



UPLAND CITY COUNCIL
6:30 PM Tree Lighting Ceremony in the Civic Center
Courtyard
AGENDA
November 26, 2018
City Council Chamber

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

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

DISRUPTION OF MEETINGS

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

6:00 PM - Closed Session

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

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

4. CLOSED SESSION

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

Property: APN 0201-201-36

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

Negotiating Parties: City of Upland and Ford of Upland

Under Negotiation: Price and terms

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

Claimant: Thomas Melendrez

Agency: City of Upland

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

Claimant: Kenneth Bonson

Agencies: City of Upland

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

Claimant: Lawrence Latimer

Agencies: City of Upland

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

Claimant: William Diamond

Agencies: City of Upland

7:00 PM

5. INVOCATION

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

6. PLEDGE OF ALLEGIANCE

7. PRESENTATIONS

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

8. CITY ATTORNEY

9. ORAL COMMUNICATIONS

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

five (5) minutes during public hearings. The use of visual aids will be included in the time limit.

10. COUNCIL COMMUNICATIONS

11. CONSENT CALENDAR

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

A. APPROVAL OF WARRANT AND PAYROLL REGISTERS OCTOBER 2018

Approve the October Warrant Registers and Direct Disbursements (check numbers 22485-22936) totaling \$4,914,649.61 and Payroll Registers totaling \$1,183,058.40 (check numbers 160271-160298 and EFTs 11103-11580). (Staff Person: Londa Bock-Helms)

B. APPROVAL OF MINUTES

Approve the Regular Meeting Minutes of November 12, 2018. (Staff Person: Jeannette Vagnozzi)

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

Approve the First Amendment to Agreement for Consulting Services with Interwest Consulting Group, Inc. ("Interwest") and authorize the Acting City Manager to sign. Also, it is recommended that City Council authorize a budget adjustment to reduce building and safety and housing salaries and benefits by \$98,110 and \$55,949 respectively (salary savings for unfilled positions) and increase professional services in both departments by the same amount for the contracted positions. (Staff Person: Steven H. Dukett)

D. RESIGNATION OF PERSONNEL BOARD OF REVIEW MEMBER

Accept the resignation of Marni Bobich, who serves on the Personnel Board of Review. (Staff Person: Jeannette Vagnozzi)

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

Authorize the Acting City Manager to accept and execute Subdivision Improvement Agreement and the accompanying bonds being posted by Lennar Homes. Furthermore, it is also recommended to authorize the Acting City Manager to record Final Map 18274. (Staff Person: Rosemary Hoerning)

F. ACCEPTANCE OF SEWER EASEMENT FOR TRACT 20034

Authorize the Acting City Manager to execute the sewer easement dedication and allow for its recordation. (Staff Person: Rosemary Hoerning)

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

Receive and file the status update. (Staff Person: Rosemary Hoerning)

12. PUBLIC HEARINGS

13. COUNCIL COMMITTEE REPORTS

14. BUSINESS ITEMS

- A. 2018 MILLS ACT CONTRACTS FOR ELEVEN HISTORIC PROPERTIES
Approve the Mills Act contracts for eleven historic properties and authorize the Acting City Manager to execute the documents, subject to review and approval of the Mills Act contracts by the City Attorney. (Staff Person: Joshua Winter)
- B. APPROVAL OF A CITY MANAGER EMPLOYMENT AGREEMENT WITH JEANNETTE VAGNOZZI
Approve a City Manager Employment Agreement with Jeannette Vagnozzi. (Staff person: James L. Markman)
- C. RESOLUTION FOR THE AMENDMENT TO THE PARKING AND BUSINESS IMPROVEMENT AREA ORDINANCES
Adopt the Resolution declaring its intention to amend the Parking and Business Improvement Area Ordinances to reduce the tax levy to zero, set January 14, 2019 at 7:00 PM as the public hearing date to consider such amendment and approve certain related actions. (Staff Person: Steven H. Dukett)
- D. APPROVAL OF A PROPOSED PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS WITH THE POMONA VALLEY HABITAT FOR HUMANITY, INC. WITH RESPECT TO REAL PROPERTY LOCATED AT THE SOUTHWEST CORNER OF WASHINGTON STREET AND 6TH AVENUE (A PORTION OF APN 1046-433-23)
Approve a proposed Purchase and Sale Agreement and Escrow Instructions with the Pomona Valley Habitat for Humanity, Inc. with respect to an 8,090 square foot vacant parcel of real property located at the southwest corner of Washington Street and 6th Avenue (a portion of APN 1046-433-23) and authorize the Acting City Manager to execute said Agreement and make ministerial changes if required. (Staff Person: Liz Chavez)

15. ORAL COMMUNICATIONS

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

16. CITY MANAGER

17. ADJOURNMENT

The next regularly scheduled City Council meeting is Monday, December 10, 2018.

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

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

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

POSTING STATEMENT: On November 21, 2018 a true and correct copy of this agenda was posted on the bulletin boards at 450 N. Euclid Avenue (Upland Public Library) and 460 N. Euclid Avenue (Upland City Hall).

**MINUTES OF THE REGULAR MEETING OF THE
UPLAND CITY COUNCIL
NOVEMBER 12, 2018**

OPENING

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

1. ROLL CALL

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

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

2. ADDITIONS/DELETIONS TO AGENDA None

3. ORAL COMMUNICATIONS None

4. CLOSED SESSION

At 6:01 p.m. Mayor Stone announced the City Council would recess to Closed Session pursuant to Government Code Section

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

Property: APN 0201-201-36

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

Negotiating Parties: City of Upland and Ford of Upland

Under Negotiation: Price and terms

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

5. INVOCATION Faheem Ahmed, Ahmadiyya Muslim Community

6. PLEDGE OF ALLEGIANCE Acting City Manager Vagnozzi

7. PRESENTATIONS

Police Chief Goodman presented badges to Officer Paul Song, Detective Randall Layne, Detective Richard Madrid, and Detective Nick Peelman.

Police Chief Goodman presented Lifesaving Awards to Brenda De La Torre and Gabriel Santana.

8. CITY ATTORNEY

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

9. ORAL COMMUNICATIONS

April Flores, Upland City Employees Association, spoke regarding the retirement plan agreement and stated there was a lack of communication with staff.

Natasha Walton, Upland, spoke about lighting issues affecting residents near the Upland YMCA.

10. COUNCIL COMMUNICATIONS

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

11. CONSENT CALENDAR

Councilmember Timm removed Consent Calendar Item 11C, Councilmember Filippi removed Consent Calendar Item 11D, and Councilmember Elliott removed Consent Calendar Item 11F for separate action. Motion by Councilmember Filippi to approve the remainder of the Consent Calendar, seconded by Councilmember Timm and carried unanimously.

A. APPROVAL OF MINUTES

Approved the Regular Meeting Minutes of October 22, 2018.

B. TREASURER'S REPORT SEPTEMBER 2018

Received and filed the September 2018 Treasurer's Report.

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

Received and filed the status update.

G. APPROVAL OF BOND REDUCTION FOR SPANISH TRAILS DEVELOPMENT, TRACT 20017

Approved the reduction of the private Faithful Performance Bond to twenty-five percent (25%) for Tract 20017.

H. ADOPT A RESOLUTION TO DISSOLVE THE CORRIDOR DESIGN AUTHORITY (210 FOOTHILL FREEWAY) JOINT POWERS AUTHORITY

Adopted Resolution No. 6473 dissolving the Corridor Design Authority (210 Foothill Freeway) Joint Powers Authority and terminating the Authority's Joint Exercise of Powers Agreement.

ITEMS REMOVED FOR SEPARATE ACTION

C. LIEN SALES SERVICE AGREEMENT

Sgt. Duran presented the staff report, which is on file in the City Clerk's office.

There was discussion on the length of time that cars are held in impound before being sold and the RFP process for the services.

Motion by Councilmember Timm to approve a contract with Good Faith Lien Services for services related to the sale of vehicles impounded/stored at the Police Department impound lot, and authorize the Acting City Manager to execute the agreement, seconded by Councilmember Elliott, and carried unanimously.

D. TOW SERVICES AGREEMENT

Councilmember Filippi announced he would abstain from voting on this item.

Motion by Councilmember Robinson to approve a contract with Steve's Towing and Mr. T's Towing for police towing services, and authorize the Acting City Manager to execute the agreements, seconded by Councilmember Timm, and carried with Councilmember Filippi abstaining.

F. APPOINTMENT OF PLANNING COMMISSIONER

Motion by Councilmember Elliot to table this item until after the new Councilmembers are sworn in, there being no second, the motion failed.

Motion by Councilmember Filippi to ratify the Mayor's appointment of Linden Brouse to the Planning Commission, term expiring June 2019, seconded by Councilmember Robinson, and carried with Councilmember Elliott opposed.

12. PUBLIC HEARINGS

13. COUNCIL COMMITTEE REPORTS

A. SPECIAL INVESTMENTS COMMITTEE MEETING, OCTOBER 24, 2018

Treasurer Kinley was not present to provide a report from the meeting so Councilmember Robinson provided the information, which is on file in the City Clerk's Office. This was for information only and no action was required.

14. BUSINESS ITEMS

A. LEASE AMENDMENT WITH SCHEU FAMILY YMCA OF UPLAND, AQUATIC CENTER

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

There was discussion on the term of the lease, the current Tiny Tots Program location, and lighting issues for residents in the area.

West End YMCA CEO Damon Colaluca answered Council's questions regarding transportation for seniors, lighting at the facility, and scholarships provided to the community.

Motion by Councilmember Timm to authorize the Acting City Manager to execute an amendment to the lease Agreement, executed August 08, 2016,

with the West End YMCA pertaining to property located at 1150 East Foothill Boulevard, seconded by Councilmember Elliott, and carried unanimously.

- B. APPROVE THE TRANSITION OF THE CURRENT 457(b) AND 401(a) PLANS FROM RECORDKEEPER AND APPROVE AN AGREEMENT WITH SFG RETIREMENT PLAN CONSULTING, LLC FOR INVESTMENT ADVISOR AND FIDUCIARY SERVICES

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

There was discussion on the benefits of switching plan providers, outreach to employees and retirees, and the blackout period during the transition.

Motion by Councilmember Timm to authorize the transition of the current ICMA-RC 457(b) and 401(a) plans to Mass Mutual effective January 11, 2019; authorize the Acting City Manager to execute the necessary agreements in regards to the transition; and authorize the Acting City Manager to enter into an Agreement between the City of Upland and SFG Retirement Plan Consulting, LLC as the plan consultant, investment advisor, and fiduciary of the City's 457(b) and 401(a) plans, seconded by Councilmember Filippi, and carried unanimously.

15. ORAL COMMUNICATION (items not on the agenda)

Paul Trawnik, Upland, commented on the recent General Municipal Election campaign mailers and thanked the outgoing Councilmembers.

