signature and seals when so used whether heretofore or hereafter, being hereby adopted by the Corporation as the original signature of such officer and the original seal of the Corporation, to be valid and binding upon the Corporation with the same force and effect as though manually affixed."

IN WITNESS WHEREOF, **INTERNATIONAL FIDELITY INSURANCE COMPANY** and **ALLEGHENY CASUALTY COMPANY** have each executed and attested these presents on this 31<sup>st</sup> day of December, 2017



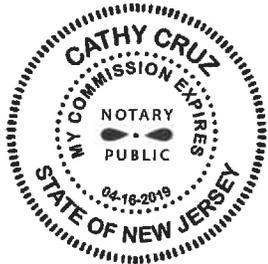
STATE OF NEW JERSEY  
County of Essex

George R. James

Executive Vice President (International Fidelity Insurance Company) and  
Vice President (Allegheny Casualty Company)



On this 31<sup>st</sup> day of December, 2017, before me came the individual who executed the preceding instrument, to me personally known, and, being by me duly sworn, said he is the therein described and authorized officer of **INTERNATIONAL FIDELITY INSURANCE COMPANY** and of **ALLEGHENY CASUALTY COMPANY**; that the seals affixed to said instrument are the Corporate Seals of said Companies; that the said Corporate Seals and his signature were duly affixed by order of the Boards of Directors of said Companies.



IN TESTIMONY WHEREOF, I have hereunto set my hand affixed my Official Seal, at the City of Newark, New Jersey the day and year first above written.

Cathy Cruz a Notary Public of New Jersey  
My Commission Expires April 16, 2019

**CERTIFICATION**

I, the undersigned officer of **INTERNATIONAL FIDELITY INSURANCE COMPANY** and **ALLEGHENY CASUALTY COMPANY** do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Sections of the By-Laws of said Companies as set forth in said Power of Attorney, with the originals on file in the home of said companies, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

IN TESTIMONY WHEREOF, I have hereunto set my hand on this day, *October 9, 2019.*



SUBDIVISION IMPROVEMENTS LABOR AND MATERIAL BOND

Bond No. 0611394
Premium included in Performance Bond

KNOW ALL MEN BY THESE PRESENTS: That we, 20151, LLC as Principal, and International Fidelity Insurance Company, duly authorized under the laws of the State of California, to become surety on bonds and undertakings, as Surety, are held and firmly bound unto City of Upland as Obligee in the full and just sum of Two Hundred Twenty Three Thousand and No/100ths Dollars, (\$ 223,000.00) lawful money of the United States of America, for the payment whereof, said Principal and Surety bind themselves, their heirs, executors, successors, administrators and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH THAT, Whereas, the Principal and Obligee have entered into an agreement whereby the Principal agrees to install and complete certain designated public improvements, which agreement, dated 10/9/2019, and identified as project Tract 20151, is hereby referred to and made a part hereof; and

Whereas, under the terms of the agreement, the Principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the Obligee to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code of the State of California.

Now, therefore, the Principal and the undersigned as corporate Surety, are held firmly bound unto the Obligee and all contractors, subcontractors, laborers, materialmen, and other persons employed in the performance of the agreement and referred to in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code in the sum of Two Hundred Twenty Three Thousand and No/100ths Dollars (\$ 223,000.00), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to this work or labor, that the surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by county (or city) in successfully enforcing this obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the agreement or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.

Sealed with our seals and dated this 9th day of October, 2019.

20151, LLC a Delaware limited liability company
Principal
By: [Signature]

International Fidelity Insurance Company
By: [Signature]
Joshua Sanford Attorney-in-Fact

**NOTARY ACKNOWLEDGMENT OF SURETY:**

State of Connecticut

County of Hartford ss.

On this the 9th day of October, 2019, before me, Kristopher Pisano, the undersigned officer, personally appeared Joshua Sanford, known to me (or satisfactorily proven) to be the person whose name is subscribed as Attorney-In-Fact for International Fidelity Insurance Company, and acknowledged that s/he executed the same as the act of his/her principal for the purposes therein contained.

In witness whereof I hereunto set my hand.



\_\_\_\_\_  
Signature of Notary Public

Date Commission Expires: September 30, 2024

Kristopher Pisano

Printed Name of Notary

**KRISTOPHER PISANO**  
**NOTARY PUBLIC - CT 179836**  
**MY COMMISSION EXPIRES SEPT. 30, 2024**

**POWER OF ATTORNEY  
INTERNATIONAL FIDELITY INSURANCE COMPANY  
ALLEGHENY CASUALTY COMPANY**

Bond # 0611394

One Newark Center, 20<sup>th</sup> Floor, Newark, New Jersey 07102-5207 PHONE: (973) 624-7200

**KNOW ALL MEN BY THESE PRESENTS:** That **INTERNATIONAL FIDELITY INSURANCE COMPANY**, a corporation organized and existing under the laws of the State of New Jersey, and **ALLEGHENY CASUALTY COMPANY** a corporation organized and existing under the laws of the State of New Jersey, having their principal office in the City of Newark, New Jersey, do hereby constitute and appoint

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Hartford, CT

their true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise, and the execution of such instrument(s) in pursuance of these presents, shall be as binding upon the said **INTERNATIONAL FIDELITY INSURANCE COMPANY** and **ALLEGHENY CASUALTY COMPANY**, as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by their regularly elected officers at their principal offices.

This Power of Attorney is executed, and may be revoked, pursuant to and by authority of the By-Laws of **INTERNATIONAL FIDELITY INSURANCE COMPANY** and **ALLEGHENY CASUALTY COMPANY** and is granted under and by authority of the following resolution adopted by the Board of Directors of **INTERNATIONAL FIDELITY INSURANCE COMPANY** at a meeting duly held on the 20<sup>th</sup> day of July, 2010 and by the Board of Directors of **ALLEGHENY CASUALTY COMPANY** at a meeting duly held on the 10<sup>th</sup> day of July, 2015 :

**"RESOLVED**, that (1) the Chief Executive Officer, President, Executive Vice President, Vice President, or Secretary of the Corporation shall have the power to appoint, and to revoke the appointments of, Attorneys-in-Fact or agents with power and authority as defined or limited in their respective powers of attorney, and to execute on behalf of the Corporation and affix the Corporation's seal thereto, bonds, undertakings, recognizances, contracts of indemnity and other written obligations in the nature thereof or related thereto; and (2) any such Officers of the Corporation may appoint and revoke the appointments of joint-control custodians, agents for acceptance of process, and Attorneys-in-fact with authority to execute waivers and consents on behalf of the Corporation; and (3) the signature of any such Officer of the Corporation and the Corporation's seal may be affixed by facsimile to any power of attorney or certification given for the execution of any bond, undertaking, recognizance, contract of indemnity or other written obligation in the nature thereof or related thereto, such signature and seals when so used whether heretofore or hereafter, being hereby adopted by the Corporation as the original signature of such officer and the original seal of the Corporation, to be valid and binding upon the Corporation with the same force and effect as though manually affixed."

IN WITNESS WHEREOF, **INTERNATIONAL FIDELITY INSURANCE COMPANY** and **ALLEGHENY CASUALTY COMPANY** have each executed and attested these presents on this 31<sup>st</sup> day of December, 2017



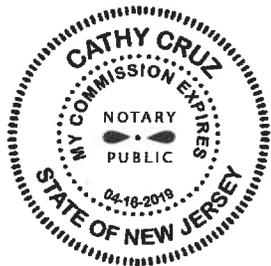
STATE OF NEW JERSEY  
County of Essex

George R. James

Executive Vice President (International Fidelity Insurance Company) and  
Vice President (Allegheny Casualty Company)



On this 31<sup>st</sup> day of December, 2017, before me came the individual who executed the preceding instrument, to me personally known, and, being by me duly sworn, said he is the therein described and authorized officer of **INTERNATIONAL FIDELITY INSURANCE COMPANY** and **ALLEGHENY CASUALTY COMPANY**; that the seals affixed to said instrument are the Corporate Seals of said Companies; that the said Corporate Seals and his signature were duly affixed by order of the Boards of Directors of said Companies.



IN TESTIMONY WHEREOF, I have hereunto set my hand affixed my Official Seal, at the City of Newark, New Jersey the day and year first above written.

Cathy Cruz a Notary Public of New Jersey  
My Commission Expires April 16, 2019

**CERTIFICATION**

I, the undersigned officer of **INTERNATIONAL FIDELITY INSURANCE COMPANY** and **ALLEGHENY CASUALTY COMPANY** do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Sections of the By-Laws of said Companies as set forth in said Power of Attorney, with the originals on file in the home of said companies, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

IN TESTIMONY WHEREOF, I have hereunto set my hand on this day, *October 9, 2019.*

## SUBDIVISION AGREEMENT

Tract Map Number 20151

THIS AGREEMENT is entered into as of this 19<sup>th</sup> day of November 20 19 by and between 20151 LLC (hereinafter referred to as "Subdivider") and the CITY OF UPLAND, a municipal corporation (hereinafter referred to as the "City").

### A. Recitals

- (i) The City approved a Tentative Tract Map pursuant to the California Subdivision Map Act as set forth in California Government Code Section 66410 et. seq. ("Map Act") identified as Tentative Tract Number 20151 in the City of Upland, State of California; and
- (ii) Subdivider seeks approval of a Final Map under the Map Act identified as Final Map Number 20151

### B. Agreement

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

1. In consideration of the City's approval of and filing Tentative Subdivision Tract Map Number 20151 and Final Tract Number 20151, Subdivider undertakes and agrees that it will, at Subdivider's sole cost and expense, design, construct and install all the improvements in accordance with the plans, specifications on file with the City, incorporated herein and made a part hereof, and including all conditions of approval required by the Planning Commission and City Council of the City of Upland.

2. Subdivider also undertakes and agrees upon the same consideration to design, construct and install all improvements in accordance with the ordinances and regulations of the City, and to do all other and further acts required of it pursuant to this Agreement.

3. Subdivider agrees in connection therewith to pay or cause to be paid all amounts becoming due to contractors, subcontractors, and persons renting equipment or furnishing labor or materials to the foregoing Final Tract with respect to such improvements.

4. Subdivider agrees that all such improvements shall be constructed and completed in accordance with the city standards required by the City Engineer. In case of dispute, the good faith judgment of the City Engineer shall be final and binding upon the parties.

5. Subdivider undertakes and agrees that all of the work of improvement shall be completed within three hundred sixty five (365) days from the date of execution of this Agreement.

6. Should Subdivider fail to comply with any of the terms or provisions of this Agreement, Subdivider shall be liable to the City for the reasonable value of any work or improvements not completed or improperly done or performed. In the event of any such failure, the City shall give to Subdivider written notice thereof. Unless the work or improvements covered by said notice, including defective work and improvements, are commenced by Subdivider within fifteen (15) days of the date of said notice and diligently prosecuted to completion, the City may at its option:

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

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

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

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

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

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

(a) A bond in the amount of \$ 482,000- guaranteeing full performance of all the terms of this Agreement, see Performance Bond No. 0611395;

(b) A bond in the amount of \$ 211,000- securing payment to the contractor, his subcontractor and to persons renting equipment or furnishing labor or materials to them with respect to said public improvements, see Labor and Materials Bond No. 0611395;

(c) A cash deposit in the amount of \$ 4,200 - securing the setting of monuments.

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

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

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

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

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

BY Felizardo Robles Jr.  
JEC Enterprises Inc Its Manager  
Name and Company

BY Felizardo Robles Jr.  
Name and Company

CITY OF UPLAND, a municipal Corporation

BY \_\_\_\_\_  
City Manager

BY \_\_\_\_\_  
City Clerk



**SUBDIVISION IMPROVEMENTS  
PERFORMANCE BOND**

Bond No. 0611395  
Initial Premium \$ 8,792.00  
Subject to Renewal

KNOW ALL MEN BY THESE PRESENTS: That we, 20151, LLC, \_\_\_\_\_ as Principal, and International Fidelity Insurance Company, a corporation duly authorized under the laws of the State of New Jersey to become surety on bonds and undertakings, as Surety, are held and firmly bound unto City of Upland \_\_\_\_\_, as Obligee in the full and just sum of Four Hundred Eight Two Thousand and NO/100ths Dollars, (\$ 482,000 ) lawful money of the United States of America, to be paid to the said Obligee, successors or assigns; for which payment, well and truly to be made, we bind ourselves, our heirs, executors, successors, administrators and assigns, jointly and severally, firmly by these presents.

**THE CONDITION OF THE OBLIGATION IS SUCH THAT:**

Whereas, the Principal and Obligee have entered into an agreement whereby principal agrees to install and complete certain designated public improvements, which said agreement, dated Nov. 19, 2019 , and identified as project TR #20151 private Improvements , is hereby referred to and made a part hereof; and

Whereas, said Principal is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement.

Now, Therefore, the condition of this obligation is such that if the above bounded Principal, its heirs executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, on their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the Obligee, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by Obligee in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anyway affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

**IN WITNESS WHEREOF**, the seal and signature of said Principal is hereto affixed and the corporate seal and the name of the Surety is hereto affixed and attested by its duly authorized Attorney-in-Fact this 26th day of November , 20 19 .

20151, LLC a Delaware limited liability company  
Principal

By: [Signature]

International Fidelity Insurance Company

By [Signature] / Attorney-in-Fact  
Joshua Sanford

**NOTARY ACKNOWLEDGMENT OF SURETY:**

State of Connecticut

County of Hartford ss.

On this the 26th day of November, 2019, before me, Kristopher Pisano, the undersigned officer, personally appeared Joshua Sanford, known to me (or satisfactorily proven) to be the person whose name is subscribed as Attorney-In-Fact for International Fidelity Insurance Company, and acknowledged that s/he executed the same as the act of his/her principal for the purposes therein contained.

In witness whereof I hereunto set my hand.