David Moore, President of Historic Downtown Upland merchants group, announced an upcoming event in downtown Upland.

David Wade, Upland, requested the Council annul the censure of Councilmember Elliott and stated he was collecting signatures on a petition requesting this action.

Marjorie Mikels, Upland, commented on the court case regarding Upland Memorial Park sale of land.

Steve Bierbaum, Upland, thanked public works for street repairs in his neighborhood and commented on the Homeless Emergency Aid Program.

Linda Trawnik, Upland, commented on the recent General Municipal Election campaign and thanked the outgoing Councilmembers.

16. CITY MANAGER None

17. ADJOURNMENT

Mayor Stone adjourned the meeting at 8:29 p.m. The next regularly scheduled City Council meeting is Monday, November 26, 2018.

SUBMITTED BY


Keri Johnson, Deputy City Clerk

APPROVED

November 26, 2018



STAFF REPORT

ITEM NO. 11.C.

DATE: November 26, 2018
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, ACTING CITY MANAGER
PREPARED BY: STEVEN H. DUKETT, DEVELOPMENT SERVICES CONSULTANT
SUBJECT: FIRST AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES WITH INTERWEST CONSULTING GROUP, INC.

RECOMMENDED ACTION

It is recommended that the City Council approve the First Amendment to Agreement for Consulting Services with Interwest Consulting Group, Inc. ("Interwest") and authorize the Acting City Manager to sign. Also, it is recommended that City Council authorize a budget adjustment to reduce building and safety and housing salaries and benefits by \$98,110 and \$55,949 respectively (salary savings for unfilled positions) and increase professional services in both departments by the same amount for the contracted positions.

GOAL STATEMENT

The proposed action supports the City's goal to provide timely customer service and ensure an expedited development review process.

BACKGROUND

The City and Interwest previously entered into an original Agreement for Professional Consultant Services dated July 1, 2017 (the "Original Agreement") for the service delivery period of July 1, 2017 through July 1, 2020 (the "Term"). Pursuant to the Original Agreement, during the Term Interwest is to provide a variety of professional services tasks in support of the City's Development Services Department primarily related to Building Official, Building Plan Check, Building Inspection and Permit Technician related activities, as defined within Exhibit "A" to the Original Agreement.

At the time the Original Agreement was approved, the staff report presenting the Original Agreement indicated that during its three-year term Interwest's costs will not exceed \$250,000 per fiscal year or a total of \$750,000 over three years; however, the Original

Agreement wording limited the contract to \$250,000 for the three year period. Interwest's services and charges are provided on an as-needed basis in response to the demand for such services and may fluctuate from time to time.

ISSUES/ANALYSIS

Based on the current demand for Interwest's services, it is anticipated that the initial contract not to exceed amount will approximately cover the Consultant's charges for services during the first 18 months of the Original Agreement. To ensure that Interwest's services continue uninterrupted, it is necessary to amend the Original Agreement to increase the not to exceed amount to \$750,000 over the Original Agreement's three-year term and consistent with the staff report presenting the Original Agreement.

Interwest's assigned staff members continue to provide services to the Development Services Department in a thorough and professional manner and significantly contribute to the Department's ability to serve its customers.

FISCAL IMPACTS

The proposed contract amendment with Interwest will not exceed \$250,000 annually. A budget adjustment reducing building and safety and housing salaries and benefits and by \$98,110 and \$55,949 respectively and increasing both department's professional services account by the same amount is necessary. Of this amount, 100% of the cost is off-set by plan check fees to the General Fund, paid by Developers and the public.

In addition, the Fiscal Year 2018-19 budget for the Development Services Department anticipates Interwest's contract amount, so no additional appropriations are necessary.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

First Amendment to Agreement for Consulting Services with Interwest Consulting Group, Inc.
Interwest Agreement

**FIRST AMENDMENT TO
AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES
BETWEEN THE
THE CITY OF UPLAND
AND
INTEREST CONSULTANTING GROUP, INC.**

THIS FIRST AMENDMENT TO AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES (the “First Amended Agreement”) is made as of the 26th day of November 2018, by and between the City of Upland (the "City"), and Interwest Consulting Group, Inc., a Colorado corporation (the "Consultant"). Collectively, City and Consultant are referred to herein as the “Parties”.

WITNESSETH THAT:

WHEREAS, City and Consultant previously entered into an original Agreement for Professional Consultant Services dated July 1, 2017 (the “Original Agreement”) for the service delivery period of July 1, 2017 through July 1, 2020 (the “Term”); and

WHEREAS, pursuant to the Original Agreement, during the Term the Consultant is to provide a variety of professional services tasks in support of the City’s Development Services Department primarily related to Building Official, Building Plan Check, Building Inspection and Permit Technician related activities, as defined within Exhibit “A” to the Original Agreement; and

WHEREAS, at the time the Original Agreement was approved, the staff report presenting the Original Agreement indicated that during its three-year term the Consultant’s costs will not exceed \$250,000 per fiscal year or a total of \$750,000 over three years; however, the Original Agreement only included a \$250,000 funding authorization (the “Initial Funding Authorization”); and

WHEREAS, the Consultant’s services and charges are provided on an as-needed basis in response to the demand for such services and may fluctuate from time to time; and

WHEREAS, based on the current demand for the Consultant’s services, it is anticipated that the Initial Funding Authorization will approximately cover the Consultant’s charges for services during the first 18 months of the Original Agreement (i.e., through December 2018); and

WHEREAS, to ensure that the Consultant’s services continue on an uninterrupted basis, it is necessary to amend the Original Agreement to authorize up to \$750,000-worth of Consultant’s services over the Original Agreement’s three-year term consistent with the staff report presenting the Original Agreement; and

WHEREAS, the Consultant's assigned staff members continue to provide services to the Development Services Department in a thorough and professional manner and significantly contribute to the Department's ability to serve its customers; and

WHEREAS, it is necessary to amend the Original Agreement to provide for a three-year funding program for Consultant's services; and

WHEREAS, Consultant's costs are included with City's FY 2018-19 budget; and

WHEREAS, it now becomes necessary to amend said Agreement and the Parties are desirous of such amendment.

NOW, THEREFORE, in consideration of the mutual undertakings herein, the Parties amend the Agreement as follows:

1. On page one (1), within the Section entitled "PAYMENT", Subsection a. is amended in its entirety as follows:
 - a. The City agrees to pay Consultant monthly, in accordance with the payment rate and terms and the schedule of payment as set form in the amended Exhibit "B" to the Original Agreement, Payment Rates and Schedule, based on actual time spent on the professional services tasks as defined in Exhibit "A" to the Original Agreement. The total amount payable to Consultant for its professional services tasks during the Term shall not exceed a total of \$750,000 (the "Fiscal Limit") unless specifically authorized by the City Council. Further, it is estimated that the Fiscal Limit will be divided equally among the three fiscal years during the Term and not be exceeded, unless specifically authorized by the City Manager, or designee.
2. All remaining provisions of the Original Agreement shall remain the same.

(Signatures on Following Page)

IN WITNESS WHEREOF, the City and Consultant have approved this First Amended Agreement effective the day and year first above written.

CITY:

City of Upland

CONSULTANT:

Interwest Consulting Group, Inc.

By: _____
Jeannette Vagnozzi
Acting City Manager

By: _____
Terry J. Rodrigue,
President

ATTEST:

By: _____
Keri Johnson
Deputy City Clerk

APPROVED AS TO FORM:

By: _____
James L. Markman
City Attorney

**AGREEMENT
FOR PROFESSIONAL CONSULTANT SERVICES
INTERWEST CONSULTANT GROUP**

THIS AGREEMENT is made and effective as of July 1st 2017, between the City of Upland, a municipal corporation ("City") and Interwest Consulting Group ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **TERM.** This Agreement shall commence on July 1, 2017, and shall remain and continue in effect until tasks described herein are completed, but in no event later than July 1, 2020, unless sooner terminated pursuant to the provisions of this Agreement. The City may, upon mutual agreement, extend the contract for two, one year additional terms, if contract is extended beyond the original term, contract price shall be adjusted at the beginning of each calendar year in accordance with the charges in the Consumer Price Index for all Urban Consumers in the Los Angeles-Anaheim-Riverside Area published monthly by the U. S. Bureau of Labor Statistics (CPI).

2. **SERVICES.** Consultant shall perform the services and tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A.

3. **PERFORMANCE.** Consultant shall at all time faithfully, competently and to the best of his or her ability, experience, and talent, perform all tasks described herein. Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement.

PAYMENT.

a. The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, Payment Rates and Schedule, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. Any terms in Exhibit B other than the scope of work to be performed, payment rates and schedule of payment are null and void. This amount shall not exceed \$250,000.00, for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

b. Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services.

The City Manager may approve additional work up to ten percent (10%) of the amount of the Agreement or fifty thousand dollars (\$50,000.00).

c. Consultant will submit invoices monthly for actual services performed. Invoices shall be submitted between the first and fifteenth business day of each month, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of consultant's fees it shall give written

notice to Consultant within 30 days of receipt of a invoice of any disputed fees set forth on the invoice.

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE.

a. The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the consultant at least ten (10) days' prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

b. In the event this Agreement is terminated pursuant to this Section, the City shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the City pursuant to Section 4.

7. DEFAULT OF CONSULTANT.

a. The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

b. If the City Manager or his delegate determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, it shall serve the Consultant with written notice of the default. The Consultant shall have (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

8. OWNERSHIP OF DOCUMENTS.

a. Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to such books and records, shall give City the right to examine and audit said books and records, shall permit City to make transcripts there from as necessary, and shall allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

b. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files containing data generated for the work, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and

may be used, reused or otherwise disposed of by the City without the permission of the Consultant. With respect to computer files containing data generated for the work, Consultant shall make available to the City, upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

9. INDEMNIFICATION.

a. The Consultant agrees to defend, indemnify, protect and hold harmless the City, its officers, officials, employees and volunteers from and against any and all claims, demands, losses, defense costs or expenses, including attorney fees and expert witness fees, or liability of any kind or nature which the City, its officers, agents and employees may sustain or incur or which may be imposed upon them for injury to or death of persons, or damage to property arising out of Consultant's negligent or wrongful acts or omissions arising out of or in any way related to the performance or non-performance of this Agreement, excepting only liability arising out of the negligence of the City.

b. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which City might require.