Signature of Notary Public

Date Commission Expires: September 30, 2024

Kristopher Pisano

Printed Name of Notary

**KRISTOPHER PISANO**  
**NOTARY PUBLIC - CT 179836**  
**MY COMMISSION EXPIRES SEPT. 30, 2024.**



**SUBDIVISION IMPROVEMENTS LABOR AND MATERIAL BOND**

Bond No. 0611395  
Premium included in Performance Bond

KNOW ALL MEN BY THESE PRESENTS: That we, 20151, LLC as Principal, and International Fidelity Insurance Company, duly authorized under the laws of the State of New Jersey to become surety on bonds and undertakings, as Surety, are held and firmly bound unto City of Upland as Obligee in the full and just sum of Two Hundred Forty One Thousand and No/100ths Dollars, (\$ 241,000.00 ) lawful money of the United States of America, for the payment whereof, said Principal and Surety bind themselves, their heirs, executors, successors, administrators and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE OBLIGATION IS SUCH THAT, Whereas, the Principal and Obligee have entered into an agreement whereby the Principal agrees to install and complete certain designated public improvements, which agreement, dated Nov 19 2019, and identified as project Tract 20151 Private Improvements, is hereby referred to and made a part hereof; and

Whereas, under the terms of the agreement, the Principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the Obligee to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code of the State of California.

Now, therefore, the Principal and the undersigned as corporate Surety, are held firmly bound unto the Obligee and all contractors, subcontractors, laborers, materialmen, and other persons employed in the performance of the agreement and referred to in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code in the sum of Two Hundred Forty One Thousand and No/100ths Dollars (\$ 241,000.00 ), for or materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to this work or labor, that the surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by county (or city) in successfully enforcing this obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the agreement or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.

Sealed with our seals and dated this 26th day of November, 2019.

20151, LLC a Delaware limited liability company  
Principal  
By: [Signature]

International Fidelity Insurance Company  
By: [Signature]  
Joshua Sanford, Attorney-in-Fact

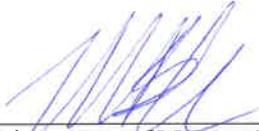
**NOTARY ACKNOWLEDGMENT OF SURETY:**

State of Connecticut

County of Hartford ss.

On this the 26th day of November, 2019, before me, Kristopher Pisano, the undersigned officer, personally appeared Joshua Sanford, known to me (or satisfactorily proven) to be the person whose name is subscribed as Attorney-In-Fact for International Fidelity Insurance Company, and acknowledged that s/he executed the same as the act of his/her principal for the purposes therein contained.

In witness whereof I hereunto set my hand.



\_\_\_\_\_  
Signature of Notary Public

Date Commission Expires: September 30, 2024

Kristopher Pisano

Printed Name of Notary

**KRISTOPHER PISANO**  
**NOTARY PUBLIC - CT 179836**  
**MY COMMISSION EXPIRES SEPT. 30, 2024.**

RECORDING REQUESTED BY:  
WHEN RECORDED MAIL TO:

City Clerk  
City of Upland  
460 North Euclid Avenue  
Upland, California 91786

**This document is exempt from the  
Payment of a recording Fee pursuant  
To Government Code Section 27383**

(Space Above Line For Recorder's Use Only)

### ENCROACHMENT LICENSE AGREEMENT

The CITY OF UPLAND, a California municipal corporation ("City"), hereby grants a revocable license to 20151 LLC, ("Licensee"), to maintain the "Encroachment" (as defined below) upon the "Property" (as defined below) for the use and benefit of Licensee, and in consideration thereof, Licensee agrees to comply with all terms and conditions set forth in this Encroachment License Agreement (this "Agreement").

1. Encroachment. Licensee shall be permitted to keep, maintain, and use existing Lay Out Plan in Landscaping Plans, shown as Exhibit A, upon the Property, shown as Exhibit B, attached hereto, or such other improvements as otherwise permitted by City from time to time (the "Encroachment").

2. Property. City is the owner of that certain property located in the City of Upland, County of San Bernardino, State of California, known as section of Foothill Blvd and more particularly described as Exhibit B attached hereto (the "Property"). City's ownership of the Property shall not be affected by this Agreement in any manner whatsoever and Licensee shall not acquire any rights in the Property whatsoever as a result of the Encroachment except those rights specifically granted therein.

3. Condition. The Encroachment shall be installed and maintained or replaced in a safe and sanitary condition and otherwise in accordance with all applicable governmental laws, ordinances and regulations at the sole cost, risk and responsibility of Licensee.

4. Indemnification. Licensee shall defend, indemnify and hold City free and harmless from, and pay in full, any and all claims, demands, losses, damages or expenses that City may sustain or incur in any manner resulting from the Encroachment (whether the construction, installation, removal, maintenance, use, repair, replacement or presence thereof), including any and all injuries (including personal injury, disability, dismemberment and death), illness, losses, loss of or damage to property, damages, claims, liabilities or expenses of any kind or nature to any person that is not caused, or alleged to be caused, by the negligent acts or omissions of City or its agents or employees.

5. Insurance. Licensee shall maintain a policy of liability insurance issued by an insurance company that is admitted and licensed to do business in the State of California and that is rated A+VII or better according to the most recent A.M. Best Co. Rating Guide, with City named as an additional insured, that has an aggregate liability limit (subject to commercially reasonable adjustments) of at least One Million Dollars (\$1,000,000), and that will protect City from any claims that may arise from the Encroachments, including those for which Licensee is obligated to indemnify City against hereunder.

6. Indemnification - Licensee shall defend, indemnify and hold City, its officers, employees, agents, and volunteers harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the installation, presence of, and use of Property Licensee will act in good faith to ensure that use is safe and compliant with all applicable codes.

7. City Work. Licensee's right to maintain the Encroachment is subject to City's right to cause construction, installation, removal, maintenance, repair and/or replacement work to be conducted on the Property from time to time provided that it shall give reasonable prior notice to Licensee of the commencement of such work and shall use its best efforts to not unreasonably interfere with the Encroachment during the performance of such work.

8. Revocation. City may revoke this Encroachment License at any time, with or without cause, by providing Licensee with written notice. Licensee must, at the sole cost, risk and responsibility of Licensee, remove and/or relocate the Encroachment, and restore the Property to substantially the same condition that existed prior to the Encroachment, as directed by City within thirty (30) days of written notice from City, or, in case of an emergency, City may require that the work be done immediately or within less than such thirty (30) day period. If Licensee fails to so remove and/or relocate the Encroachment and restore the Property, City may cause such work to be done, and Licensee shall be liable to City for all costs incurred by City in connection therewith. In the event Licensee fails to reimburse City for such costs within fifteen (15) days of demand, such costs shall be a lien against Licensee's property. Furthermore, in the event City must maintain an action to enforce any of the obligations of Licensee under, or arising out of, this Encroachment, and is successful in such action, Licensee agrees to pay all cost and expenses, including reasonable attorney's fees, incurred by City in connection therewith.

9. Notices: Any notice, request, direction, demand, consent, waiver, approval or other communication required or permitted to be given hereunder shall not be effective unless it is given in writing and shall be delivered (a) in person, (b) by certified mail, postage prepaid, return receipt requested, or (c) by a commercial overnight courier that guarantees next day delivery and provides a receipt, and addressed to the parties at the addresses stated below, or at such other address as either party may hereafter notify the other in writing as aforementioned:

Licensee: Attention: Felizardo Robles, Jr.  
434 N. 2<sup>nd</sup> Avenue  
Upland, CA 91786  
Address

City: City of Upland  
460 North Euclid Avenue  
Upland, California 91786  
Attention: City Manager

With a copy to: Richards, Watson and Gershon  
1 Civic Center Circle  
P O Box 1059  
Brea, CA 92822-1059  
Attention: James L. Markman

Service of any such notice or other communications so made shall be deemed effective on the day of actual delivery (whether accepted or refused) as shown by the addressee's return receipt if by certified mail, and as confirmed by the courier service if by courier; provided, however, that if such actual delivery occurs after 5:00 p.m. (local time where received) or on a non-business day, then such notice or demand so made shall be deemed effective on the first business day immediately following the day of actual delivery. No communications via facsimile and/or electronic mail shall be effective to give any notice, request, direction, demand, consent, waiver, approval or other communications hereunder.

10. Counterparts. This Encroachment Agreement may be executed in one or more counterparts, each of which shall be deemed to constitute an original, but all of which, when taken together, shall constitute one and the same instrument, with the same effect as if all of the parties had executed the same counterpart.

11. Successors and Assigns. This Encroachment Agreement shall be binding upon and shall inure to the benefit of any transferee of Licensee's interest in the Encroachment. Licensee or Licensee's transferee shall provide written notice to City of any such transfer within thirty (30) days thereof.

12. Recordation: City may immediately record this Encroachment License Agreement and Licensee agrees to reimburse City for any recordation fees incurred by City in connection therewith.

[This Space Intentionally Left Blank; Signatures Begin On The Next Page]

IN WITNESS WHEREOF, the parties hereto have entered into this Encroachment License Agreement as of \_\_\_\_\_, \_\_\_\_\_.

CITY: CITY OF UPLAND, a municipal corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: City Manager

ATTEST:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Its: City Clerk

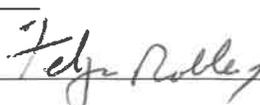
APPROVED AS TO FORM:

By: \_\_\_\_\_

Name: James L. Markman

Its: City Attorney

LICENSEE: 20151 LLC of  
434 N. 2<sup>nd</sup> Ave, Upland, CA 91786

By:  \_\_\_\_\_

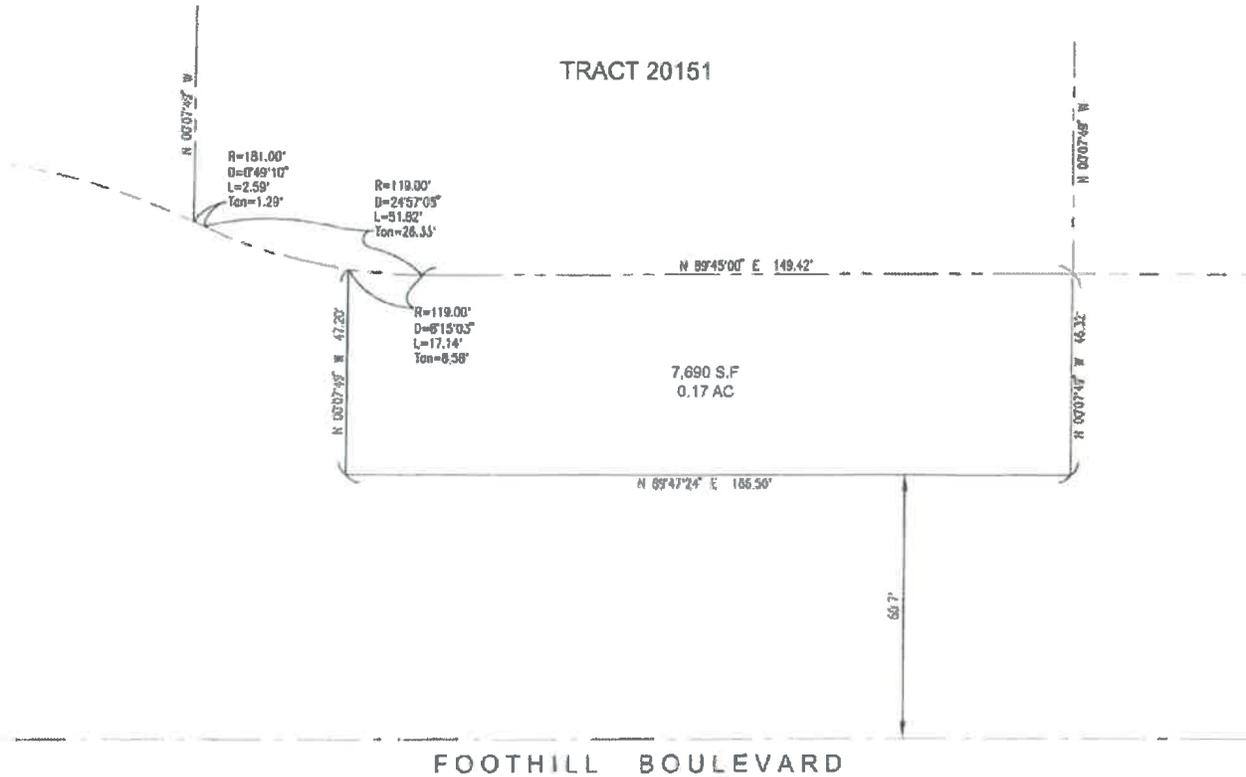
Name: \_ Felizardo Robles, Jr., President of  
JEC Enterprises, Inc.,

Its: Manager

# EXHIBIT "B"



SCALE: 1" = 40'

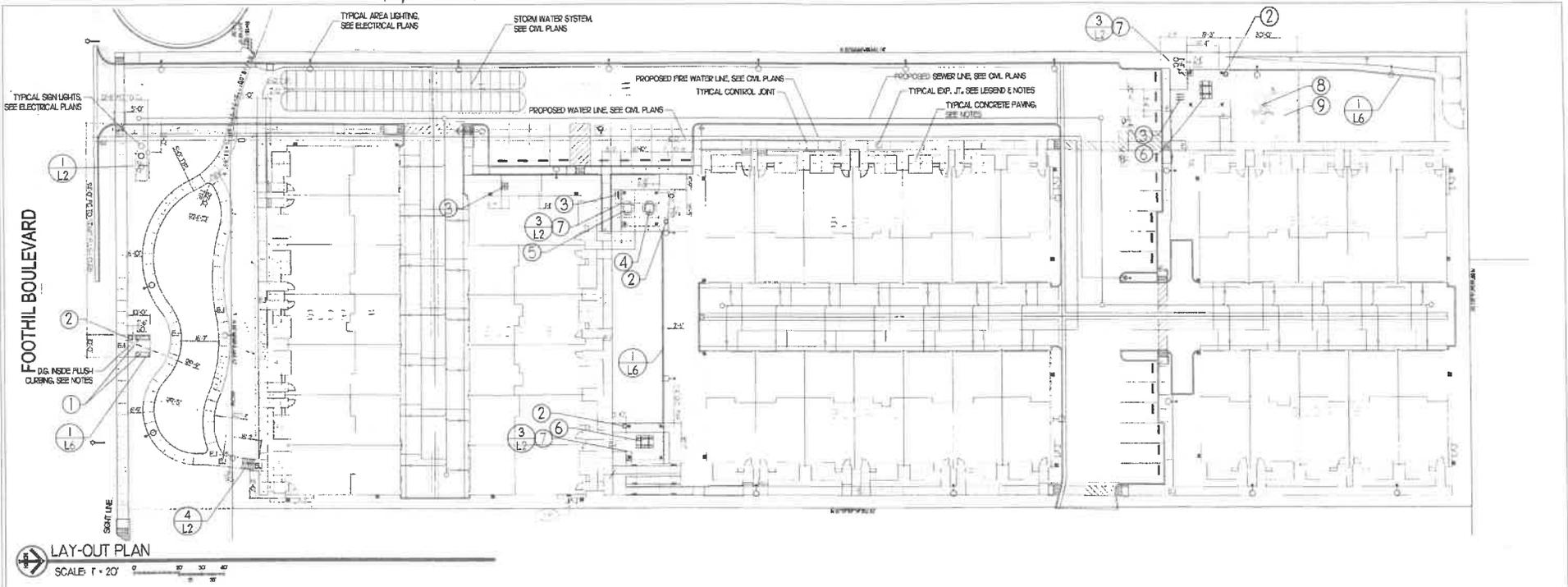


## ALLARD ENGINEERING

Civil Engineering - Land Surveying - Land Planning  
16866 Sevilla Avenue  
Fontana, California 92335  
(909) 356-1815 Fax (909) 356-1795