10. INSURANCE REQUIREMENTS. Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

a. Minimum Scope of Insurance. Coverage shall be at least as broad as:

- (1) Insurance Services Office Commercial General Liability form No. CG 00 01 11 85 or 88.
- (2) Insurance Services Office Business Auto Coverage form CA 00 01 06 92 covering Automobile Liability, code 1 (any auto). If the Consultant owns no automobiles, a non-owned auto endorsement to the General Liability policy described above is acceptable.
- (3) Worker's Compensation insurance as required by the State of California and Employer's Liability Insurance. If the Consultant has no employees while performing under this Agreement, worker's compensation insurance is not required, but Consultant shall execute a declaration that it has no employees.
- (4) Professional Liability Insurance shall be written on a policy form providing professional liability for the Consultant's profession.

b. Minimum Limits of Insurance. Consultant shall maintain limits no less than:

- (1) General Liability: One million dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

- (2) Automobile Liability: One million dollars (\$1,000,000) per accident for bodily injury and property damage.
- (3) Worker's Compensation as required by the State of California; Employer's Liability: One million dollars (\$1,000,000) per accident for bodily injury or disease.
- (4) Professional Liability coverage: Two million (\$2,000,000) per claim and in aggregate.

c. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City Manager. At the option of the City Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

d. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- (1) The City, its officers, officials, employees and volunteers are to be covered as insured's as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.
- (2) For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insured maintained by the City, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
- (3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees or volunteers.
- (4) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- (5) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

e. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VIII, and admitted and licensed to do business in the State of California, unless otherwise acceptable to the City. Self insurance shall not be considered to comply with these insurance requirements.

f. Verification of Coverage. Consultant shall furnish the City with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City before work commences. As an alternative to the City's forms, the Consultant's insurer may provide complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.

11. INDEPENDENT CONTRACTOR.

a. Consultant is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officers, employees, agents, or volunteers shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation or liability whatever against City, or bind City in any manner.

b. No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

c. PERS Eligibility Indemnification: In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

12. LEGAL RESPONSIBILITIES. The Consultant shall keep itself informed of all local, State and Federal ordinances, laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. Consultant is responsible for compliance with the Patient Protection and Affordable Care Act (2010), and City shall not be obligated to provide any health care coverage to Consultant. The Consultant shall at all times observe and comply with all such ordinances, laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this section.

13. RELEASE OF INFORMATION.

a. All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written

authorization. Consultant, its officers, employees, agents or subcontractors, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

b. Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

14. NOTICES. Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by Notice. Notice shall be effective upon delivery to the addresses specified below or on the third business day following deposit with the document delivery service or United States Mail as provided above.

To City: City of Upland
Mailing Address:
P.O. Box 460
Upland, California 91785
460 North Euclid Avenue
Upland, California 91785
Attention: City Manager

To Consultant: ***Interwest Consulting Group***
Mailing Address:
15140 Transistor Lane
Huntington Beach, CA 92649
Attn: Ron Beehler, SE, CBO, Director

15. ASSIGNMENT. The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City. Upon termination of this Agreement, Consultant's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the City Council and the Consultant.

16. LICENSES. At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

17. GOVERNING LAW. The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties

to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with geographic jurisdiction over the City of Upland. In the event such litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court's judgment, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

18. PROHIBITED INTEREST. No officer, or employee of the City of Upland shall have any financial interest, direct or indirect, in this Agreement, the proceeds thereof, the Consultant, or Consultant's sub-contractors for this project, during his/her tenure or for one year thereafter. The Consultant hereby warrants and represents to the City that no officer or employee of the City of Upland has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, or in the business of the Consultant or Consultant's sub-contractors on this project. Consultant further agrees to notify the City in the event any such interest is discovered whether or not such interest is prohibited by law or this Agreement.

19. ENTIRE AGREEMENT. This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

20. AUTHORITY TO EXECUTE THIS AGREEMENT. The person or persons executing this Agreement on behalf of Consultant warrants and represents that he or she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

21. SEVERABILITY. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

22. WAIVER. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

23. CONSTRUCTION. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

24. COSTS. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

25. **RESPONSIBILITY FOR ERRORS.** Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

26. **ATTORNEYS' FEES.** In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY OF UPLAND



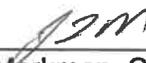
Martin Thouvenell, Interim City Manager

Attest:



Jeannette Vagnozzi, City Clerk

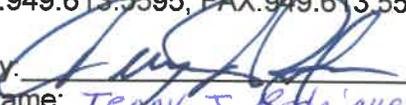
Approved As to Form:



James Markman, City Attorney

CONSULTANT

Interwest Consulting Group
15140 Transistor Lane
Huntington Beach, CA 92649
P:949.613.5595, FAX:949.613.5595

By: 

Name: Terry J. Rodrigue
Title: President

By: 

Name: Debra Thorson
Title: CFO

(Two Signatures of Corporate Officers Required For Corporations)

EXHIBIT A

TASKS TO BE PERFORMED

The specific elements (scope of work) of this service include:

SCOPE OF SERVICES

We understand the City desires to retain a qualified firm to provide a variety of building services to support new development projects and special programs in the City of Upland. Our proposal is being submitted to provide all of the services requested which include:

- Building Official
- Building Plan Check
- Building Inspection
- Permit Technician

Services will be provided as needed to support and supplement your existing staff. All services will maintain a high level of customer service to the community, support the efficiency within the department and provide quick plan check turn around times.

Interwest Consulting Group has a proven track record providing Building & Safety to jurisdictions throughout the State of California under the same arrangement. Interwest has the experience to and is proposing to provide all the services required. Interwest is prepared to continue serving the City of Upland by providing Building and Safety services. The proposed team is comprised of highly experienced, customer-service oriented professionals who have successfully served our client jurisdictions.

We view our role and mission is to provide the following:

- ✓ A team of professionals with high-level experience and skills in successful management of building department services, staff with a customer service focus and thorough knowledge of building department policies and procedures, and promoting cooperation and partnership with other City departments and outside agencies
- ✓ Qualified and seasoned Building Official
- ✓ Licensed Plan Review Engineers and/or ICC certified Plans Examiners for thorough and timely plan reviews to ensure compliance to all Building Laws of the City and State
- ✓ Certified Building Inspector(s) with broad experience in jurisdictional procedures and the highest commitment to customer service
- ✓ Customer service minded Permit Technician
- ✓ Attend any required meetings related to plan review or field inspection of projects
- ✓ Services in a cost-effective manner that remains within the City's budget constraints

BUILDING OFFICIAL SERVICES

We have reviewed and are very familiar with the specific services to be performed by the building official including, but not limited to the following:

- ✓ Serve as the City's Building Official, on-site, as needed

- ✓ Provide recommendations for improvements to plan check routing, tracking system, inspection procedures and improvements/modifications to expired permit procedures
- ✓ Deliver building code updates and adoption
- ✓ Assure resolution to resident inquires and complaints
- ✓ Building Official Administration
- ✓ Prepare Conditions of Approval & review standard conditions of approval and update, as needed
- ✓ Maintain the Building and Safety procedure manual
- ✓ Compile monthly reporting of building and safety activities and annual reporting
- ✓ Adjust staffing levels to ensure that all established service timeframes are met

PLAN CHECK SERVICES

Today's fast-paced marketplace demands projects flow quickly and smoothly through the regulatory approval process. We fully understand this critical component. You'll find our people are ready to assist with solutions and recommendations that are specific to your needs.

Plan Check Services include the following elements:

- ✓ Plan review of residential, commercial and industrial buildings and structures for compliance with the adopted version of the California Building Code, Mechanical, Plumbing, Electrical, CASp, Title24, Americans with Disabilities Act, LEED, Green Building, Fire, and all other state mandated ordinances and codes.
- ✓ Our staff will conduct accelerated plan review on as as-needed basis as requested by the City.
- ✓ We have several staff members who are CASp certified and who will be made available as needed.
- ✓ We will maintain records related to all plans, calculation and documents received. We will provide, in the City's approved format, a complete list of plan check comments referring to appropriate sheets, details or calculations pages and the code section of concern. Plan review lists shall bear the stamp and signature of a licensed engineer when required.
- ✓ A designated staff member will be available during counter hours and all phone calls will be returned the same day.
- ✓ Plan checkers will also be available during work hours to discuss and clarify plan check issues with designers, owners and contractors. Resolution of code issues may be by telephone, or meetings prior to resubmitting corrected plans and documents.
- ✓ Plan checkers will attend all required meetings as directed by the City.
- ✓ We will submit accurate and timely reporting on the activities to the City in the format approved by the City.
- ✓ All plans will be picked up within 24 hours upon notification and delivered back to the city at no cost to the City.
- ✓ Maintain a high level of customer service to the community.

Code Interpretations

Code interpretations are subject to final review and approval by the Building Official and or City designated staff. Interwest Consulting Group's engineers and plans examiners will provide unbiased recommendations and background information to help the Building Official make an informed decision. All plan review comments are

subject to review and approval by the Building Department.

Communicating Plan Check Results

Plan reviews will consist of written comments and redlined plans (1 copy). Comments and redlined plans or approval/denial letter and 1 set of plans will be returned to the City after each review is completed.

Specifically, plan reviews, when not immediately approved, will result in lists of comments referring to specific details and drawings, and referencing applicable code sections. Interwest Consulting Group will provide a clear, concise, and thorough document (i.e., comment list) from which clients, designers, contractors, and owners can work. Comment lists are delivered to our clients and other designated recipients (e.g., designers, contractors, owners) via email, FAX, and/or reliable overland carrier. If requested, Interwest Consulting Group will transmit plan review comments and coordinate re-checks directly to the applicant as required and completed plan review documents ready for approval will be returned to the City for final approval.

On-Site Consultant Services & Meeting Attendance

Interwest Consulting Group has a full-time staff of experienced plan reviewers and licensed architects, structural and civil engineers available to perform on-site plan review. We understand the City may require the services of an onsite plan reviewer from time to time. Also, many of our inspection personnel are cross-trained and skilled in performing both front counter and inspection duties as a potential added cost-savings to the City. In addition, staff is available for pre-construction or pre-design meetings, field visits, contacts with the design team, and support for field inspection personnel as needed. With some reasonable limitations, pre-construction and pre-design meetings associated with projects that we plan review are considered part of the plan review service.

Electronic Plan Check Services

Interwest Consulting Group currently provides electronic plan review services for multiple jurisdictions throughout California and we are prepared to provide electronic plan check for the City of Upland.

More and more jurisdictions are seeing the benefits of electronic permit and plan check, especially for large, complex projects. Electronic plan check services delivers many benefits to cities, including substantially improved turnaround times; instantaneous comments to the developer, applicant or architect; secured accessibility to documents; and reduced paper storage. Our staff is experienced providing electronic plan review and can work closely with the City on any electronic plan check software program that is utilized. Our goal is always to collaborate with and support the building department by providing thorough, accurate and timely plan reviews.

We have found the jurisdictions with whom we work, including their respective customers, have a wide range of needs and goals regarding electronic plan review and permitting services. We have worked with some clients to develop electronic plan review systems utilizing several open market software applications and hosting sites available. For cities that do not utilize electronic plan check or perhaps have primarily light commercial and residential development, we have a simple-to-use and secure FTP site that allows the Applicant to upload digital content directly to our staff

Plan Check Tracking Method & Billing Process

Our staff has experience working with most project tracking databases utilized by building departments. Our staff will update electronic records and make project related database entries as directed by the City.

We will create and maintain a Jurisdiction File containing our research on any unique amendments or specifications required by your jurisdiction, billing arrangements, contact information and any special requests you would like us to keep in mind.

Interwest Consulting Group uses a custom-designed database to maintain and track all plans throughout the

review process from the moment you request a pick-up and/or shipment to delivery of the final, approved documents. Information such as project name, City's project number, assigned plan reviewer(s), date documents were received, plan check cycle and completion date for current review can be provided. In addition to standard phone communication, custom reports can be emailed

In addition, we can provide online tracking for the City with a custom-designed web template geared to provide any reporting and information needs required.

Our staff is available during standard business hours to answer questions via phone or email regarding the actual plan check in progress. We maintain active email accounts and our staff will be responsive to any City or applicant needs. If we cannot speak directly to a caller, we will return calls no later than 24 hours.

Technical Capabilities

The Interwest staff members selected for this project possess significant technical capabilities in all of the requested areas of plan check competence. The appendix includes individual staff resumes and a summary of additional staff capabilities.

Maximum Turnaround Times

TYPE OF JOB	EXPECTED TURNAROUND TIME		EXPEDITED REQUEST
	FIRST CHECK	RECHECK	
RESIDENTIAL			
New Construction	10 working days	5 working days	5 working days
Addition	10 working days	5 working days	5 working days
Remodel	10 working days	5 working days	5 working days
COMMERCIAL			
New Construction	10 working days	5 working days	5 working days
Addition	10 working days	5 working days	5 working days
Remodel	10 working days	5 working days	5 working days

BUILDING INSPECTION SERVICES

Interwest Consulting Group tailors inspection services to the particular needs of each client with special attention to providing competent, consistent service at all levels—at all times. We handpick our candidates and identify skill levels required to best match the City's inspection goals and philosophy. All Interwest Consulting Group inspectors are ICC certified.

Interwest staff has performed inspection services on a wide variety of construction projects including custom homes, large residential developments, and commercial, institutional and essential service buildings. We provide valuable experience gained through successful work with government clients throughout California. This clear understanding of the construction process enables our people to quickly identify and resolve problems both in the office and in the field.

Assigned staff will perform continuous or periodic construction inspections to verify that the work of construction is in conformance with the approved project plans as well as identifying issues of non-compliance with applicable building codes. Many of our inspector candidates can provide dual plan check and inspector services for our clients. When necessary for large or fast-track projects, multiple inspectors are available.

Staff assigned will contact the Building Official for interpretations, local ordinances, local preferences, alternate materials and exceptions/alternates to the model codes. They will report directly to the jurisdiction Building Official or other person designated for all project-related work. Items, if any, which cannot be resolved between the project inspectors and contractors, will be forwarded to the Building Official for final resolution.

Inspection personnel assigned will be able to read, understand and interpret construction plans, truss drawings and calculations, prepare and maintain accurate records and reports, communicate effectively orally and in writing and to work effectively with contractors, the public and general staff. Inspectors will possess knowledge of approved and modern methods, materials, tools and safety used in building inspection and the most current building standards.

Services include, but are not limited to:

- ✓ Perform all necessary building inspections in a timely and courteous manner.
- ✓ Resolve code interpretation issues in the field.
- ✓ Enforce compliance with the conditions of approval, provisions of your jurisdiction's ordinances and the code requirements set forth on the plans for which a permit was issued.
- ✓ Observe each project at the completion of the various stages of construction for compliance with the appropriate building code; state disabled access and energy regulations.
- ✓ Identify issues of non-compliance with applicable building codes.
- ✓ Ensure that adequate records are maintained for all building inspection activities.
- ✓ Administrative duties including but not limited to scheduling of inspections and record keeping.
- ✓ Coordinate with the Code Enforcement Officer on building code violations.
- ✓ Coordinate with Public Works Inspectors on matters involving public water, sewer, storm drainage and street improvements.

Integration with City Staff and Departments

As municipal consultants to many jurisdictions, Interwest staff is highly adaptive to all processes and procedures and quickly and seamlessly assimilates to your specialized requirements. All personnel are cross-

trained in municipal operations to successfully bridge across departments and are accustomed to partnering, assisting, and coordinating with Planning, Public Works, Code Enforcement and other vital City staff and departments.

Inspection Schedule

Interwest Consulting Group inspectors are familiar with a multitude of jurisdictional scheduling and tracking systems and can quickly adapt to City requirements. Inspectors will provide inspections for all inspection requests received. Emergency inspections (usually requests that pertain to a serious or urgent life/safety issue) can be provided as they are needed; nights, weekends and holidays. Many of our inspectors are also available to serve at the public counter when needed.

Tools & Equipment

Interwest Consulting Group provides all vehicles, fuel maintenance, and other equipment necessary for inspectors to carry out duties.

PERMIT TECHNICIAN SERVICES

Interwest Consulting Group will furnish exceptionally qualified personnel as required for the City's front counter. All staff operates as an extension of the City's team, understands the importance of exemplary customer service, are knowledgeable on the inner-workings of building departments, and are thoroughly familiar with the building application and permit process.

Our permit technicians are familiar with a multitude of jurisdictional scheduling and tracking systems and can quickly adapt to City requirements. Many of our staff are also dual-role employees and can serve as both inspection and front counter support. Personnel work collaboratively with applicants and have a "can do" attitude to help resolve issues and minimize anxiety for applicants.

Qualified candidates will be presented for City approval. Permit Technician personnel can provide the following, but are not limited to:

- ✓ Full-Service Front Counter Support
- ✓ Permit Processing and Issuance
- ✓ Assist with Inspection and Plan Review Procedures
- ✓ Respond to Resident Inquiries
- ✓ Process Public Record Requests
- ✓ Update Reports to Outside Agencies
- ✓ Prepare Statistical Reports
- ✓ Maintain Records/Storage/Imaging

EXHIBIT B

PAYMENT RATES AND SCHEDULE

PART I – BUILDING & SAFETY SERVICES BASED ON HOURLY FEE STRUCTURE

Certified Classification	Hourly Rate
Deputy Building Official	\$ 98
Building Official	115
Permit Technician I	45
Permit Technician II	52
Permit Technician III	60
Plan Check Specialist I	77
Plan Check Specialist II	87
Plan Check Specialist III	98
Plan Check Engineer	110
Senior Plan Check Engineer	115
Structural Plan Check Engineer	125
Building Inspector I	70
Building Inspector II	78
Building Inspector III	85
CASp Specialist	100

Rates are typically reviewed yearly on July 1 and may be subject to revision unless under specific contract obligations. Mileage utilized while performing inspection services within the city will be charged at the current IRS Vehicle Mileage Rate.

PART II – BUILDING & SAFETY PLAN CHECK FEES BASED ON CITY FEES

We propose the following fee schedule for plan check services performed off site based on the City's Master Fee Schedule:

- ✓ 65% for first time check and any required re-check.
- ✓ 95% for expedited plan check.
- ✓ There is no charge for courier or shipping services.



STAFF REPORT

ITEM NO. 11.D.

DATE: November 26, 2018
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, ACTING CITY MANAGER
PREPARED BY: JEANNETTE VAGNOZZI, ACTING CITY MANAGER
KERI JOHNSON, DEPUTY CITY CLERK
SUBJECT: RESIGNATION OF PERSONNEL BOARD OF REVIEW MEMBER

RECOMMENDED ACTION

It is recommended that the City Council accept the resignation of Marni Bobich, who serves on the Personnel Board of Review.

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 Upland Municipal Code, the Personnel Board of Review was established. The Board consists of three members and one alternate. One member is nominated by the City Council, one member is nominated and mutually agreed upon by the City Council and the Employee Associations, and the third member is selected from names submitted by Employee Associations. Ms. Bobich was the Employee Associations' nominee.

ISSUES/ANALYSIS

Board Member Marni Bobich submitted her resignation on November 12, 2018, and the notice of vacancy was posted on November 14, 2018, pursuant to Government Code Section 54974.

Government Code Section 54974 requires vacancies be posted for 10 working days before new appointments can be made. Pursuant to Government Code Section 40605, the Mayor shall appoint Committee, Board, and Authority members subject to ratification by a majority of the

Council. The selection of a board member will need to be nominated by the Employee Associations before presentation to City Council. Ms. Bobich was originally appointed in June 2015 . The term for this appointment expires in June 2019.

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.E.

DATE: November 26, 2018
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, ACTING CITY MANAGER
PREPARED BY: ROSEMARY HOERNING, PUBLIC WORKS DIRECTOR
PONCE YAMBOT, PRINCIPAL ENGINEER
SUBJECT: APPROVAL OF FINAL TRACT MAP 18274 BY LENNAR HOMES
(LOCATED SOUTH OF FOOTHILL BOULEVARD AND EAST OF SAN ANTONIO CHANNEL)

RECOMMENDED ACTION

It is recommended that the City Council authorize the Acting City Manager to execute a Subdivision Improvement Agreement with the accompanying security bonds and approve the Final Tract Map 18274 for recordation.

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

TM 18274 is a subdivision of land composed of 173 single family lots. It is part of the Harvest Specific Plan (Harvest) by Lewis Homes generally bounded by Foothill Boulevard on the north, Dewey Avenue on the east, 11th Street on the south and the San Antonio Channel on the west. Harvest Specific Plan is composed of two tracts, TM 18249 located on the west side of the San Antonio Channel adjacent to Monte Vista Avenue that was conveyed to KB Home, and TM 18274 located east of the San Antonio Channel which was conveyed to Lennar Homes (Lennar).

ISSUES/ANALYSIS

Lennar has submitted all the required construction plans necessary to comply with the conditions of approval. Lennar has also submitted a Subdivision Agreement with corresponding bonds to ensure completion of the proposed improvements. The performance

bond is in the amount of Two Million Three Hundred Sixty Thousand Dollars (\$2,360,000) and the labor and materials bond is in the amount of One Million One Hundred Eighty Thousand Dollars (\$1,180,000).

The final map has been reviewed and is determined to be technically correct and is substantially the same as the tentative map. The final map is ready for City approval.

FISCAL IMPACTS

The proposed action has no fiscal impact.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

LOCATION MAP

Tract map No. 18274

Subdivision Improvement Agreement

Performance and L&M Bonds

**Tract 18274
Lennar Homes**



LOCATION MAP



NUMBERED LOTS: 19
LETTERED LOTS: 21
12.30 ACRES

TRACT MAP NO. 18274

SHEET 1 OF 6 SHEETS

IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA
BEING A SUBDIVISION OF A PARCEL 2, PARCEL MAP NO. 17943, IN THE CITY OF UPLAND, COUNTY OF SAN
BERNARDINO, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 216 OF MAPS, PAGES 46 THROUGH 49,
INCLUSIVE, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY
ADAMS-STREETER CIVIL ENGINEERS, INC. RANDAL L. STREETER, R.C.E. 25083 2018
FOR CONDOMINIUM PURPOSES

OWNER'S STATEMENT:

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

WE HEREBY DEDICATE TO THE CITY OF UPLAND THE EASEMENTS OVER LOTS A, B, AND C FOR PUBLIC UTILITY PURPOSES AND FIRE AND EMERGENCY ACCESS SHOWN HEREON AS ① AND ②.