*Raymond J. Allard*  
RAYMOND J. ALLARD, R.C.E. 36052

11-12-19  
DATE



LAY-OUT PLAN  
SCALE: 1" = 20'

**LEGEND -**

SYM	DESCRIPTION
BW	BACK OF WALK
CL	TOOLED CONTROL JOINT
DA	DIAMETER
EB	1/2" X 3/4" GREY EXPANSION BOARD JOINT
ES	EXISTING
EX	EXISTING
FC	FACE OF CURB
FB	FACE OF BUILDING
PA	PLANTING AREA
R	RADIAL
ROW	RIGHT OF WAY
TYP.	TYPICAL, OCCURS ELSEWHERE

**CONSTRUCTION NOTES -**

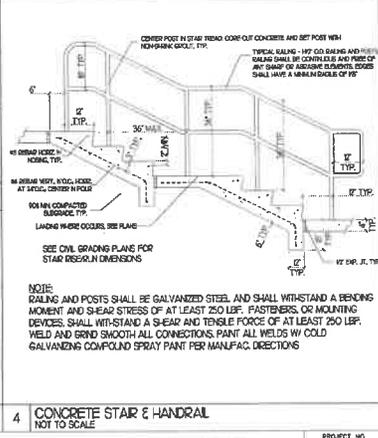
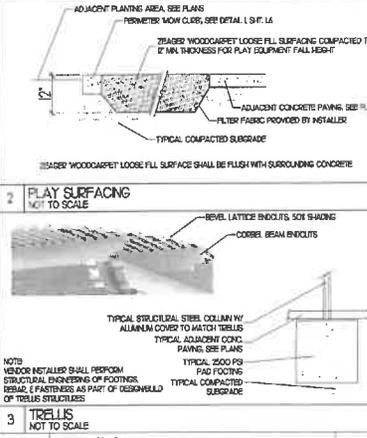
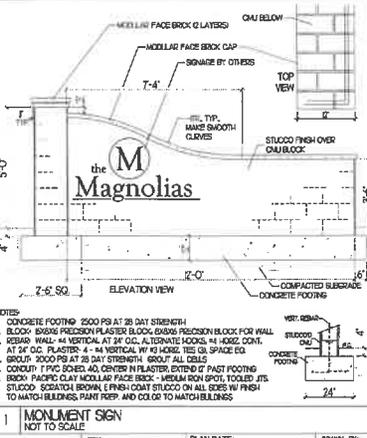
- ALL MEASUREMENTS FROM TO BUILDINGS SHALL BE TO FINISHED EXTERIOR WALLS. MEASUREMENTS TO FACE OF CURB SHALL BE TO TOP FACE OF CURB.
- ALL PAVEMENT PAVING CONCRETE SHALL BE 2500 PSI STRENGTH AT 28 DAYS WITH A 4" MAXIMUM SLAB, MEDIUM BROOM FINISH MIN. 4" THICKNESS. 6% DGA. W/M. CENTERED 1/4" JOINT, PLACE OVER PROPERLY LEVELED & COMPACTED SUBGRADE.
- CONCRETE MOW CURB CONCRETE SHALL BE PLAN GREY, HAVE A 2500 PSI MIN. COMPRESSIVE STRENGTH AT 28 DAYS, AND SHALL BE GIVEN A LIGHT BROOM FINISH. CONTRACTOR SHALL TOOL CONTROL JOINTS INTO TOP OF CURB AT APPROX. 10' INTERVALS. SEE DETAIL 15-B-ET-16.
- DECOMPOSED GRANITE SHALL BE DESERT GOLD, 3" COMPACTED THICKNESS WITH STABILIZER.

**SITE FURNISHINGS NOTES -**

- THE OUTDOOR CREATIONS PAVING TABLES SHALL REQUIRE THE CONTRACTOR TO USE A WAREHOUSE FLOORING WITH 4" WIDE PAGES, FORKS CAPABLE OF LIFTING 5000 LBS. TO BE HIGH CONSULT WITH MANUFACT. FOR ANY OTHER REQUIREMENTS FOR THE PLACEMENT OF THE TABLES.
- THE CENTERBLY BENCHES, TRASH RECEPTACLES, & BICYCLE RACKS SHALL BE BOLTED TO THE CONCRETE PAVING WITH STAINLESS STEEL HARDWARE PER MANUFACT. SPECS.

**SITE FURNISHINGS LEGEND -**

SYM	DESCRIPTION & QUANTITY
1	CENTERBLY DESIGNS OR APPROVED EQUAL 6" LONG BROWNY BENCH WITH MODIFIED BACKREST AND CENTERBLY WOODEN STEEL LEGS & ANGLE METAL STRAP SEATING, POWDER COAT FINISH (COLOR BLACK) (2 TOTAL)
2	CENTERBLY DESIGNS OR APPROVED EQUAL 20" WIDE BENCHTOP WITH WOOD, 2" MIN. 4" W/ BIRD REMOVABLE PLASTIC LIDS, W/ POWDER COAT FINISH (COLOR BLACK) (1 TOTAL)
3	CENTERBLY DESIGNS OR APPROVED EQUAL BENCH MOUNT TABLE, WELDED STEEL, TUBE W/ POWDER COAT FINISH (COLOR BLACK) (2 TOTAL) INSTALL IN GROUPS OF 3, SPACE LOOPS BY O.C. 4' @ 4'
4	CENTERBLY DESIGNS BENCHES CONTACT: TOM RICE, 323 909-9966
5	OUTDOOR CREATIONS INC. OR APPROVED EQUAL 48" SQUARE TOP POND TABLE CAPE STYLE W/ 4 SEATS, ADA ACCESSIBLE SMOOTH FINISH (COLOR BROWN) W/ STD. ACRYLIC SEALER (1 TOTAL)
6	OUTDOOR CREATIONS INC. OR APPROVED EQUAL 96" SQUARE TOP POND TABLE W/ 2 BENCH SEATS, ADA ACCESSIBLE SMOOTH FINISH (COLOR BROWN) W/ STD. ACRYLIC SEALER (2 TOTAL)
7	OUTDOOR CREATIONS CONTACT: TIM HUGSON, CELL # 650-338-8887
8	ALLAMWOOD LAGUNA LATTICE TRELLIS 6 FT. X 6 FT. OVERALL DIMENSIONS 84 FT. X 4 FT. O.C. COLUMN SPACING, W/ COBBLE BEAM BRACKETS, 20" O.C. COL. 180" BY 180" BY 180" (1 TOTAL) SEE DETAIL 3. TRELLIS SHALL BE DESIGNED BY A REGISTERED CIVIL ENGINEER, CITY PLAN CHECK, PERMITS, FOOTINGS, INSTALLATION & INSPECTIONS
9	WOODEN COBBLE 300 X 300 SQUARE AVE. SIZE 17" OVERLAP, CA VENDOR SALES CONTACT: DARRIN WANDERLIND, ROOM 58-707
10	PLAY WOOD PLAY STRUCTURE OR APPROVED EQUAL DAVE BANG DIV. NO. 0858004 COL. 035 TRIG (1 TOTAL) INSTALLED BY DAVE BANG INSTALLER PER MANUFACT. SPECIFICATIONS
11	TRASSER WOODCAREET LOOSE FILL PLAYGROUND BELFRACKS IN TOTAL PLAY EQUIPMENT AREA (65 SQ. FT.) UNLESS IF COMPACTED DEPTH OVER FILTER FABRIC PROVIDED BY VENDOR, SEE DETAIL 3. INSTALLED BY DAVE BANG INSTALLER PER MANUFACT. SPECIFICATIONS
12	DAVE BANG SALES CONTACT: BRITANY PULSARSKI, CELL # 761-335-8281



**REVISIONS**

NO.	DESCRIPTION	DATE	APP.

Underground Service Alert

King of the Hill  
Call before you dig.  
www.callbeforeyoudig.com

PLANS PREPARED BY:

**LOST WEST**  
A CALIFORNIA CORPORATION  
LANDSCAPE ARCHITECTURE  
30+ YEARS

PC 801 232 Central, CA 92018  
2304 Torrey Pines Rd. Los Angeles, CA 90041  
Tel: 760-313-7338 OR (310) 234-8214

PLAN DATE: 7/22/19

DESIGNED BY: RM

CHECKED BY: RM

RECOMMENDED BY:

APPROVED BY:

PUBLIC WORKS SECTION ENGINEER

RECOMMENDED BY:

DATE

PROJECT NO.: 1810-  
The Magnolias - Townhomes

**CITY OF UPLAND**  
THE MAGNOLIAS - Townhomes  
1555 West Foothill Blvd., Upland, CA  
Trac No. 20150

**LAY-OUT PLAN**

PROJECT NO. J20150  
L2 OF 8 SHEETS  
DRAWING NO. LS 18-15



# STAFF REPORT

**ITEM NO. 11.P.**

---

**DATE:** December 9, 2019  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:** ROSEMARY HOERNING, INTERIM CITY MANAGER  
**PREPARED BY:** LONDA BOCK-HELMS, CPA, ACTING ADMINISTRATIVE SERVICES DIRECTOR  
**SUBJECT:** AMEND THE COMPENSATION PLAN FOR PART-TIME EMPLOYEES

---

## **RECOMMENDED ACTION**

It is recommended that the City Council adopt a Resolution amending the Compensation Plan for Part-Time Employees to comply with California Minimum Wage Law.

## **GOAL STATEMENT**

The proposed action supports the City's goal to provide Upland Employees with a fair compensation plan which complies with the California Minimum Wage law effective January 1, 2020 and increases thereafter as required by state law.

## **BACKGROUND**

On December 12, 2016, the City Council approved the amendment of the Part-Time Compensation Plan to meet the Minimum Wage requirement of \$10.50 per hour effective January 2017 and acknowledged the required increases over the next five years:

### **California**

\$10.50 eff. 1-1-17  
\$11.00 eff. 1-1-18  
\$12.00 eff. 1-1-19  
\$13.00 eff. 1-1-20  
\$14.00 eff. 1-1-21  
\$15.00 eff. 1-1-22

The part-time schedule requires updating in order to continue compliance with the minimum wage requirements and to adjust the position classification structure compaction conditions.

It is anticipated that no further adjustments will be necessary to be compliant with the part-time minimum wage requirements.

**ISSUES/ANALYSIS**

The City's goal is to offer reasonable and competitive hourly rates in order to attract and retain high quality part-time staff. The part-time employees are an important part of the City's work force. They provide support to the full time staff. The recreation division, in particular, uses a number of part-time staff members to provide cost effective recreational programming activities to our community. This proposed hourly rate schedule (Exhibit "A") is intended to address the minimum wage requirements through 2022 and assist in retaining this important group of staff members.

**FISCAL IMPACTS**

The budget appropriation for these positions will be updated during the FY 2019-20 mid year review. The additional cost is estimated to range between \$30,000 to \$60,000.

**ALTERNATIVES**

Provide alternative direction to staff.

**ATTACHMENTS:**

**Resolution  
Part-Time Hourly Schedule Exhibit A**

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
UPLAND AMENDING THE COMPENSATION PLAN FOR PART-  
TIME HOURLY EMPLOYEES TO COMPLY WITH CALIFORNIA  
MINIMUM WAGE LAW

Intent of the Parties and Findings

(i) It is the policy of the City of Upland to compensate its employees in a fair equitable manner for their efficient and faithful service; and

(ii) From time to time it is necessary to add or modify certain classifications in the Compensation Plan to comply with minimum wage laws.

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

Section 1. Exhibit "A" (Part-Time Hourly) Compensation Plans are hereby amended, as attached.

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.

ADOPTED AND APPROVED this 9<sup>th</sup> day of December 2019.

\_\_\_\_\_  
Debbie Stone, Mayor

I, Keri Johnson, 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 9<sup>th</sup> day of December, 2019 by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAINED:

ATTEST: \_\_\_\_\_  
Keri Johnson, City Clerk



## Salary Grades by Job Class Part-Time Hourly Employees Salary Exhibit A

Job Classes	Salary Grade	Minimum (Step 1)	Maximum (Step 13)
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*The following part-time hourly positions are associated with the Full-Time Salary Exhibit*

Administrative Assistant	26	\$17.36	\$23.34
Custodian	22	\$15.73	\$21.15
Office Assistant	18	\$14.25	\$19.16
Customer Service Specialist I	25	\$16.93	\$22.77
Customer Service Specialist II	29	\$18.69	\$25.14
Development Services Technician	30	\$19.16	\$25.77
Engineering Technician	30	\$19.16	\$25.77
Maintenance Worker	28	\$18.24	\$24.52
Planning Technician	30	\$19.16	\$25.77
Police Dispatcher I	31	\$19.64	\$26.41
Police Dispatcher II	35	\$21.68	\$29.15
Police Records Specialist I	21	\$15.34	\$20.63
Police Records Specialist II	25	\$16.93	\$22.77
Utility System Worker	34	\$21.15	\$28.44
Police Services Technician	27	\$17.79	\$23.93

Job Classes	Salary Grade	Minimum (Step 1)	Maximum (Step 5)
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*The following part-time positions are temporary or seasonal*

Aquatics Manager	63PT	\$18.04	\$21.93
Aquatics Assistant Manager	56PT	\$16.82	\$20.45
Aquatics Instructor/Guard	37PT	\$14.00	\$17.02
Clerk I	37PT	\$14.00	\$17.02
Household Hazardous Waste (HHW) Worker	56PT	\$16.82	\$20.45
Intern I	37PT	\$14.00	\$17.02
Intern II	44PT	\$15.01	\$18.25
Lifeguard/Aide	37PT	\$14.00	\$17.02
Office Assistant	44PT	\$15.01	\$18.25
Police Cadet	42PT	\$14.72	\$17.89
Police Officer Trainee	85PT	\$22.46	\$27.30
Recreation Leader	37PT	\$14.00	\$17.02
Recreation Specialist	56PT	\$16.82	\$20.45
Senior Recreation Leader	42PT	\$14.72	\$17.89
Senior Rereation Specialist	63PT	\$18.04	\$21.93
Traffic Aide	66PT	\$18.60	\$22.60
Weed Abatement Inspector	102PT	\$26.60	\$32.33



## STAFF REPORT

ITEM NO. 11.Q.

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**DATE:** December 9, 2019  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:** ROSEMARY HOERNING, INTERIM CITY MANAGER  
**PREPARED BY:** ROBERT D. DALQUEST, DEVELOPMENT SERVICES DIRECTOR  
**SUBJECT:** CONSIDERATION OF AN ENCROACHMENT LICENSE AGREEMENT FOR THE INSTALLATION OF AN ELECTRONIC CHANGEABLE-COPY SIGN FOR UPLAND HIGH SCHOOL LOCATED WITHIN THE CITY RIGHT-OF-WAY AT THE SOUTHEAST CORNER OF FOOTHILL BOULEVARD AND SAN ANTONIO AVENUE

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### RECOMMENDED ACTION

It is recommended that the City Council approve the Encroachment License Agreement to allow Upland Unified School District to install and maintain an electronic changeable-copy sign, that is seventeen feet in height with a sign area of 80 square feet, for Upland High School located within City right-of-way at the southeast corner of Foothill Boulevard and San Antonio Avenue (See Exhibit 3).

### GOAL STATEMENT

The proposed action supports the City's goal of working with the School District and other educational institutions to assist in promoting public awareness of educational activities and services.

### BACKGROUND

The applicant, Upland Unified School District, is seeking approval of an Encroachment License Agreement to construct an electronic changeable-copy sign (the "Sign") within City right-of-way; directly east of the existing concave concrete wall at the southeast corner of Foothill Boulevard and San Antonio Avenue (See Exhibit 2). The Sign is intended for use by Upland High School to advertise the school's on-site activities and events, and advertise Upland Unified School District announcements. The Sign will be setback approximately thirteen (13) feet from the curb line along Foothill Boulevard and is seventeen (17) feet in height with a sign area of eighty (80) square feet. The dimensions of the sign face are 6-foot, 8-inches tall by 12-feet in width, and will have a clearance of 10-feet from the ground to the bottom of the

Sign. The Sign is double-faced and will have a black satin finish. The square metal pole supporting the sign will contain a decorative rock cover and stone cap with only a portion of the metal pole visible where it connects to the sign (See Exhibit 1).

## **ISSUES/ANALYSIS**

Section 17.15 of the Upland Municipal Code establishes the City's sign regulations which address electronic changeable-copy signs. This type of sign is only permitted in the Highway Commercial District (HC) for uses which rely on outdoor display of merchandise as a primary means of business, such as an auto dealerships, and only for movie theatre marquees or churches; wherever they are permitted in the City. Other than these specific land uses, this type of sign is prohibited in the City, except that there are several freestanding electronic changeable-copy signs which have existed for a number of years, they include: one located on private property for Howard's Appliance on Seventh Street; City-owned property for the YMCA located in Memorial Park and at City Hall. In addition, a number of the schools have small building-mounted reader boards. The Sign Code establishes a maximum sign area for an electronic changeable-copy sign at 100 square feet, plus an additional twenty-five (25) square feet of sign area for general identification, and a maximum height of twenty-five (25) feet.

Upland High School is zoned Public (PB) District which is not a zoning district in the Sign Code that provides any sign regulations. Staff sought direction from the City Attorney to determine: 1.) Is an electronic changeable-copy sign intended to promote school activities on School District property subject to the City's land use regulations; and, 2.) If the City's land use regulations apply, does the lack of sign regulations in the PB zoning district prohibit the sign on School District property.

The City Attorney determined that the Sign was subject to the City's land use regulations and that it would be prohibited in the PB zoning district due to the Sign Code having no regulations that address this type of sign. The City Attorney indicated to staff that Government Code section 53094(b) allows a School Board to opt out of the application of a city's zoning ordinance to a proposed use of school district property unless the proposed use is for "...non-classroom facilities, including, but not limited to, warehouses, administrative buildings, and automotive storage and repair buildings." And, there are few court cases useful in determining whether a proposed use is for a "non-classroom facility". However, given existing case law, the City Attorney's opinion was that the proposed electronic changeable-copy sign would not result in being subject to a zoning exemption because while the sign may support the high school activities, it is difficult to see how it is directly or substantially related to instructional activities, and that staff has the legal basis to apply Upland's zoning ordinance.

Given the above, the other option was to install the Sign within the City right-of-way which allows the City Council through an Encroachment License Agreement to determine whether or not to apply the City's land use regulations and allow the encroachment in the right-of-way subject to the terms of the agreement and to a list of conditions of approval. Below are the conditions of approval that are contained within the Encroachment License Agreement:

- a. The electronic changeable-copy sign shall be installed and maintained or replaced in a safe and sanitary condition and otherwise in accordance with all applicable governmental laws, ordinances, and regulations at the sole cost, risk, and responsibility of Licensee.
- b. The electronic changeable-copy sign shall be limited to only advertising on-site school activities and events, or School District messages; except as specified in Condition of Approval "C" below, and shall not be used to advertise any off-site commercial messages of any kind that are not specifically related to on-site School activities and events, or School District messages.
- c. The Licensee shall allow the City from time to time, without cost to the City, to use

the electronic changeable-copy sign for public use announcements and City events or activities at the City's request. The City shall file a request with the Licensee to use the electronic changeable-copy sign which specifies the message and duration of time. The Licensee shall process the City's request in a timely manner and shall not be unreasonably withheld.

- d. The electronic changeable-copy sign's message display intervals shall change no more frequently than one every eight (8) seconds, and that blinking and/or moving characters shall be prohibited.
- e. The electronic changeable-copy sign shall be properly maintained in a neat and clean condition at all times, and that any inoperative or improper lighting components of the sign shall not impair the appearance and legibility of the sign. Any and all inoperative conditions of the sign shall be repaired within seventy-two (72) hours.
- f. The electronic changeable-copy sign shall not create a traffic hazard by distracting drivers or obstruct traffic visibility.
- g. The electronic changeable-copy sign shall be designed and constructed so it will not create excessive glare as determined by the Public Works Director.
- h. The Licensee shall submit construction plans and details of the electronic changeable-copy sign to the Engineering Division, Building and Safety Division, and the Planning Division for review and permit issuance.

In summary, staff recommends the above conditions of approval and the standard provisions in the Encroachment License Agreement will ensure the electronic changeable-copy sign will not create a traffic hazard or cause an aesthetic impact within the Foothill Boulevard corridor.

## **ENVIRONMENTAL DETERMINATION**

The proposed Encroachment License Agreement to construct the electronic changeable copy sign is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15311 of the CEQA Guidelines. This section provides a Categorical Exemption (Class 11) from CEQA for the construction, or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities.

## **FISCAL IMPACTS**

There is no fiscal impact associated with this action. The City's cost to process the Encroachment License Agreement has been paid by the Applicant.

## **ALTERNATIVES**

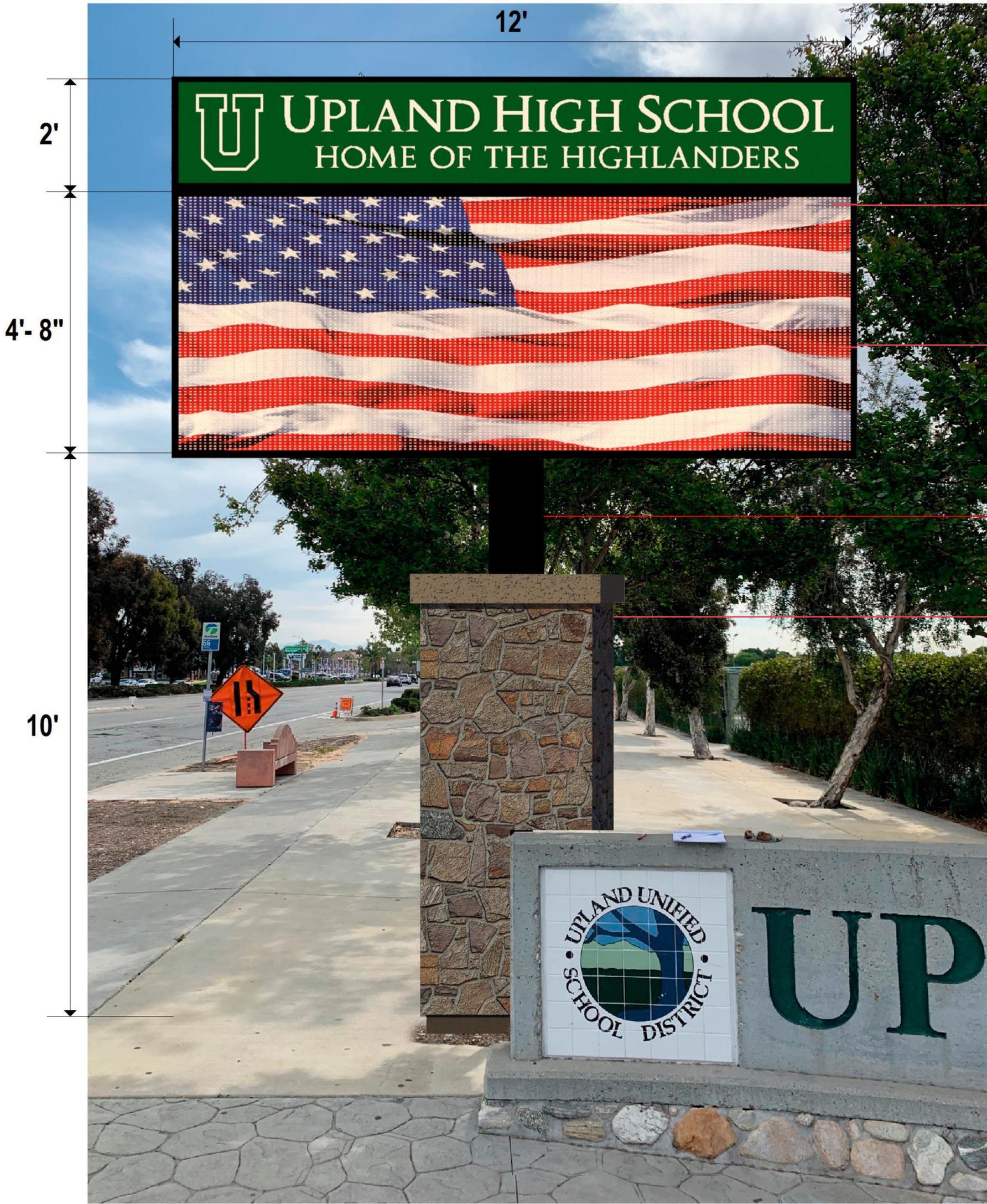
The City Council may provide staff with an alternative decision.

## **ATTACHMENTS:**

**Exhibit 1: Elevation of Electronic Changeable-Copy Sign**

**Exhibit 2: Site Plan**

**Exhibit 3: Encroachment License Agreement**



INT. ILLUM.  
I.D. SIGN

DAKTRONICS  
GS6 RGB  
DISPLAY

10" SQ. TUBE  
PAINT BLACK

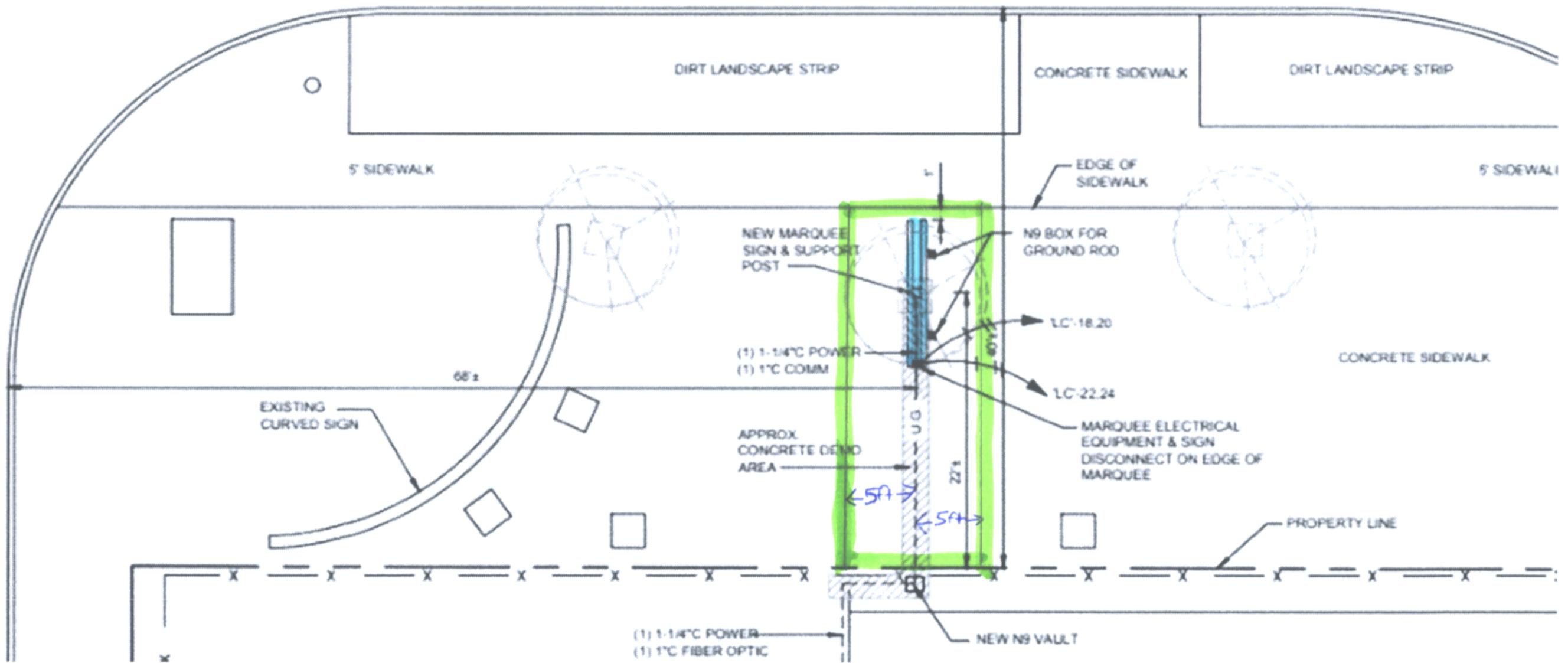
3'x3'x8' HIGH  
CONC.MASONRY  
PEDESTAL

D/F MARQUEE POLE SIGN / 3/8"=1'- 0"



962 W. Foothill Blvd., Azusa, CA 91702  
(626) 969-2222 fax (626) 969-5511  
e-mail: customsignsinc@juno.com

Title		UPLAND HIGH SCHOOL		Drawing Date		5-16-19	
Location		565 W. 11th st., Upland, Ca. 91786		<p>This is an original drawing created by CUSTOM SIGNS, INC. The information contained in this document is confidential work-product material and is intended for the eyes of the designated recipient only. If you are not the designated recipient, you are hereby notified that any unauthorized review, dissemination, distribution or copying of this document, and that which is transmitted herewith, is strictly prohibited. Client agrees to pay 25% of the retail selling price of this display upon demand hereof, if said original design is used or reproduced in whole or in part.</p>			
Salesman	TS	Designer	Mark Garcia				
Client Approval		Date					



Easement Area

RECORDING REQUESTED BY:  
WHEN RECORDED MAIL TO:

City Clerk  
City of Upland  
460 North Euclid Avenue  
Upland, California 91786

**This document is exempt from the  
Payment of a recording Fee pursuant  
To Government Code Section 27383**

(Space Above Line For Recorder's Use Only)

### ENCROACHMENT LICENSE AGREEMENT

The CITY OF UPLAND, a California municipal corporation ("City"), hereby grants a revocable license to Upland Unified School District, ("Licensee"), to maintain the "Encroachment" (as defined below) upon the "Property" (as defined below) for the use and benefit of Licensee, and in consideration thereof, Licensee agrees to comply with all terms and conditions set forth in this Encroachment License Agreement (this "Agreement").