WE HEREBY RESERVE A PRIVATE EASEMENT FOR STREET PURPOSES FOR GRAPE ST AND LEMON AVE AS SHOWN HEREON.

WE HEREBY RESERVE THE LANDSCAPE EASEMENTS OVER LOTS D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, AND U FOR LANDSCAPE PURPOSES AS SHOWN HEREON.

LENNAR HOMES OF CALIFORNIA, INC.,
A CALIFORNIA CORPORATION

BY: [Signature] BY: _____
NAME: Geoffrey Smith NAME: _____
ITS: Vice President ITS: _____

NOTARY ACKNOWLEDGMENT:

STATE OF CALIFORNIA }
COUNTY OF Riverside } SS

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.

ON November 14, 2018, BEFORE ME, Jodie Atha, Notary Public, PERSONALLY APPEARED, Geoffrey Smith

PERSONALLY KNOWN TO ME (OR PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE) TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME IN THEIR AUTHORIZED CAPACITIES, AND THAT BY THEIR SIGNATURES ON THE INSTRUMENT THE PERSONS, OR THE ENTITY UPON BEHALF OF WHICH THE PERSONS ACTED, EXECUTED THE INSTRUMENT.

I CERTIFY THAT UNDER THE PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING PARAGRAPH IS TRUE AND CORRECT.

Jodie Atha 11/14/18
SIGNATURE OF NOTARY DATE COMMISSION EXPIRES

Jodie Atha Riverside
NAME OF NOTARY PRINCIPAL COUNTY OF BUSINESS

COMMISSION NO. 2230890

ENGINEER'S STATEMENT:

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND BASED UPON A FIELD SURVEY IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF LENNAR HOMES OF CALIFORNIA, INC., A CALIFORNIA CORPORATION IN JUNE, 2018. I HEREBY STATE THAT ALL THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED OR THAT THEY WILL BE SET IN THOSE POSITIONS WITHIN 90 DAYS AFTER THE ACCEPTANCE OF IMPROVEMENTS AND THAT SAID MONUMENTS ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED. I HEREBY STATE THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP.

DATED: 11/13/18 BY: Randal L. Streeter
RANDAL L. STREETER RCE 25083
REGISTRATION EXPIRES 12/31/2019.



SOILS REPORT:

PURSUANT TO THE PROVISIONS OF SECTION 66434 (f) OF THE SUBDIVISION MAP ACT, A SOILS REPORT BY RMA GROUP, DATED APRIL 10, 2015, HAS BEEN PREPARED FOR THIS SUBDIVISION AND IS ON FILE WITH THE BUILDING DEPARTMENT OF THE CITY OF UPLAND.

SIGNATURE OMISSIONS:

PURSUANT TO THE PROVISIONS OF SECTION 66436 OF THE SUBDIVISION MAP ACT, THE FOLLOWING SIGNATURES HAVE BEEN OMITTED:

- SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, HOLDER OF AN EASEMENT FOR PUBLIC UTILITIES RECORDED MAY 10, 2017 AS INSTRUMENT NO. 2017-0192666 OFFICIAL RECORDS.
- LOS ANGELES TRUST AND SAVINGS BANK, HOLDER OF AN EASEMENT FOR PIPELINES AND CONDUITS, AS RESERVED IN THE DEED RECORDED NOVEMBER 14, 1922 IN BOOK 769 OF DEEDS, PAGE 256. CAN NOT BE PLOTTED FROM RECORD.
- SECURITY-FIRST NATIONAL BANK OF LOS ANGELES, SAN ANTONIO WATER COMPANY, ONTARIO WATER COMPANY, DEL MONTE IRRIGATION COMPANY AND POMONA LAND AND WATER COMPANY, HOLDER OF EASEMENTS FOR CONSTRUCTION AND MAINTENANCE OF PIPES AND PIPELINES FOR THE CARRIAGE OF WATER, RECORDED FEBRUARY 3, 1930 IN BOOK 562, PAGE 202 OF OFFICIAL RECORDS.
- CABLE LAND COMPANY, A GENERAL PARTNERSHIP, HOLDER OF A PERPETUAL AIR OR FLIGHT EASEMENT, ALSO REFERRED TO AS "AVIGATION RIGHTS" RECORDED APRIL 6, 1991 AS INSTRUMENT NO. 91-118018, OF OFFICIAL RECORDS.

CITY ENGINEERS STATEMENT:

I HEREBY CERTIFY THAT I HAVE EXAMINED THE ANNEXED MAP AND THAT THE SUBDIVISION SHOWN THEREON 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 CITY OF UPLAND MUNICIPAL CODE HAVE BEEN COMPLIED WITH.

DATED: _____ BY: _____
ROSEMARY HOORNING
DIRECTOR OF PUBLIC WORKS
CITY OF UPLAND, CALIFORNIA
R.C.E. NO. 44766 EXP. 3/31/20



I AM SATISFIED THAT THIS MAP IS TECHNICALLY CORRECT

DATED: 11/15/18 BY: [Signature]
MICHAEL P. THORNTON
L.S. NO. 6867 EXP. 9/30/20



CITY PLANNING COMMISSION CERTIFICATE:

I HEREBY CERTIFY THAT THE SUBDIVISION SHOWN ON THE ANNEXED MAP IS IN ACCORDANCE WITH THE TENTATIVE MAP REVIEWED AT A MEETING OF THE PLANNING COMMISSION OF THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, HELD ON THE ____ DAY OF ____ OF 2018.

DATED: _____ BY: _____
STEVEN H. DUKETT
INTERIM SECRETARY OF PLANNING COMMISSION CITY
OF UPLAND, CALIFORNIA

CITY CLERKS 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 ACCEPTED FOR PUBLIC USE THE DEDICATIONS THEREIN OFFERED SUBJECT TO THEIR IMPROVEMENT IN ACCORDANCE WITH CITY STANDARDS AND FOUND THIS MAP TO BE CONSISTENT WITH APPLICABLE GENERAL OR SPECIFIC PLANS OF THE CITY OF UPLAND.

DATED: _____ BY: _____
JEANNETTE VAGNOZZI
CITY CLERK, CITY OF UPLAND, CALIFORNIA

BOARD OF SUPERVISORS' 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 THE 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.

DATED: _____ BY: _____
LAURA H. WELCH
CLERK OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF SAN BERNARDINO

BY: _____ DEPUTY

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 THE ANNEXED MAP FOR UNPAID STATE, COUNTY, MUNICIPAL, OR LOCAL TAXES OR SPECIAL ASSESSMENTS COLLECTED AS TAXES, EXCEPT TAXES OR SPECIAL ASSESSMENTS NOT YET PAYABLE ESTIMATED TO BE \$ _____

DATED: _____ BY: _____
OSCAR VALDEZ, COUNTY AUDITOR, CONTROLLER/
TREASURER/TAX COLLECTOR
COUNTY OF SAN BERNARDINO, CALIFORNIA

SAN BERNARDINO COUNTY RECORDERS CERTIFICATE:

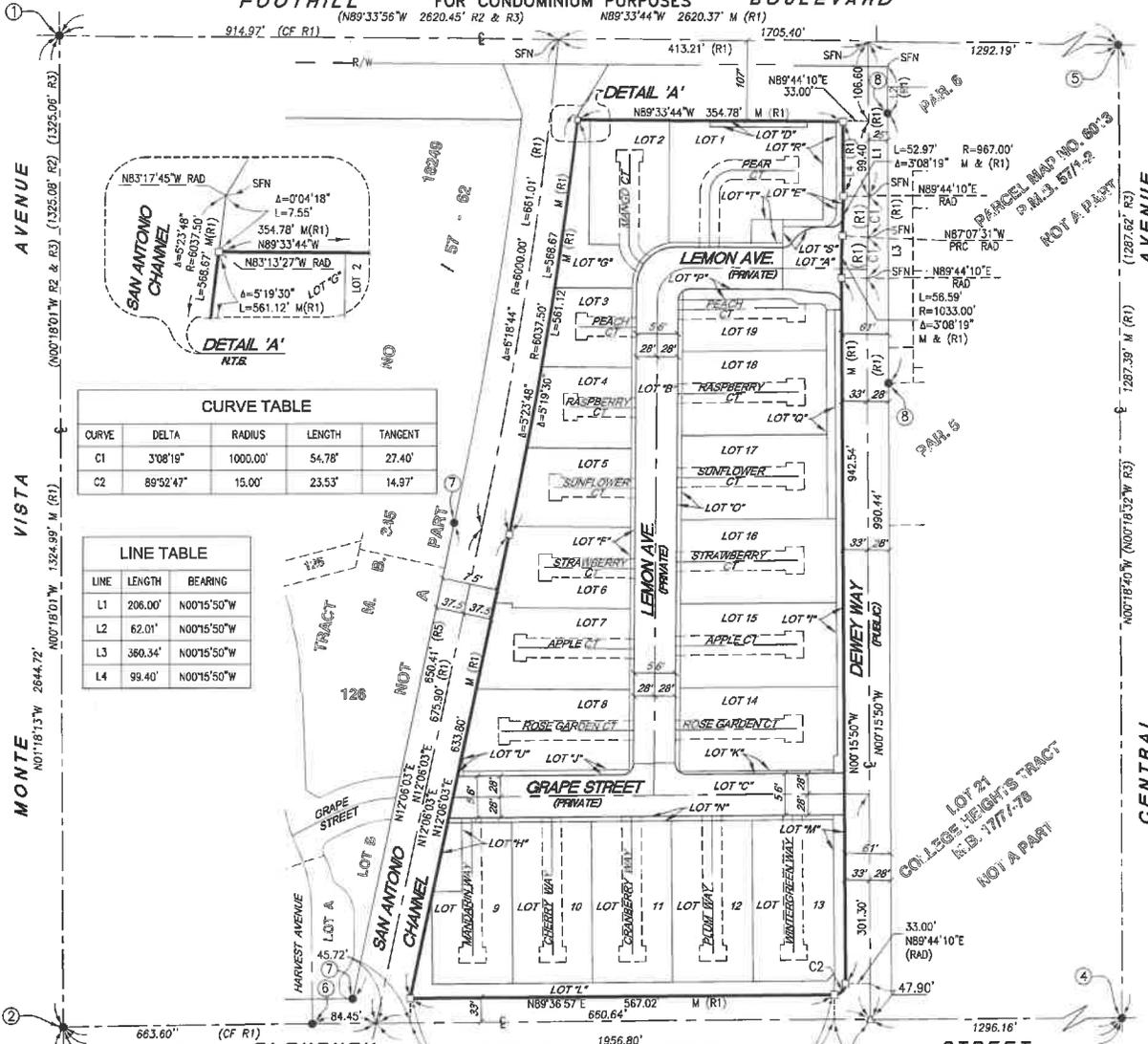
THIS MAP HAS BEEN FILED UNDER DOCUMENT NO. _____
FILED THIS ____ DAY OF ____ 20 ____ AT ____ M.
IN BOOK ____ OF ____ AT PAGE(S) ____
AT THE REQUEST OF _____
FEE IN THE AMOUNT OF \$ _____
BOB HUTTON
ASSESSOR/RECORDER
COUNTY OF SAN BERNARDINO
SIGNED: _____
DEPUTY RECORDER