1. Encroachment. Licensee shall be permitted to construct, maintain, and use an electronic changeable-copy sign shown as Exhibit A, upon the City's Property, shown as Exhibit B, attached hereto, or such other improvements as otherwise permitted by City from time to time (the "Encroachment").

2. Property. City is the owner of that certain property located in the City of Upland, County of San Bernardino, State of California, known as: existing City right-of-way located at the southeast corner of Foothill Boulevard and San Antonio Avenue, and more particularly depicted in Exhibit B attached hereto (the "Property"). City's ownership of the Property shall not be affected by this Agreement in any manner whatsoever and Licensee shall not acquire any rights in the Property whatsoever as a result of the Encroachment except those rights specifically granted herein.

3. Conditions of Approval for Encroachment. The Licensee shall comply with all of the following conditions of approval for this Encroachment:

- A. The electronic changeable-copy sign shall be installed and maintained or replaced in a safe and sanitary condition and otherwise in accordance with all applicable governmental laws, ordinances and regulations at the sole cost, risk and responsibility of Licensee.
- B. The electronic changeable-copy sign shall be limited to only advertising on-site school activities and events, or School District messages; except as specified in Condition of Approval "C" below, and shall not be used to advertise any off-site

commercial messages of any kind that are not specifically related to on-site School activities and events, or School District messages.

- C. The Licensee shall allow the City from time to time, without cost to the City, to use the electronic changeable-copy sign for public use announcements and City events or activities at the City's request. The City shall file a request with the Licensee to use the electronic changeable-copy sign which specifies the message and duration of time. The Licensee shall process the City's request in a timely manner and shall not be unreasonably withheld.
- D. The electronic changeable-copy sign's message display intervals shall change no more frequently than one every eight (8) seconds, and that blinking and/or moving characters shall be prohibited.
- E. The electronic changeable-copy sign shall be properly maintained in a neat and clean condition at all times, and that any inoperative or improper lighting components of the sign shall not impair the appearance and legibility of the sign. Any and all inoperative conditions of the sign shall be repaired within seventy-two (72) hours.
- F. The electronic changeable-copy sign shall not create a traffic hazard by distracting drivers or obstruct traffic visibility.
- G. The electronic changeable-copy sign shall be designed and constructed so it will not create excessive glare as determined by the Public Works Director.
- H. The Licensee shall submit construction plans and details of the electronic changeable-copy sign to the Engineering Division, Building and Safety Division and the Planning Division for review and permit issuance.

4. Indemnification. Licensee shall defend, indemnify, protect, and hold City, its officers, employees, agents, and volunteers, free and harmless from, and pay in full, any and all claims, proceedings, demands, losses, causes of action, liability, damages, costs or expenses (including, without limitation, reasonable attorneys' fees) that City may sustain or incur in any manner resulting from the Encroachment (whether the construction, installation, removal, maintenance, use, repair, replacement or presence thereof), including any and all claims for all injuries (including personal injury, disability, dismemberment and death), illness, losses, loss of or damage to property, damages, claims, liabilities or expenses of any kind or nature to any person that is not caused, or alleged to be caused, by the negligent acts or omissions of City or its agents or employees. Licensee will act in good faith to ensure that use is safe and compliant with all applicable codes.

In case any action or proceeding is brought against City by reason of any such claim, Licensee, upon notice from City, shall defend the same at Licensee's expense by counsel satisfactory to City, including without limitation the payment of all consequential damages, reasonable attorneys' fees, and other related costs and expenses and Licensee shall pay and satisfy

any judgment, award, or decree that may be rendered against the City. Licensee shall reimburse City for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Licensee's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the City. All duties of Licensee in this section shall survive termination of this Agreement.

5. Insurance. Licensee shall maintain a policy of liability insurance issued by an insurance company that is admitted and licensed to do business in the State of California and that is rated A:VIII or better according to the most recent A.M. Best Co. Rating Guide, with City, and its officers, agents, volunteers, and employees named as an additional insureds, that has an aggregate liability limit (subject to commercially reasonable adjustments) of at least Two Million Dollars (\$2,000,000), and a per occurrence liability limit of at least One Million Dollars (\$1,000,000), and that will protect City from any claims that may arise from the Encroachments, including those for which Licensee is obligated to indemnify City against hereunder. However, if the Licensee is self-insured for the same liability amounts as specified above relative to aggregate and per occurrence then that would be acceptable.

6. City Work. Licensee's right to maintain the Encroachment is subject to City's right to cause construction, installation, removal, maintenance, repair and/or replacement work to be conducted on the Property from time to time provided that it shall give reasonable prior notice to Licensee of the commencement of such work and shall use its best efforts to not unreasonably interfere with the Encroachment during the performance of such work.

7. Revocation. City may revoke this Encroachment License at any time, with or without cause, by providing Licensee with written notice. Licensee must, at the sole cost, risk and responsibility of Licensee, remove and/or relocate the Encroachment, and restore the Property to substantially the same condition that existed prior to the Encroachment, as directed by City within thirty (30) days of written notice from City or as otherwise agreed to in writing by the City. In case of an emergency, City may require that the work be done within less than such thirty (30) day period. If Licensee fails to so remove and/or relocate the Encroachment and restore the Property, City may cause such work to be done, and Licensee shall be liable to City for all costs incurred by City in connection therewith. In the event Licensee fails to reimburse City for such costs within thirty (30) days of written demand, such costs shall be a lien against Licensee's property. Furthermore, in the event City must maintain an action to enforce any of the obligations of Licensee under, or arising out of, this Encroachment, and is successful in such action, Licensee agrees to pay all cost and expenses, including reasonable attorney's fees, incurred by City in connection therewith.

8. Notices: Any notice, request, direction, demand, consent, waiver, approval or other communication required or permitted to be given hereunder shall not be effective unless it is given in writing and shall be delivered (a) in person, (b) by certified mail, postage prepaid, return receipt requested, or (c) by a commercial overnight courier that guarantees next day delivery and provides a receipt, and addressed to the parties at the addresses stated below, or at such other address as either party may hereafter notify the other in writing as aforementioned:

Licensee: Attention: Upland Unified School District  
390 N. Euclid Avenue  
Upland, CA 91786  
Attention: Superintendent

City: City of Upland  
460 North Euclid Avenue  
Upland, California 91786  
Attention: City Manager

With a copy to: Richards, Watson and Gershon  
1 Civic Center Circle  
P O Box 1059  
Brea, CA 92822-1059  
Attention: Upland City Attorney

Service of any such notice or other communications so made shall be deemed effective on the day of actual delivery (whether accepted or refused) as shown by the addressee's return receipt if by certified mail, and as confirmed by the courier service if by courier; provided, however, that if such actual delivery occurs after 5:00 p.m. (local time where received) or on a non-business day, then such notice or demand so made shall be deemed effective on the first business day immediately following the day of actual delivery. No communications via facsimile and/or electronic mail shall be effective to give any notice, request, direction, demand, consent, waiver, approval or other communications hereunder.

9. Counterparts. This Encroachment Agreement may be executed in one or more counterparts, each of which shall be deemed to constitute an original, but all of which, when taken together, shall constitute one and the same instrument, with the same effect as if all of the parties had executed the same counterpart.

10. Successors and Assigns. This Encroachment Agreement shall be binding upon and shall inure to the benefit of any transferee of Licensee's interest in the Encroachment. Licensee or Licensee's transferee shall provide written notice to City of any such transfer within thirty (30) days thereof.

11. Recordation: City may immediately record this Encroachment License Agreement and Licensee agrees to reimburse City for any recordation fees incurred by City in connection therewith.

[This Space Intentionally Left Blank; Signatures Begin On The Next Page]

IN WITNESS WHEREOF, the parties hereto have entered into this Encroachment License Agreement as of December 9, 2019.

CITY: CITY OF UPLAND, a municipal corporation

By: \_\_\_\_\_

Name: Rosemary Hoerning  
Its: Interim City Manager

ATTEST:

By: \_\_\_\_\_

Name: Keri Johnson  
Its: City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_

Name: Steven Flower  
Its: City Attorney

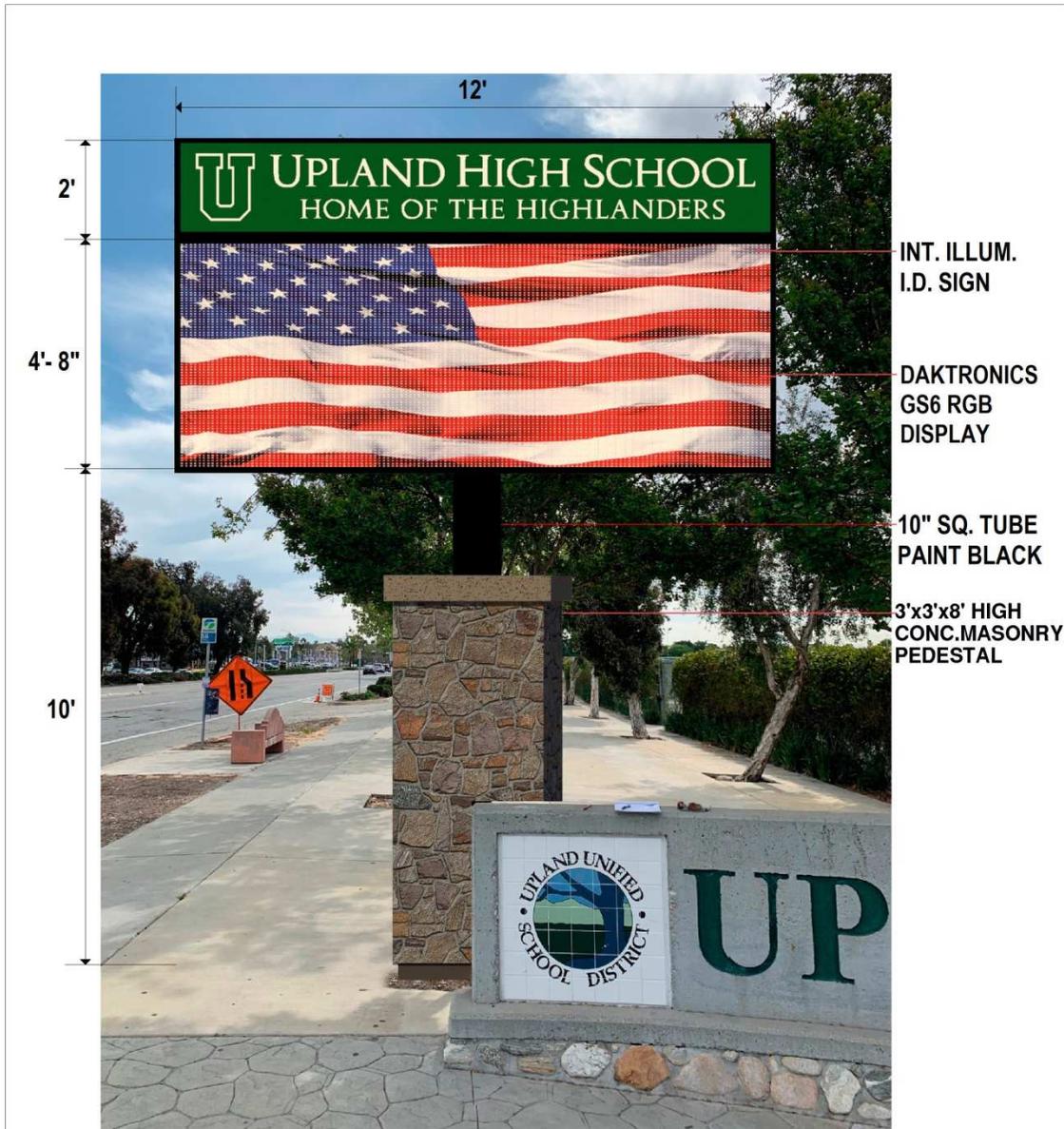
LICENSEE: Upland Unified School District  
390 N. Euclid Avenue  
Upland, CA 91786  
Attention: Superintendent

By: \_\_\_\_\_

Name: Nancy Kelly  
Its: Superintendent

# EXHIBIT A

## Elevation and Design of Electronic Changeable-Copy Sign



INT. ILLUM.  
I.D. SIGN

DAKTRONICS  
GS6 RGB  
DISPLAY

10" SQ. TUBE  
PAINT BLACK

3'x3'x8' HIGH  
CONC. MASONRY  
PEDESTAL

D/F MARQUEE POLE SIGN / 3/8"=1'-0"



962 W. Foothill Blvd., Azusa, CA 91702  
(626) 969-2222 fax (626) 969-5511  
e-mail: customsignsinc@juno.com

Title		UPLAND HIGH SCHOOL		Drawing Date	5-16-19	
Location	565 W. 11th st., Upland, Ca. 91786		<p>This is an original drawing created by CUSTOM SIGNS, INC. The information contained in this document is confidential work-product material and is intended for the eyes of the designated recipient only. If you are not the designated recipient, you are hereby notified that any unauthorized review, dissemination, distribution or copying of this document, and that which is transmitted herewith, is strictly prohibited. Client agrees to pay 25% of the retail selling price of this display upon demand hereof, if said original design is used or reproduced in whole or in part.</p>			
Salesman	TS	Designer				Mark Garcia
Client Approval	Date					



**SPECIAL PUBLIC WORKS COMMITTEE MEETING  
NOVEMBER 26, 2019**

\*\*\*\*\*

**CONCLUSION/ACTION SUMMARY**

In attendance: Committee Chair Velto and Committee Member Felix, Interim City Manager/Public Works Director Hoerning, Management Analyst Madriz, and Councilmembers Elliott and Zuniga.