NUMBERED LOTS: 19
LETTERED LOTS: 21
12.30 ACRES

TRACT MAP NO. 18274

SHEET 2 OF 6 SHEETS

IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA
BEING A SUBDIVISION OF A PARCEL 2, PARCEL MAP NO. 17943, IN THE CITY OF UPLAND, COUNTY OF SAN
BERNARDINO, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 216 OF MAPS, PAGES 46 THROUGH 49,
INCLUSIVE, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY
ADAMS-STREETER CIVIL ENGINEERS, INC. RANDAL L. STREETER, R.C.E. 25083 2018
FOOTHILL FOR CONDOMINIUM PURPOSES BOULEVARD
(N89°33'56"W 2620.45' R2 & R3) N89°33'44"W 2620.37' M (R1)



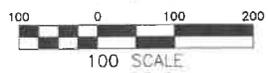
CURVE TABLE

CURVE	DELTA	RADIUS	LENGTH	TANGENT
C1	3°08'19"	1000.00'	54.78'	27.40'
C2	89°32'47"	15.00'	23.53'	14.97'

LINE TABLE

LINE	LENGTH	BEARING
L1	206.00'	N00°15'50"W
L2	62.01'	N00°15'50"W
L3	360.34'	N00°15'50"W
L4	99.40'	N00°15'50"W

ARROW ROUTE



SURVEYOR'S RECORD INFORMATION NOTES

- () INDICATES RECORD DATA AS NOTED
- R1 INDICATES RECORD DATA PER PM 17943 P.M.B. 216/46-49
- R2 INDICATES RECORD DATA PER PM 4739 P.M.B. 44/58-59
- R3 INDICATES RECORD DATA PER PM 6013 P.M.B. 57/1-2
- R4 INDICATES RECORD DATA PER PM 15288 P.M.B. 189/34-36
- R5 INDICATES RECORD DATA PER TRACT NO. 18249 M.B. 345/57-62
- M MEASURED
- CF CALCULATED FROM
- SFN SEARCHED FOUND NOTHING
- INDICATES FOUND MONUMENT AS NOTED
- SEARCHED FOUND NOTHING, SET 1" IRON PIPE, 18" LONG, TAGGED RCE 25083, FLUSH, SET 1/4" BELOW FINISHED SURFACE IN PAVEMENT, SET FLUSH IN LANDSCAPE IN THE EVENT THAT THE TYPE OF MONUMENT CAN NOT BE SET, A TAG STAMPED "R.C.E. 25083", WILL BE AFFIXED IN CONCRETE OR STONE.
- ALL LOT CORNERS WILL BE SET WITH A 1" IRON PIPE, 18" LONG, TAGGED "RCE 25083", FLUSH, IN THE EVENT THE POSITION OF THE REAR LOT CORNERS FALLS ON A WALL A 1" IRON PIPE TAGGED "RCE 25083" WILL BE SET ON A 1.00' OFFSET ON THE PROLONGATION OF THE SIDE LOT LINES.
- SET LEAD AND TAG, MARKED "RCE 25083" IN TOP OF CONCRETE CURB AT THE PROLONGATION OF SIDE LOT LINES FOR FRONT CORNERS AND RADIAL FOR BEGINNING OF CURVES AND END OF CURVES.
- △ SET CENTERLINE MONUMENT 1" IP TAGGED RCE 25083

BASIS OF BEARINGS

THE BEARING OF NORTH 00°18'13" WEST ALONG THE CENTERLINE OF MONTE VISTA AVENUE AS SHOWN ON PARCEL MAP NO. 17943, P.M.B. 215/46-49, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, WAS USED AS THE BASIS OF BEARINGS.

SURVEYOR'S MONUMENT NOTES

- ① FOUND 1" IP TAGGED PLS 7635, 1/4" BELOW FINISHED SURFACE, ACCEPTED AS THE C/L INTERSECTION OF FOOTHILL BLVD. & MONTE VISTA AVE. PER R1
- ② FOUND 1 3/4" IP NO TAG, FLUSH, ACCEPTED AS THE C/L INTERSECTION OF ELEVENTH STREET & MONTE VISTA AVE. PER R1
- ③ FOUND 1" IP TAGGED RCE 18434, FLUSH, ACCEPTED AS THE C/L INTERSECTION OF WEST ARROW ROUTE & MONTE VISTA AVE. PER R1
- ④ FOUND PUNCHED SPIKE, FLUSH, ACCEPTED AS THE C/L INTERSECTION OF CENTRAL AVE & ELEVENTH STREET. PER R1
- ⑤ FOUND 1" IP NO TAG, ACCEPTED AS THE C/L INTERSECTION OF FOOTHILL BLVD. & CENTRAL AVE. PER R1
- ⑥ FOUND 1" IP TAGGED LS 9106, NO REFERENCE FLUSH, ACCEPTED AS THE C/L INTERSECTION OF ELEVENTH STREET AND HARVEST AVENUE PER R5
- ⑦ FOUND 1" IP TAGGED LS 9106, NO REFERENCE FLUSH, ACCEPTED AS THE FLOOD CONTROL DISTRICTS WEST R.O.W. OF SAN ANTONIO CHANNEL AT THE TANGENT POINT PER R5
- ⑧ FOUND 1" IP WITH PLASTIC PLUG STAMPED "GW HELIG LS 4218", ACCEPTED AS BEING ON W/LY R/W LINE OF DEWEY WAY, HELD FOR LINE. PER R1

NUMBERED LOTS: 19
 LETTERED LOTS: 21
 12.30 ACRES

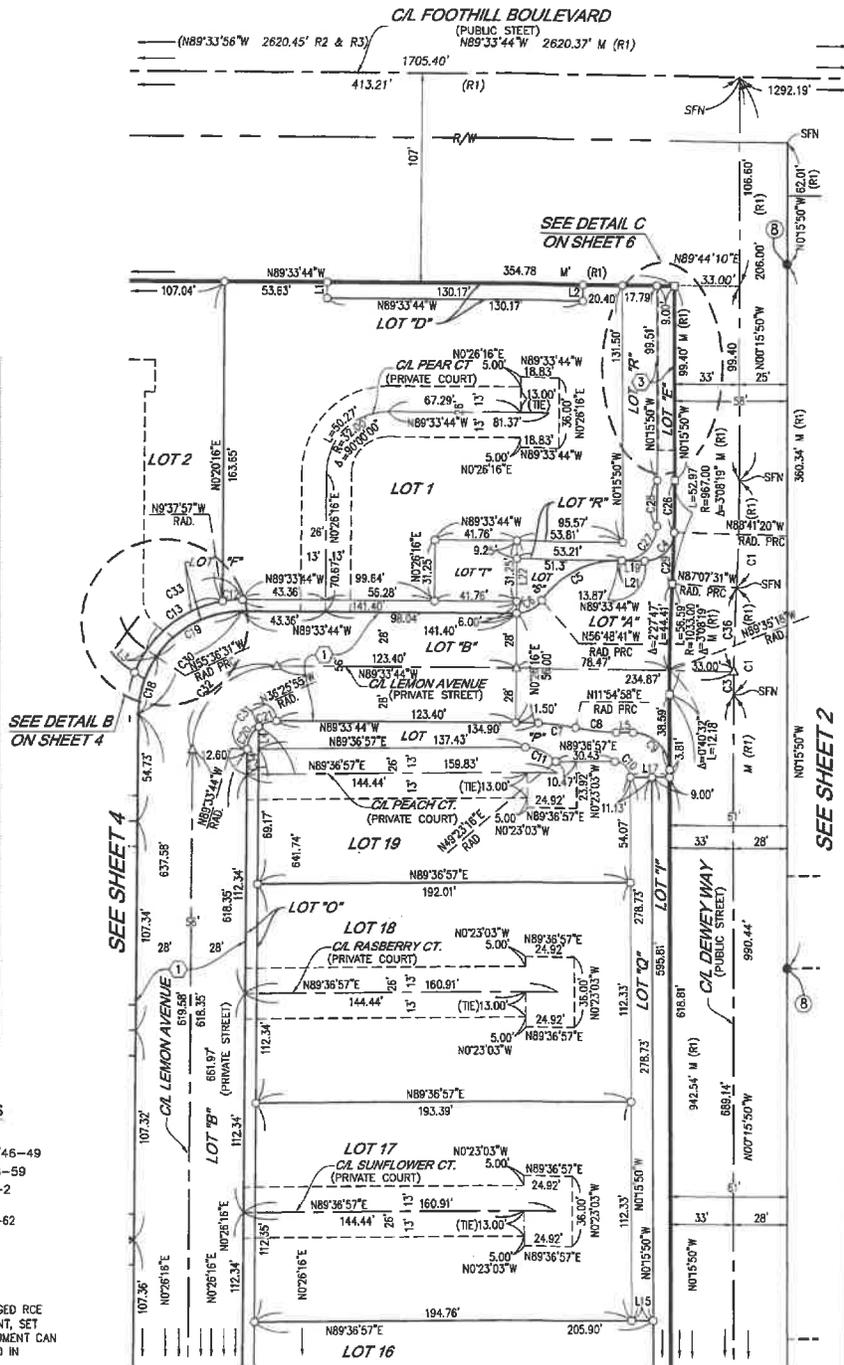
TRACT MAP NO. 18274

SHEET 3 OF 6 SHEETS

IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA
 BEING A SUBDIVISION OF A PARCEL 2, PARCEL MAP NO. 17943, IN THE CITY OF UPLAND, COUNTY OF SAN
 BERNARDINO, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 216 OF MAPS, PAGES 46 THROUGH 49,
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 ADAMS-STREETER CIVIL ENGINEERS, INC. RANDAL L. STREETER, R.C.E. 25083 2018
 FOR CONDOMINIUM PURPOSES

LINE TABLE		
LINE	LENGTH	BEARING
L1	8.25'	N00°26'16"E
L2	8.25'	N00°26'16"E
L3	8.18'	N55°36'31"W
L4	11.51'	N0°26'16"E
L5	8.72'	N89°33'44"W
L15	11.13'	N89°36'57"E
L17	20.13'	N89°36'57"E
L19	11.96'	N89°33'44"W
L21	1.91'	N89°33'44"W
L22	28.00'	N00°26'16"E

CURVE TABLE				
CURVE	DELTA	RADIUS	LENGTH	TANGENT
C1	03°08'19"	1000.00'	54.78'	27.40'
C3	00°40'29"	1000.00'	11.78'	5.89'
C4	89°07'01"	15.00'	23.33'	14.77'
C5	57°14'57"	46.00'	45.96'	25.11'
C6	57°14'57"	15.00'	14.99'	8.19'
C7	11°28'42"	94.00'	18.83'	9.45'
C8	11°28'42"	106.00'	21.24'	10.65'
C9	89°17'54"	19.00'	29.61'	18.77'
C10	90°07'13"	8.00'	12.58'	8.02'
C11	49°46'19"	20.00'	17.37'	9.28'
C12	10°04'13"	59.00'	10.37'	5.20'
C13	45°58'36"	58.00'	47.34'	25.03'
C18	33°57'12"	53.00'	31.41'	16.18'
C19	56°02'48"	53.00'	51.84'	28.21'
C20	53°07'49"	15.00'	13.91'	7.50'
C21	36°52'11"	15.00'	9.65'	5.00'
C26	1°34'30"	967.00'	26.58'	13.29'
C27	89°17'20"	18.00'	28.05'	17.78'
C28	1°24'12"	958.00'	23.46'	11.73'
C29	1°33'49"	967.00'	26.39'	13.20'
C31	90°00'00"	15.00'	23.56'	15.00'
C32	90°00'00"	43.00'	67.54'	43.00'
C34	01°33'09"	15.00'	0.41'	0.20'
C36	02°27'50"	1000.00'	43.00'	21.50'

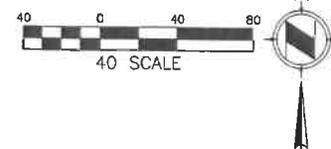


SURVEYOR'S RECORD INFORMATION NOTES

- () INDICATES RECORD DATA AS NOTED
- R1 INDICATES RECORD DATA PER PM 17943 P.M.B. 216/46-49
- R2 INDICATES RECORD DATA PER PM 4739 P.M.B. 44/58-59
- R3 INDICATES RECORD DATA PER PM 6013 P.M.B. 57/1-2
- R4 INDICATES RECORD DATA PER PM 15208 P.M.B. 189/34-36
- R5 INDICATES RECORD DATA PER TRACT NO. 18249 M.B. 345/57-62
- M MEASURED
- CF CALCULATED FROM
- SFN SEARCHED FOUND NOTHING
- INDICATES FOUND MONUMENT AS NOTED
- SEARCHED FOUND NOTHING, SET 1" IRON PIPE, 18" LONG, TAGGED RCE 25083, FLUSH, SET 1/4" BELOW FINISHED SURFACE IN PAVEMENT, SET FLUSH IN LANDSCAPE, IN THE EVENT THAT THE TYPE OF MONUMENT CAN NOT BE SET, A TAG STAMPED "R.C.E. 25083", WILL BE AFFIXED IN CONCRETE OR STONE.
- ALL LOT CORNERS WILL BE SET WITH A 1" IRON PIPE 18" LONG TAGGED RCE 25083, FLUSH. IN THE EVENT THE POSITION OF THE REAR LOT CORNERS FALLS ON A WALL A 1" IRON PIPE TAGGED RCE 25083 WILL BE SET ON A 1.00" OFFSET ON THE PROLONGATION OF THE SIDE LOT LINES.
- SET LEAD AND TAG, MARKED RCE 25083 IN TOP OF CONCRETE CURB AT THE PROLONGATION OF SIDE LOT LINES FOR FRONT CORNERS AND RADIAL FOR BEGINNING OF CURVES AND END OF CURVES.
- ▲ SET CENTERLINE MONUMENT 1" IP TAGGED RCE 25083

EASEMENT NOTES

- ① PROPOSED EASEMENT TO THE CITY OF UPLAND FOR SEWER, WATER FIRE, STORM DRAIN AND EMERGENCY ACCESS PURPOSES OVER GRAPE STREET AND LEMON AVENUE.
- ② PROPOSED EASEMENT TO THE CITY OF UPLAND FOR PUBLIC UTILITIES PURPOSES.
- ③ EXISTING EASEMENT TO SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION FOR PUBLIC UTILITIES PURPOSES RECORDED MAY 10, 2017 AS INSTRUMENT NO. 2017-0192666 O.R.



NOTE
 SURVEYOR MONUMENT NOTES ARE SHOWN ON SHEET 2 OF 6.

NUMBERED LOTS: 19
 LETTERED LOTS: 21
 12.30 ACRES

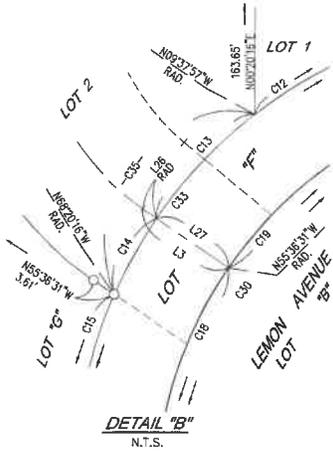
TRACT MAP NO. 18274

SHEET 4 OF 6 SHEETS

IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA
 BEING A SUBDIVISION OF A PARCEL 2, PARCEL MAP NO. 17943, IN THE CITY OF UPLAND, COUNTY OF SAN
 BERNARDINO, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 216 OF MAPS, PAGES 46 THROUGH 49,
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 ADAMS-STREETER CIVIL ENGINEERS, INC. RANDAL L. STREETER, R.C.E. 25083 2018
 FOR CONDOMINIUM PURPOSES

LINE TABLE		
LINE	LENGTH	BEARING
L3	8.16'	N55°36'31"W
L4	11.51'	N0°26'16"E
L5	5.00'	N0°26'16"E
L26	2.16'	N55°36'31"W
L27	6.00'	N55°36'31"W

CURVE TABLE				
CURVE	DELTA	RADIUS	LENGTH	TANGENT
C12	10°04'13"	59.00'	10.37'	5.20'
C13	45°58'35"	59.00'	47.34'	25.03'
C14	12°43'44"	59.00'	13.11'	6.58'
C15	217°3'28"	59.00'	21.86'	11.05'
C18	33°57'12"	53.00'	31.41'	18.18'
C19	56°02'48"	53.00'	51.84'	28.21'
C20	53°07'49"	15.00'	13.91'	7.50'
C21	36°52'11"	15.00'	9.65'	5.00'
C30	90°00'00"	53.00'	83.25'	53.00'
C31	90°00'00"	15.00'	23.56'	15.00'
C32	90°00'00"	43.00'	67.54'	43.00'
C33	90°00'00"	59.00'	92.68'	59.00'
C34	01°33'09"	15.00'	0.41'	0.20'
C35	58°42'19"	59.00'	60.45'	33.18'

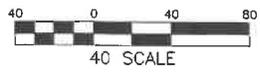
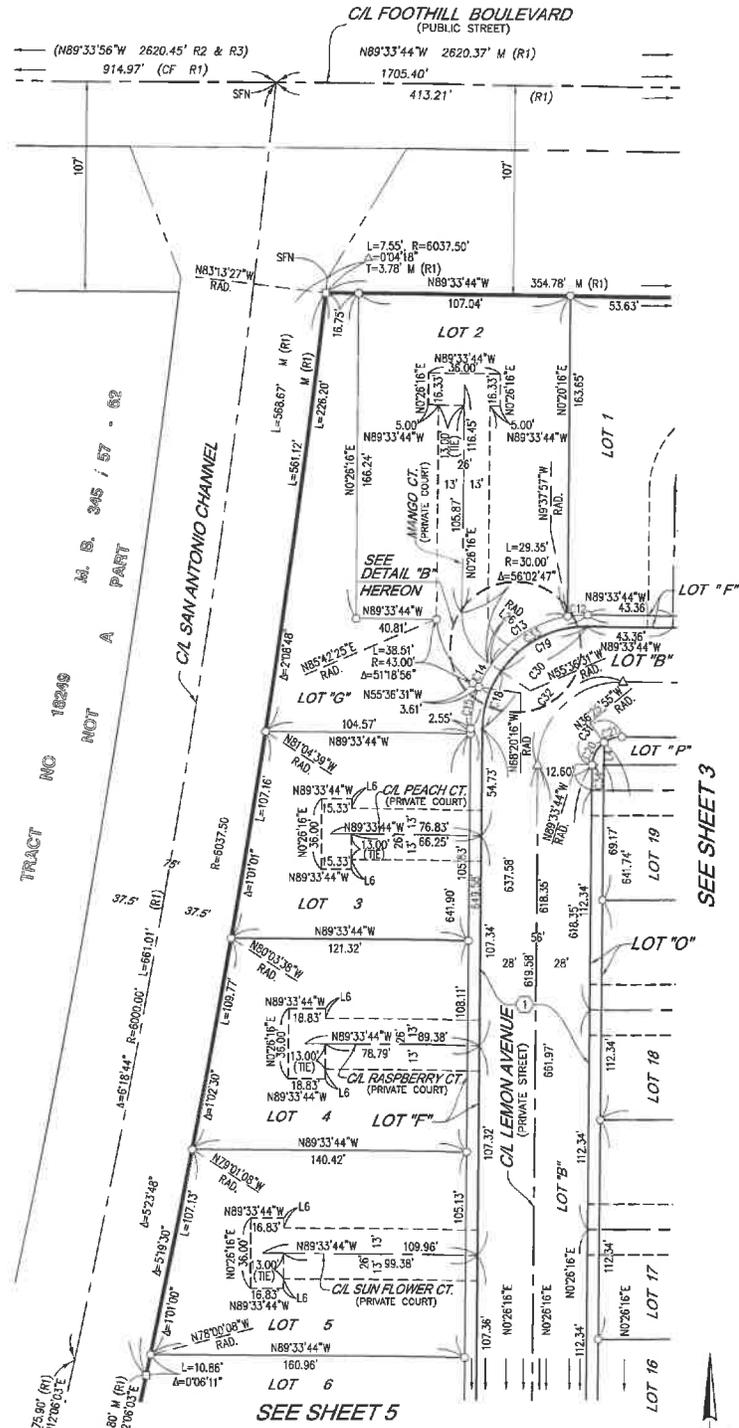