1) **ORAL COMMUNICATIONS**

James Breitling, stated the need for improved public outreach and questioned why Burrtec does not use the San Bernardino County Mid-Valley Landfill.

- 2) **PROPOSED SOLID WASTE RATE ADJUSTMENT**, Interim City Manager/Public Works Director Hoerning presented the staff report. After a brief discussion, the Committee recommended the City Council direct staff to proceed forward with the Proposition 218 public notification processes to consider solid waste rate adjustments.



## Special Public Works Committee Meeting

November 26, 2019

5:00 PM

Pinky Alder Room - City Hall

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- 
1. ORAL COMMUNICATIONS
  2. PROPOSED SOLID WASTE RATE ADJUSTMENT

**NOTE:** 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](http://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 at 909.931.4120. 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 November 25, 2019, 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. 2.**

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**DATE:** November 26, 2019  
**TO:** PUBLIC WORKS COMMITTEE  
**FROM:** ROSEMARY HOERNING, INTERIM CITY MANAGER  
**PREPARED BY:** ROSEMARY HOERNING, INTERIM CITY MANAGER  
**SUBJECT:** PROPOSED SOLID WASTE RATE ADJUSTMENT

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## **RECOMMENDED ACTION**

It is recommended that the Public Works Committee recommend the City Council direct staff to proceed forward with the Proposition 218 public notification processes to consider solid waste rate adjustments.

## **GOAL STATEMENT**

The proposed action supports the City's goal of providing high quality cost effective services to the community.

## **BACKGROUND**

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

The City collects the customer solid waste service charge, which is placed in a separate City fund (641) specifically established for managing revenue and expenditures associated with the City Solid Waste Program. From the revenue collected, the City pays Burrtec its Service Collection fee and the actual disposal charges. The Burrtec Service fee is provided to Burrtec to cover their costs associated with all materials, labor, and equipment to provide the City

with trash collection services and credits to the City in accordance with the franchise agreement. The rate includes the cost of trash, recyclables, green and organic solid waste handling and disposal or resale. The balance of the funds collected and deposited into fund 641 are used to pay for program related costs.

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

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

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

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

## **ISSUES/ANALYSIS**

R3 determined tipping rates for refuse are approximately 30% less than the average, with tipping for green waste being 24% of the average and has confirmed the tipping fee increases are reasonable given the market conditions and regulatory requirements. Burrtec handles and manages the disposal and resale of recycling materials through their Material Recoveries Facilities.

Since the tipping fees are a pass through processing and disposal cost, not adjusting the rates in a timely manner may cost the customer more in the future. Furthermore, additional regulatory requirements may result in additional increases in the future. Staff believes it is preferred to address these adjustments timely to smooth the needed adjustments to customer rates.

## **FISCAL IMPACTS**

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

## **ALTERNATIVES**

Provide alternative direction to staff.

## **ATTACHMENTS:**

**Feb 2020 Proposed Rate Schedule**

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

**R3 City Comparison Review dated 11-22-19**

**2019 Burrtec Rate Adjustment Request 3-15-19**

---

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

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

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November 22, 2019

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

**Subject: Review of Burrtec’s Solid Waste Rate Adjustment Request**

Dear Ms. Hoerning:

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

### **Extraordinary Rate Increase Summary**

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

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

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

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

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<sup>1</sup> Applicable Agreement text provided in Attachment 1 to this letter report.

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

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

### **Recommendations and Next Steps**

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

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

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

## Background

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

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

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

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

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

### **Rate Adjustment Methodology**

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

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

## Special Rate Review

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

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

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

## Review Methodology

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

- Review and analysis of the terms and conditions of the Agreement and all amendments;
- Interview of Burrtec’s Chief Financial Officer and other staff;
- Review of the requested rate adjustment’s mathematical accuracy and consistency with the terms and conditions of the Agreement and all amendments;
- Review of supporting documentation used as the basis for certain values in the rate adjustment calculations;
- Review and confirmation of the accuracy of the calculated CPI adjustment factor;
- Review and confirmation that rates tie to the City’s approved rate schedule<sup>2</sup>; and
- Review of West Valley MRF’s (Burrtec’s intercompany) tipping fee charges and calculation methodology.

## Rate Adjustment Review

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

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

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

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

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

### Tipping Fees

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

**Table 2: Burrtec’s Tipping Fees by Year<sup>3</sup>**

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

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

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

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

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<sup>3</sup> July 1 of each year.

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

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

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

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

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

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

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

### **Catch-Up Fee**

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

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

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

### **Compliance Fee**

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

### **Schedule of Other Costs**

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

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

### **Bundled Rates Summary**

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

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

### **Bundled Recycling Rates Fund**

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

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

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

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

### Bundled Food Rates Fund

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

Burrtec proposed Food Waste rates that include the following components:

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

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

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

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

### **Push/Pull Service**

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

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

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

**Limitations**

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

**Findings**

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

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

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

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

Sincerely,

**R3 CONSULTING GROUP**



Rose Radford | Project Manager

**Attachments:**

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

Ms. Rosemary Hoerning  
November 22, 2019  
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## Attachment 1: Excerpts from Franchise Agreement and Amendments

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

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

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

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

### c. Special Rate Review.

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

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

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

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

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

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**Northern California Office**

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

**San Francisco Bay Area Office**

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

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

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

## Methodology & Objectives

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

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

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

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

## Limitations

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

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

## Findings

### Hauler, Residential and Commercial Services Provided

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

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

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

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

SS = Single Stream  
 MW = Mixed Waste Processing

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

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

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

<b>Table 3<sup>1</sup></b>				
<b>Residential Rates</b>				
<b>City</b>	<b>Effective Date</b>	<b>30-35 Gal</b>	<b>60-64 Gal</b>	<b>90-96 Gal</b>
Upland (current)	2018	\$17.61	\$21.79	\$26.23
Burbank	2019	\$17.97	\$32.84	\$51.88
Calabasas	2018	\$18.33	\$26.96	\$32.74
Glendale	2010	\$18.34	\$18.34	\$18.34
Laguna Beach	2019	\$18.53	\$18.53	\$18.53
Carlsbad	2019	\$19.96	\$22.03	\$22.03
Upland (Burrtec Proposed)	2020	\$20.97	\$25.42	\$30.00
Upland (R3 Revised)	2020	\$21.17	\$25.65	\$30.23
Monrovia	2019	\$23.18	\$27.30	\$33.03
Beaumont	2019	\$24.99	\$24.99	\$24.99
Covina	2018	\$26.95	\$29.28	\$31.58
Rolling Hills Estates	2019	\$30.98	\$36.50	\$44.91
Temple City	2018	\$35.91	not offered	not offered
Banning	2018	not offered	not offered	\$21.71
Santa Clarita	2018	not offered	not offered	\$22.71
Hemet	2019	not offered	\$25.08	\$28.61
Thousand Oaks	2019	not offered	\$33.52	not offered
Corona	2019	not offered	not offered	\$24.50
Riverside	2019	not offered	not offered	\$26.85
Azusa	2019	not offered	not offered	\$27.72
Fontana	2019	not offered	not offered	\$29.71
Irwindale	2019	not offered	not offered	\$32.71
Rancho Cucamonga	2020	not offered	not offered	\$27.63
<b>Average without Upland</b>		\$23.51	\$23.51	\$26.18
<b>Percent Difference (current)</b>		-25%	-25%	-17%
<b>Percent Difference (Burrtec proposed)</b>		-11%	-11%	-3%
<b>Percent Difference (R3 Revised)</b>		-10%	-10%	-2%

<sup>1</sup>Sorted by 30-25 gallon size.

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

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

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

<sup>1</sup> Sorted by 3 cubic yard containers pulled once weekly.

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

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



**BURRTEC**

**WASTE INDUSTRIES, INC.**

*"We'll Take Care Of It"*

March 15, 2019

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

Re: 2019 Refuse Rate Adjustment

Dear Ms. Hoerning,

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

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

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

Sincerely,

Michael Arreguin  
Vice President

CC: Michelle Madriz, WUEP  
Management Analyst



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

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

Upland City Hall  
460 N. Euclid Avenue, Upland

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

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

**Public Hearing Information**

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

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

## **Explanation of the Rate Adjustments**

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

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

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

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

Dear Valued Customer,

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

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

<sup>(1)</sup> Service provides for an optional Recycle bin of equal or lesser size, while funds for this program are available.  
 Note: "size" refers to the number of cubic yards of the bin and the "Freq." is the frequency of pick ups per week.

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

# **CITY OF UPLAND - SOLID WASTE RATE ADJUSTMENT**

## **DOWNTOWN SERVICE BLOCKS – Shared Bin Services**

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

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

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

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

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

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

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

**DOWNTOWN SERVICE BLOCK 1 –**

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

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

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

**DOWNTOWN SERVICE BLOCK 2-**

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

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

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

**Note: Properties with restaurant uses have an additional charge.**

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

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

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

*Each property without restaurant at \$137.15 per month*  
*Each property with a restaurant at \$137.15 + \$174.80 or \$311.95 per month*

*(Service provided 2 – 3 cubic yard trash bin & 2 – 3 cubic yard recycle bin both picked up 5 day per week)*  
*(Service provided 1 – 1.5 cubic yard food waste bin picked up 3 days per week)*

**DOWNTOWN SERVICE BLOCK 3-**

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

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

*Each property would have a monthly solid waste fee of \$1,508.62/17 or \$88.74 per month*  
*(Service provided 1 – 3 cubic yard trash bin & 1 – 3 cubic yard recycle bin both picked up 5 day per week)*

**DOWNTOWN SERVICE BLOCK 4-**

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

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

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

**Note: Properties with restaurant uses have an additional charge.**

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

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

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

*Each property without restaurant at \$107.76 per month*

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

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

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

**DOOWNTOWN SERVICE BLOCK 5-**

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

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

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

**Note: Properties with restaurant uses have an additional charge.**

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

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

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

*Each property without restaurant at \$100.57 per month*

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

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

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

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

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



## Downtown Service Block No. 1



## Downtown Service Block No. 2



### Downtown Service Block No. 3



**Downtown Service Block No. 4**



## Downtown Service Block No. 5

**ECONOMIC DEVELOPMENT COMMITTEE MEETING  
DECEMBER 2, 2019**

\*\*\*\*\*

**CONCLUSION/ACTION SUMMARY**

In attendance: Committee Chair Felix, Committee Member Velto, Interim City Manager Hoerning, Development Services Director Dalquest, Development Services Manager Chavez, Economic Development Coordinator Picazo, Contract Housing Programs Coordinator Arellano, and Councilmember Elliott

1) **ORAL COMMUNICATIONS**

Janice Elliott, questioned when the next public workshop for the Bridge Development would be scheduled.

Shannan Maust, had questions relating to the public outreach workshops in regards to the five year Economic Development Action Plan.

Amy, inquired about the proposed housing development at 15<sup>th</sup> Street and Campus Avenue and current planning projects.

2) **DISCUSSION OF CURRENT PLANNING PROJECTS**, Development Services Director Dalquest and Economic Development Coordinator Picazo presented information on the current projects in the City. Staff then answered questions posed by the Committee.

3) **REVIEW CURRENT APPLICATIONS FOR COMMERCIAL REHABILITATION PROGRAM AND BUSINESS ASSISTANCE AND ATTRACTION PROGRAM**, Contract Housing Programs Coordinator Arellano made a presentation on applications for commercial rehabilitation programs and business assistance and attraction programs. Staff then answered questions posed by the Committee.



## Economic Development Committee Meeting

December 2, 2019

4:00 PM

Pinky Alder Room - City Hall

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1. ORAL COMMUNICATIONS
  2. DISCUSSION OF CURRENT PLANNING PROJECTS
  3. REVIEW CURRENT APPLICATIONS FOR COMMERCIAL REHABILITATION PROGRAM AND BUSINESS ASSISTANCE AND ATTRACTION PROGRAM

**NOTE:** 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](http://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 at 909.931.4120. 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 November 27, 2019, 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. 2.**

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**DATE:** December 2, 2019  
**TO:** ECONOMIC DEVELOPMENT COMMITTEE  
**FROM:** ROSEMARY HOERNING INTERIM CITY MANAGER  
**PREPARED BY:** ROBERT DALQUEST, DEVELOPMENT SERVICES DIRECTOR  
**SUBJECT:** DISCUSSION OF CURRENT PLANNING PROJECTS

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### **RECOMMENDED ACTION**

It is recommended that the Committee receive and file the report.

### **GOAL STATEMENT**

The proposed action supports the City's goal of keeping the Council and Community informed on current development projects underway in the City.

### **BACKGROUND**

The Development Services Department prepares and periodically updates a Planning and Economic Development report. This report is available on the City's website for review.

### **ISSUES/ANALYSIS**

Staff will provide a brief report and answer questions for the committee.

### **FISCAL IMPACTS**

There are no fiscal impacts associated with this action.

### **ALTERNATIVES**

Provide alternative direction to staff.

**ATTACHMENTS:**

**Planning Project List**



## DEVELOPMENT HIGHLIGHTS

### CITY COUNCIL DISTRICT NO. 1

#### **Upland Town Square | 913 W. Foothill Boulevard.**

Project: Demolish two (2) existing buildings and replace them with a new 10,000 square foot mixed use building.

Applicant/Developer: Brixmore

Current Status:

- Planning entitlements have been approved.
- In building plan check.



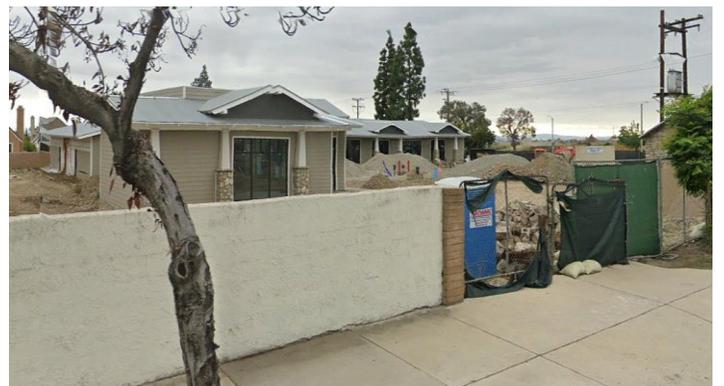
#### **Historic Pumhouse Commercial Center | 1590 N. Benson Avenue.**

Project: Remodel of existing commercial center.

Applicant/Developer: Behnam Naraghi

Current Status:

- Planning entitlements have been approved.
- Construction halted.



**Chipotle | 2057 Baseline Road.**

Project: 2,360 square feet restaurant with drive-through.

Applicant/Developer: Shawna Fuhrman  
Current Status:

- Planning entitlements have been approved.
- Under construction.



**Sycamore Hills PA1 & PA2 | Baseline Road and Parkview Promenade.**

Project: Development of 145 single-family detached homes.

Applicant/Developer: Taylor Morrison  
Current Status:

- Planning entitlements have been approved.
- Under construction.



**Bridge Point Upland Project | NE corner of Central Avenue & Foothill Boulevard.**

Project: 1 warehouse/parcel delivery service building.

Applicant/Developer: Bridge Development Partners  
Current Status:

- Planning entitlements are under review.



**The Magnolias | 1555 W. Foothill Blvd.**

Project: 37 two-story townhomes.

Applicant/Developer: GFR Homes  
Current Status:

- Site clearing permit has been issued.
- In building plan check.



**The Commons | NW Corner of Monte Vista Avenue and Foothill Boulevard.**

Project: Proposed development of residential, mixed-use, and open space on approximately 9.5 gross acres of land with a maximum of 105 dwelling units. The Project site is located in both the Cities of Claremont and Upland on the northwest corner of Foothill Boulevard and Monte Vista Avenue.

Applicant/Developer: Clare Properties LLC  
Current Status:

- Planning entitlements are under review.



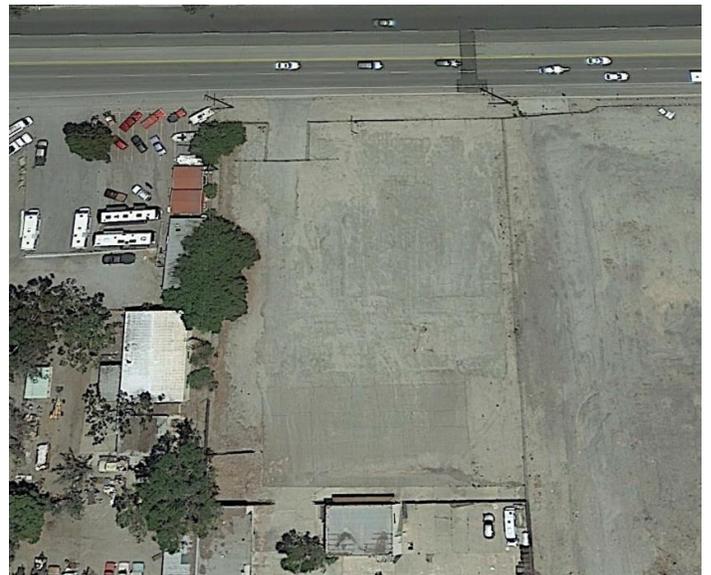
**Industrial Warehouse | 1780 W. Foothill Boulevard.**

Project: Proposal is for an 118,000 square foot concrete tilt-up building.

Applicant/Developer: Oakmont Industrial Group

Current Status:

- Preliminary project design under review.



**CITY COUNCIL DISTRICT NO. 2**

**Ford of Upland | 1300 E. 20<sup>th</sup> Street.**

Project: Construction of a 46,452 square foot auto dealership building with showroom, parts, service, new car delivery, administration building and a quick lane service building on a 5.8-acre site.

Applicant/Developer: John Engelhardt, Ford of Upland

Current Status:

- Planning entitlements have been approved.
- Construction is underway.



**Highline | Campus Ave. & Colonies Parkway.**

Project: 48 three-story townhomes.

Applicant/Developer: Watt Communities  
Current Status:

- Planning entitlements have been approved.
- Under construction.



**Alta Apartments | E. 19<sup>th</sup> Street.**

Project: 203 apartments in 2 four-story buildings.

Applicant/Developer: Wood Partners  
Current Status:

- Planning entitlements have been approved.
- Site preparation work is underway.



**Villa Serena | 15<sup>th</sup> Street, between Fernando Avenue and Monte Verde Avenue.**

Project: 65 detached single-family homes.

Applicant/Developer: Frontier  
Current Status:

- Planning Commission to consider on 12/11/2019.



**The Courtyards at Upland Hills | Upland Hills Drive and E. 16<sup>th</sup> Street.**

Project: 66 detached single-family homes.

Applicant/Developer: Diversified Properties

Current Status:

- Under construction.



**Colonies Condominiums | E. 19<sup>th</sup> Street.**

Project: Proposal is for 60 condominiums in a 7 story structure.

Applicant/Developer: Peter Berger

Current Status:

- Preliminary project design under review.



**Colonies Campus Center | The Colonies at San Antonio Specific Plan Planning Area No. 21**

Project: Proposal for a gas station/car wash, a 4,280 s.f. convenience store with beer and wine sales, and a 1,500 s.f. quick service restaurant. Also, a 9,225 s.f. mixed-use building (retail/food) with a drive-thru.

Applicant/Developer: Ash Etemadian

Current Status:

- Planning entitlements are under review.



## **CITY COUNCIL DISTRICT NO. 3**

### **Lennar at Harvest | W. 11<sup>th</sup> and Dewey Way.**

Project: 147 single-family detached and attached homes.

Applicant/Developer: Lennar  
Current Status:

- Under construction.



### **ECI Fuel Systems | 1794 W. 11<sup>th</sup> Street.**

Project: 2 office/warehouse buildings totaling 44,570 square feet.

Applicant/Developer: ECI Fuel Systems  
Current Status:

- Under construction.



### **Chase Partners | 1704 W. 11<sup>th</sup> Street.**

Project: 2 office/warehouse buildings totaling 56,000 square feet.

Applicant/Developer: Chase Partners  
Current Status:

- Under construction.



**T & T Industrial | 1701 W. 11<sup>th</sup> Street.**

Project: 2 office/warehouse buildings totaling 56,000 square feet.

Applicant/Developer: Francis Wang

Current Status:

- Planning entitlements have been approved.
- Construction permits have been issued.



**Arrow Vista Village | SE Corner of Arrow Route and Monte Vista Avenue.**

Project: 40 apartments.

Applicant/Developer: Hutton Companies

Current Status:

- Under construction.



**Enclave by Lewis Companies | College Heights**

Project: Development of up to 350 dwelling units and 0.83 acres of private recreational and park space on 19.04 acres.

Applicant/Developer: Lewis Companies

Current Status:

- Planning entitlements have been approved.
- Project on hold.



**San Antonio Apartments | San Antonio and 9<sup>th</sup> Street.**

Project: 6 apartments and 1 single-family detached home.

Applicant/Developer: Mario R. Sosa Herrera  
Current Status:

- Planning entitlements have been approved.
- In building plan check.



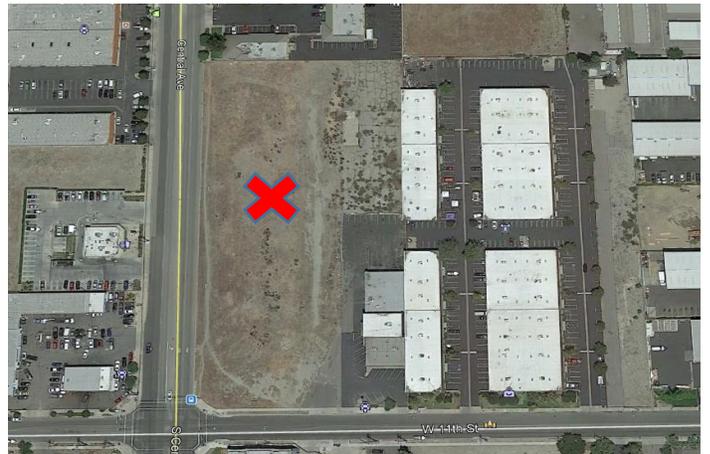
**Upland Central Commerce Center | 1985 W. 11<sup>th</sup> Street.**

Project: 4 industrial buildings totaling 71,384 square feet.

Applicant/Developer: Jennifer Moore  
Realty Group

Current Status:

- Planning entitlements have been approved.
- In building plan check.



**Mountain Green Center | 233 S. Mountain Avenue**

Project: Redevelopment of the northerly portion of the Mountain Green Center where Kohl's was previously located. Proposed uses include a fitness club, gas station/car wash, restaurant and a car wash.

Applicant/Developer: Zurich Financial, LLC  
Current Status:

- Planning entitlements under review.



**Mountain Green Center | 335 S. Mountain Avenue**

Project: Chick-fil-A Restaurant with drive-thru. Site of previous El Torito Mexican Grill.

Applicant/Developer: Kelsey Wu

Current Status:

- Planning entitlements under review.



**CITY COUNCIL DISTRICT NO. 4**

**Medical Office Building | 1100 San Bernardino Road** Project: A two-story, 59,700 square foot medical office building.

Applicant/Developer: San Antonio Regional Hospital

Current Status:

- Construction completed.

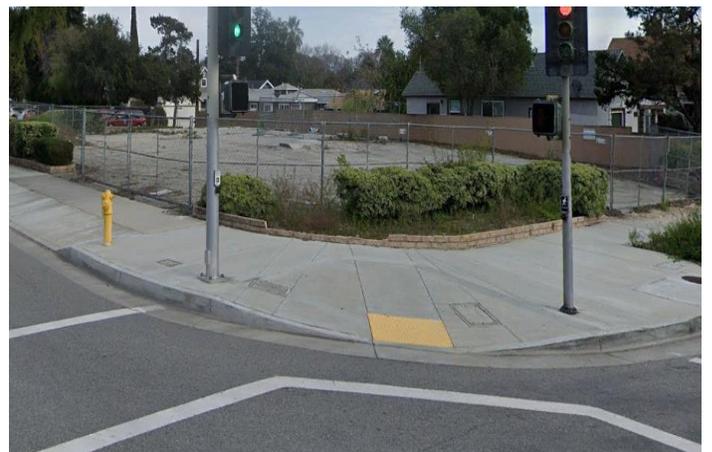


**Firefly Cottage | 234 Arrow Highway** Project: A 2,642 square foot dine-in and take-out restaurant/bakery.

Applicant/Developer: The Firefly Cottage LLC

Current Status:

- Planning entitlements have been approved.
- Building permits have been issued.



**Chevron Gas Station & Mini-Mart | 185 N. Mountain Avenue.**

Project: A 1,482 square foot gas station and mini-mart.

Applicant/Developer: G & M Oil Company  
Current Status:

- Planning entitlements have been approved.
- Under construction.



**Upland Apartments | 13<sup>th</sup> Street and A Street.**

Project: 4 apartments.

Applicant/Developer: Amy Braun AIA  
Current Status:

- Planning entitlements are under review.



**Studio 429 | 222 E. 9<sup>th</sup> Street.**

Project: New restaurant and bar.

Applicant/Developer: Amy Braun AIA

Current Status:

- Tenant improvements.
- In building plan check.



**Mesa Court Apartments | 708 Mesa Court.**

Project: 60 apartments, 2-story units.

Applicant/Developer: Soroush Rahbari, AIA

Current Status:

- Planning entitlements are under review.
- Planning Commission to consider on 12/11/2019.



**Fairytale Castel Daycare | 710 E. Foothill Boulevard.**

Project: Child Day Care Center for up to 120 children.

Applicant/Developer: We Zhao

Current Status:

- Planning entitlements are under review.



**Ridgecrest (Phase 1) | 1337 Bowen Street.**

Project: 49 2-story townhomes.

Applicant/Developer: Upland 3 Acres LLC

Current Status:

- Planning entitlements are approved.
- Building plans have been approved.



**Ridgecrest (Phase 2) | 1337 Bowen Street.**

Project: 26 2-story townhomes.

Applicant/Developer: Upland 3 Acres LLC

Current Status:

- Planning entitlements are under review.



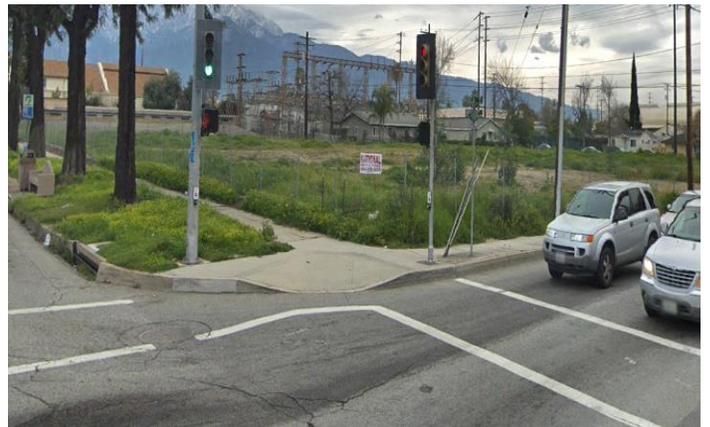
**Tierras Atlas | NE corner of 8<sup>th</sup> and Euclid Avenue.**

Project: 61 apartments, 3-story units.

Applicant/Developer: 8<sup>th</sup> & Euclid Inc. LLC

Current Status:

- Planning Entitlements have expired.
- Applicant is working a new development application.



**11<sup>th</sup> Avenue Apartments | 278 N. 11<sup>th</sup> Avenue.**

Project: 6 apartments, 2-story units.

Applicant/Developer: Salim Samour

Current Status:

- Planning entitlements are approved.
- Building permits have been approved.



**Starbucks | 275 E. Foothill Blvd.**

Project: Drive-thru coffee shop.

Applicant/Developer: Upland Village Center, LLC.

Current Status:

- Planning entitlements are under review.
- Planning Commission to consider on 12/11/2019.



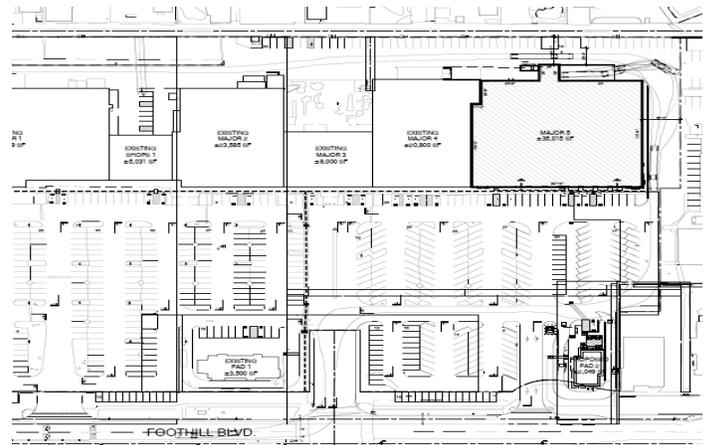
**Supermarket | 229 E. Foothill Blvd**

Project: 35, 000 square foot grocery store.

Applicant/Developer: Upland Village Center, LLC.

Current Status:

- Planning entitlements are under review.
- Planning Commission to consider on 12/11/2019.



**Apartments | 1252 E. 7<sup>th</sup> Street**

Project: 72 apartments/3-story units.

Applicant/Developer: KIVA LLC.

Current Status:

- Planning entitlements are under review.





# STAFF REPORT

**ITEM NO. 14.A.**

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**DATE:** December 9, 2019  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:** ROSEMARY HOERNING, INTERIM CITY MANAGER  
**PREPARED BY:** LONDA BOCK-HELMS, CPA, ACTING ADMINISTRATIVE SERVICES DIRECTOR  
**SUBJECT:** ADMINISTRATIVE SERVICES DEPARTMENT STAFFING LEVELS

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## **RECOMMENDED ACTION**

It is recommended that the City Council approve the addition of one position to the current staffing levels, allowing the Human Resources (HR) Division to hire a permanent full-time administrative assistant.

## **GOAL STATEMENT**

The proposed action supports the City's goal to provide continuous staffing support to the City of Upland during its transitional period with staff changes.

## **BACKGROUND**

The economic downturn beginning in 2008 eventually resulted in a reduction of the HR Division staffing by 2.75 permanent, full-time employees. Currently the Division has three budgeted full-time positions and two part-time positions. The Human Resources division is responsible for all of the personnel related activities and the City's Risk Management (Workers Compensation and General Liability claims management) functions. The current staffing levels are not adequate to appropriately provide the services needed to support the City in these areas.

## **ISSUES/ANALYSIS**

At this time, the Human Resources division has one full-time, filled position. To fill the staffing gap the City is using outside consulting services. However, the use of consultants is only a temporary measure and is not as effective as securing and retaining permanent staff.

Recruitment to fill these division vacancies is in process. The requested additional full-time staff member as an Administrative Assistant would serve to support the existing budgeted personnel and assist in being able to meet the on-going human resource and risk management functions. It also increases the capacity within the work unit reducing the need for consulting services.

### **FISCAL IMPACTS**

In the current fiscal year, the additional cost to the General Fund would be \$21,200; however, the salary savings from the vacant positions will off set these additional costs so no additional appropriations are required at this time. The increase in salary and benefits for this position in subsequent years will not exceed \$43,250 and will be included in the operating budget.

### **ALTERNATIVES**

Provide alternative direction to staff.

### **ATTACHMENTS:**

No Attachments Available



## STAFF REPORT

**ITEM NO. 14.B.**

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**DATE:** December 9, 2019  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:** ROSEMARY HOERNING INTERIM CITY MANAGER  
**PREPARED BY:** ROSEMARY HOERNING, INTERIM CITY COUNCIL  
**SUBJECT:** POTENTIAL ORDINANCE PROHIBITING SMOKING AND VAPING ON PUBLIC PROPERTIES (CITY GROUNDS AND PARKS)

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### **RECOMMENDED ACTION**

It is recommended that the City Council provide direction to the Interim City Manager on whether to prepare modifications to the Upland Municipal Code to prohibit smoking and vaping on public property for future consideration.

### **GOAL STATEMENT**

The proposed action supports the City's goal to encourage and establish a smoke free environment on public properties.

### **BACKGROUND**

This item was placed on the agenda at the request of two City Council Members in order to provide an opportunity for public discussion on this policy matter.

### **ISSUES/ANALYSIS**

Currently the Upland Municipal Code only includes regulation and information regarding smoking establishments as part of the land use entitlement process. This potential new regulation would address smoking and/or vaping on public property. Public property includes all public buildings and grounds, as well as, City parks/trails and other publicly owned spaces. Local agencies may adopt stronger restrictions than the state laws.

State Law prohibits smoking in all state, county and city government buildings, including California community colleges, district buildings, as well as within 20 feet from their main exits, entrances, or operable windows, and in any passenger vehicle owned by the state pursuant to Government Code Section 7596-7597.

State Law also prohibits smoking within 25 feet of a playground, tot lot sandbox, youth sporting event or recreational area specifically designed for use by children, or any similar facilities located on public or private school grounds, or on city, county, or state park grounds pursuant to Health and Safety Code 104495.

### **FISCAL IMPACTS**

There may be some cost to prepare the modifications to the Upland Municipal Code and replace/update the signage to list this smoking prohibition. Any cost related to this issue will be covered by the current operating budget without any additional appropriations.

### **ALTERNATIVES**

Provide alternative direction to staff.

### **ATTACHMENTS:**

**State Smoking Prohibitions Summary**

# California's Statewide Smoke-free Air Laws

## California's Statewide Smoke-free Air Laws

### About the Laws

California has long led the way in adopting strong and innovative smoke-free air laws that protect people from secondhand smoke exposure. These laws protect Californians at most workplaces and in spaces often frequented by children and youth, who are especially vulnerable to the negative health effects of secondhand smoke. California's smoke-free laws include traditional tobacco products such as cigarettes, cigars, and pipes, as well as electronic smoking devices. Certain laws prohibit the use of all tobacco products, including tobacco that is chewed or dissolved.

### Why Smoke-Free Air Laws Matter

Smoking and secondhand smoke cause life threatening diseases. It is estimated that nearly 40,000 Californians die each year from diseases caused by smoking and secondhand smoke exposure. California's smoke-free air laws protect non smokers from the deadly consequences of secondhand smoke exposure and reinforce social behaviors against the habit of smoking, which can encourage people who smoke to quit once and for all. Free help with quitting is available at <https://www.nobutts.org/> or by calling 1-800-NO BUTTS (1-800-662-8887).

### Local Laws May be Stronger

Local jurisdictions have and continue to adopt smoke-free laws that are stronger than state laws. Contact your local tobacco control program to learn more about your municipal smoke-free laws or to report smoking violations. For more information, visit [www.cdph.ca.gov/Tobacco](http://www.cdph.ca.gov/Tobacco)



# California Statewide Smoking Restrictions

## Child/Day Care Centers

### **SMOKING IS PROHIBITED**

Within licensed day care centers, including private residences licensed as family day care homes. (Health and Safety Code Section 1596.795)

## Farmers' Markets

### **SMOKING IS PROHIBITED**

Within 25 feet of the common commerce area of certified farmers' markets. (Health and Safety Code Section 114371)

## Foster and Group Homes

### **SMOKING IS PROHIBITED**

Within a foster or group home, as well as outside the home when children are present. (Health and Safety Code Section 1530.7)

## Government Buildings

### **SMOKING IS PROHIBITED**

In all state, county, and city government buildings, including California community college district buildings, as well as within 20 feet from their main exits, entrances, or operable windows, and in any passenger vehicle owned by the state. (Government Code Section 7596-7597)

## Multi-unit Housing

### **SMOKING IS PROHIBITED**

In apartment and condominium indoor common areas (including hallways, stairwells, laundry rooms and recreation rooms). (Labor Code Section 6404.5) In addition, it is legal for landlords to make all housing they own and manage smoke-free. (Civil Code Section 1947.5)

## Personal Vehicles

### **SMOKING IS PROHIBITED**

When a minor (less than 18 years of age) is present in a motor vehicle that is in motion or at rest. (Health and Safety Code Section 118948)

## Public Transportation

### **SMOKING IS PROHIBITED**

In all public transportation systems and in any vehicle of an entity receiving transit assistance. (Health and Safety Code Section 118925)

## Workplaces

### **SMOKING IS PROHIBITED**

In all indoor workplaces including bars, restaurants, offices, factories and warehouses. Exceptions include long-term health care facilities (which may designate smoking areas for patients), theatrical productions (where smoking is an integral part of the story), and medical research or treatment sites (where smoking is integral to the research or treatment). Cabs of trucks or tractors must be smoke-free when nonsmoking employees are present. All hotel and motel lobbies, common areas, employee-only areas, meeting or banquet rooms, and at least 80% of guest rooms within a hotel must be smoke-free. Smoking is allowed in tobacco shops and in private smokers' lounges, as long as it occurs in an enclosed area in or attached to a retail or wholesale tobacco shop. (Labor Code Section 6404.5)

## Youth Busses

### **SMOKING IS PROHIBITED**

By an operator of a youth bus at all times when operating a youth bus. (Vehicle Code 12523)

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## Correctional Facilities

### **SMOKING AND TOBACCO PRODUCTS ARE PROHIBITED**

In all state correctional facilities. Only possession of tobacco products in Department of Corrections' residential staff housing where inmates are not present is permitted. (Penal Code Section 5030.1)

## Playgrounds, Tot Lots & Youth Sporting Events

### **SMOKING AND TOBACCO PRODUCTS ARE PROHIBITED**

Within 25 feet of a playground, tot lot sandbox, or recreational area specifically designed for use by children, and within 250 feet of a youth sports event, which includes any practice, game, or related activity at which athletes up to 18 years of age are present. (Health and Safety Code 104495)

## Schools (Public & Charter)

### **SMOKING AND TOBACCO PRODUCTS ARE PROHIBITED**

In all school districts, charter schools, and county offices of education, while students attend school-sponsored activities or are under the supervision and control of school employees. Tobacco and nicotine products are prohibited in charter school- or school district-owned or leased buildings, on school or district property, and in school or district vehicles. (Health and Safety Code Sections 104420, 104559; Education Code 48901)



## STAFF REPORT

**ITEM NO. 14.C.**

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**DATE:** December 9, 2019  
**TO:** MAYOR AND CITY COUNCIL  
**FROM:** ROSEMARY HOERNING, INTERIM CITY MANAGER  
**PREPARED BY:** RICHARD SMIDERLE, OPERATIONS MANAGER  
**SUBJECT:** AWARD OF BID FOR PROJECT NO. 7070 AND 7079, CITYWIDE CONCRETE MAINTENANCE PROJECT (BID NO. 2019-04)

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### RECOMMENDED ACTION

It is recommended that the City Council approve the specifications for Project No. 7070 & 7079; award the Citywide Concrete Maintenance Contract to D.M. Contracting Inc. in the amount of \$ 484,550.00; and, authorize a construction contingency of \$75,450.00, for a total amount of \$560,000.00. It is further recommended the City Council authorize two one-year contract extension options subject to annual budget adoption.

### GOAL STATEMENT

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

### BACKGROUND

Project Nos. 7070 & 7079 Citywide Concrete Maintenance improvements consist of replacing damaged sidewalks, curb & gutter, driveway approaches, spandrels, cross gutters, rock cobble curbs and installation of ADA compliant wheelchair ramps at various locations throughout the City. These improvements include customer related repair requests. These projects are included in the adopted Fiscal Year 2019-20 Capital Improvement Program Budget.

On November 1, 2019 & November 8, 2019 City of Upland Operations Staff advertised Requests for Proposals for Citywide Concrete Maintenance, with a submittal deadline of November 20, 2019. On November 13, 2019 City staff conducted a mandatory pre-bid meeting with eight (8) prospective proposers.

## ISSUES/ANALYSIS

On November 20, 2019 City staff received five (5) bids for the Citywide Concrete Maintenance Project, under Bid No. 2019-04, as follows:

<b>BIDDER</b>	<b>BID AMOUNT</b>
TSR Construction & Inspection	\$380,000.00 <b>(1)</b>
D.M. Contracting, Inc.	\$484,550.00
C.J. Concrete Construction, Inc.	\$581,100.00
CT&T Concrete Paving, Inc.	\$596,600.00
Onyx Paving	\$727,000.00

Note: (1) = Contractor was non-responsive due to a failure of attending the specified mandatory pre-bid meeting held on November 13, 2019 at City of Upland Public Works Services Yard.

City staff has reviewed the bid information and confirmed that D.M. Contracting, Inc. of Colton, California, is the lowest responsible and responsive bidder. If awarded by City Council, construction is anticipated to begin in February 2020 and be substantially complete by July 2020, weather permitting.

## FISCAL IMPACTS

The adopted FY 2019-20 budget contains sufficient funds in the below accounts for the proposed Citywide Concrete Maintenance Project:

### Estimated Project Cost

Basic Bid Amount:	\$484,550
Construction Contingency:	<u>\$ 75,450</u>
Total Contract:	\$560,000

### Project Administration & Inspection

Staff Time: \$ 20,000

**Total Project Cost: \$580,000**

### Funding

FY 2019-20 CIP Account No. 204-7070	\$ 280,000
FY 2019-20 CIP Account No. 204-7079	<u>\$ 300,000</u>
Total Project Funding:	\$ 580,000

This project allows staff to address citywide concrete maintenance needs in a timely manner. The two one year contract extension options are subject to sufficient funds in subsequently adopted FY 2020-21 and FY 2021-22 CIP budgets to perform these hot spot maintenance repairs. The unit prices in year two and year three in the bid proposal are reasonable. D.M. Contracting, Inc. is the lowest bidder for the three year maintenance program.

## ALTERNATIVES

1. Reject all bids and authorize staff to re-advertise Project No. 7070 & 7079. The alternative will cause delay of approximately six to eight weeks and incur approximately \$3,000 in re-

advertisement and reproduction expense. Due to a successful bidding process, staff does not recommend this alternative.

2. Provide alternative direction to staff.

**ATTACHMENTS:**

No Attachments Available