SURVEYOR'S RECORD INFORMATION NOTES

- () INDICATES RECORD DATA AS NOTED
- R1 INDICATES RECORD DATA PER FM 17943 P.M.B. 216/46-49
- R2 INDICATES RECORD DATA PER FM 4739 P.M.B. 44/58-59
- R3 INDICATES RECORD DATA PER FM 6013 P.M.B. 57/1-2
- R4 INDICATES RECORD DATA PER FM 15288 P.M.B. 189/34-36
- R5 INDICATES RECORD DATA PER TRACT NO. 18249 M.B. 345/57-62
- M MEASURED
- CF CALCULATED FROM
- SFN SEARCHED FOUND NOTHING
- INDICATES FOUND MONUMENT AS NOTED
- SEARCHED FOUND NOTHING, SET 1" IRON PIPE, 18" LONG, TAGGED RCE 25083, FLUSH. SET 1/4" BELOW FINISHED SURFACE IN PAVEMENT, SET FLUSH IN LANDSCAPE, IN THE EVENT THAT THE TYPE OF MONUMENT CAN NOT BE SET, A TAG STAMPED "R.C.E. 25083", WILL BE AFFIXED IN CONCRETE OR STONE.
- ALL LOT CORNERS WILL BE SET WITH A 1" IRON PIPE 18" LONG TAGGED RCE 25083, FLUSH. IN THE EVENT THE POSITION OF THE REAR LOT CORNERS FALLS ON A 1" IRON PIPE TAGGED RCE 25083 WILL BE SET ON A 1.00' OFFSET ON THE PROLONGATION OF THE SIDE LOT LINES.
- △ SET LEAD AND TAG, MARKED RCE 25083 IN TOP OF CONCRETE CURB AT THE PROLONGATION OF SIDE LOT LINES FOR FRONT CORNERS AND RADIAL FOR BEGINNING OF CURVES AND END OF CURVES.
- △ SET CENTERLINE MONUMENT 1" IP TAGGED RCE 25083

EASEMENT NOTES

- ① PROPOSED EASEMENT TO THE CITY OF UPLAND FOR SEWER, WATER FIRE, STORM DRAIN AND EMERGENCY ACCESS PURPOSES OVER GRAPE STREET AND LEMON AVENUE.
- ② PROPOSED EASEMENT TO THE CITY OF UPLAND FOR PUBLIC UTILITIES PURPOSES.
- ③ EXISTING EASEMENT TO SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION FOR PUBLIC UTILITIES PURPOSES RECORDED MAY 10, 2017 AS INSTRUMENT NO. 2017-0192666 O.R.



NOTE
 SURVEYOR MONUMENT NOTES ARE SHOWN ON SHEET 2 OF 6.

U:\2018\18-2204-HARVEST AT UPLAND\MAPPING\TRACT 18274-SHT 4E_UPDATED.DWG (10-29-18 4:27:49PM) Plotted by: Ana

NUMBERED LOTS: 19
LETTERED LOTS: 21
12.30 ACRES

TRACT MAP NO. 18274

SHEET 5 OF 6 SHEETS

IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA
BEING A SUBDIVISION OF A PARCEL 2, PARCEL MAP NO. 17943, IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 216 OF MAPS, PAGES 46 THROUGH 49, INCLUSIVE, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY
ADAMS-STREETER CIVIL ENGINEERS, INC. RANDAL L. STREETER, R.C.E. 25083 2018
FOR CONDOMINIUM PURPOSES

SURVEYOR'S RECORD INFORMATION NOTES

- () INDICATES RECORD DATA AS NOTED
- R1 INDICATES RECORD DATA PER PM 17943 P.M.B. 216/46-49
- R2 INDICATES RECORD DATA PER PM 4739 P.M.B. 44/58-59
- R3 INDICATES RECORD DATA PER PM 6013 P.M.B. 57/1-2
- R4 INDICATES RECORD DATA PER PM 15288 P.M.B. 189/34-36
- R5 INDICATES RECORD DATA PER TRACT NO. 18249 M.B. 345/57-62
- M MEASURED
- CF CALCULATED FROM
- SFN SEARCHED FOUND NOTHING
- INDICATES FOUND MONUMENT AS NOTED
- SEARCHED FOUND NOTHING, SET 1" IRON PIPE, 18" LONG, TAGGED RCE 25083, FLUSH, SET 1/4" BELOW FINISHED SURFACE IN PAVEMENT, SET FLUSH IN LANDSCAPE, IN THE EVENT THAT THE TYPE OF MONUMENT CAN NOT BE SET, A TAG STAMPED "R.C.E. 25083", WILL BE AFFIXED IN CONCRETE OR STONE.
- ALL LOT CORNERS WILL BE SET WITH A 1" IRON PIPE 18" LONG TAGGED RCE 25083, FLUSH. IN THE EVENT THE POSITION OF THE REAR LOT CORNERS FALLS ON A 1" IRON PIPE TAGGED RCE 25083 WILL BE SET ON A 1.00' OFFSET ON THE PROLONGATION OF THE SIDE LOT LINES.
- SET LEAD AND TAG, MARKED RCE 25083 IN TOP OF CONCRETE CURB AT THE PROLONGATION OF SIDE LOT LINES FOR FRONT CORNERS AND RADIAL FOR BEGINNING OF CURVES AND END OF CURVES.
- △ SET CENTERLINE MONUMENT 1" IP TAGGED RCE 25083

CURVE TABLE				
CURVE	DELTA	RADIUS	LENGTH	TANGENT
C17	89°10'41"	15.00'	23.35'	14.79'
C22	36°02'52"	15.00'	9.44'	4.88'
C23	53°07'49"	15.00'	13.91'	7.50'
C24	49°27'21"	15.00'	12.95'	6.91'

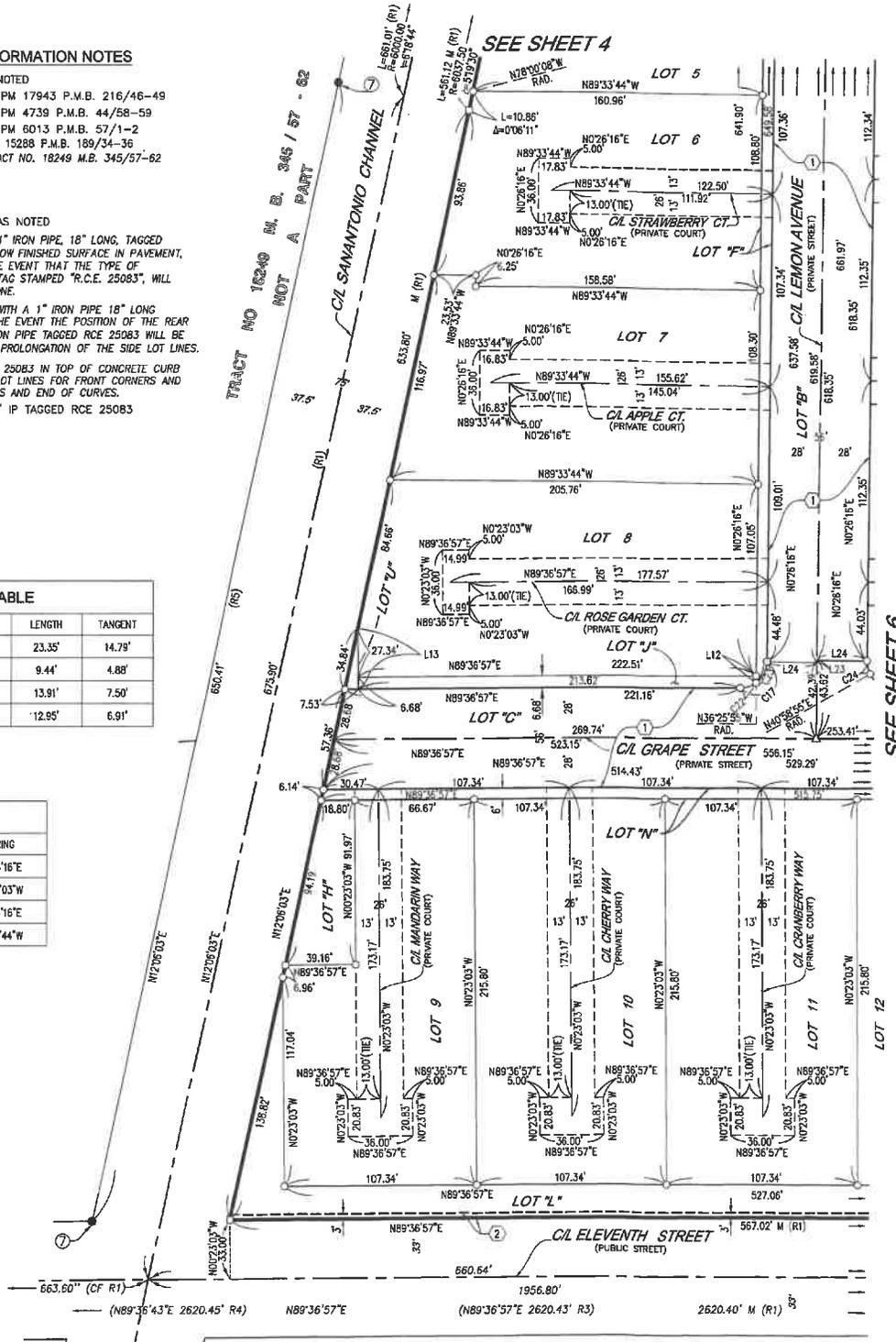
LINE TABLE		
LINE	LENGTH	BEARING
L12	3.81'	N00°26'16"E
L13	34.02'	N00°23'03"W
L23	1.23'	N00°26'16"E
L24	28.00'	N89°33'44"W



EASEMENT NOTES

- ① PROPOSED EASEMENT TO THE CITY OF UPLAND FOR SEWER, WATER FIRE, STORM DRAIN AND EMERGENCY ACCESS PURPOSES OVER GRAPE STREET AND LEMON AVENUE.
- ② PROPOSED EASEMENT TO THE CITY OF UPLAND FOR PUBLIC UTILITIES PURPOSES.
- ③ EXISTING EASEMENT TO SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION FOR PUBLIC UTILITIES PURPOSES RECORDED MAY 10, 2017 AS INSTRUMENT NO. 2017-0192666 O.R.

NOTE
SURVEYOR MONUMENT NOTES ARE SHOWN ON SHEET 2 OF 6.



SEE SHEET 4

SEE SHEET 6

NUMBERED LOTS: 19
 LETTERED LOTS: 21
 12.30 ACRES

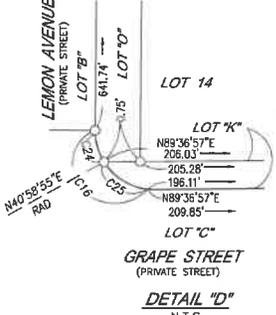
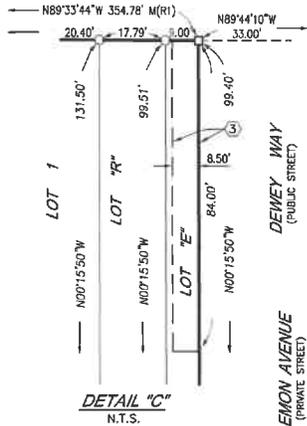
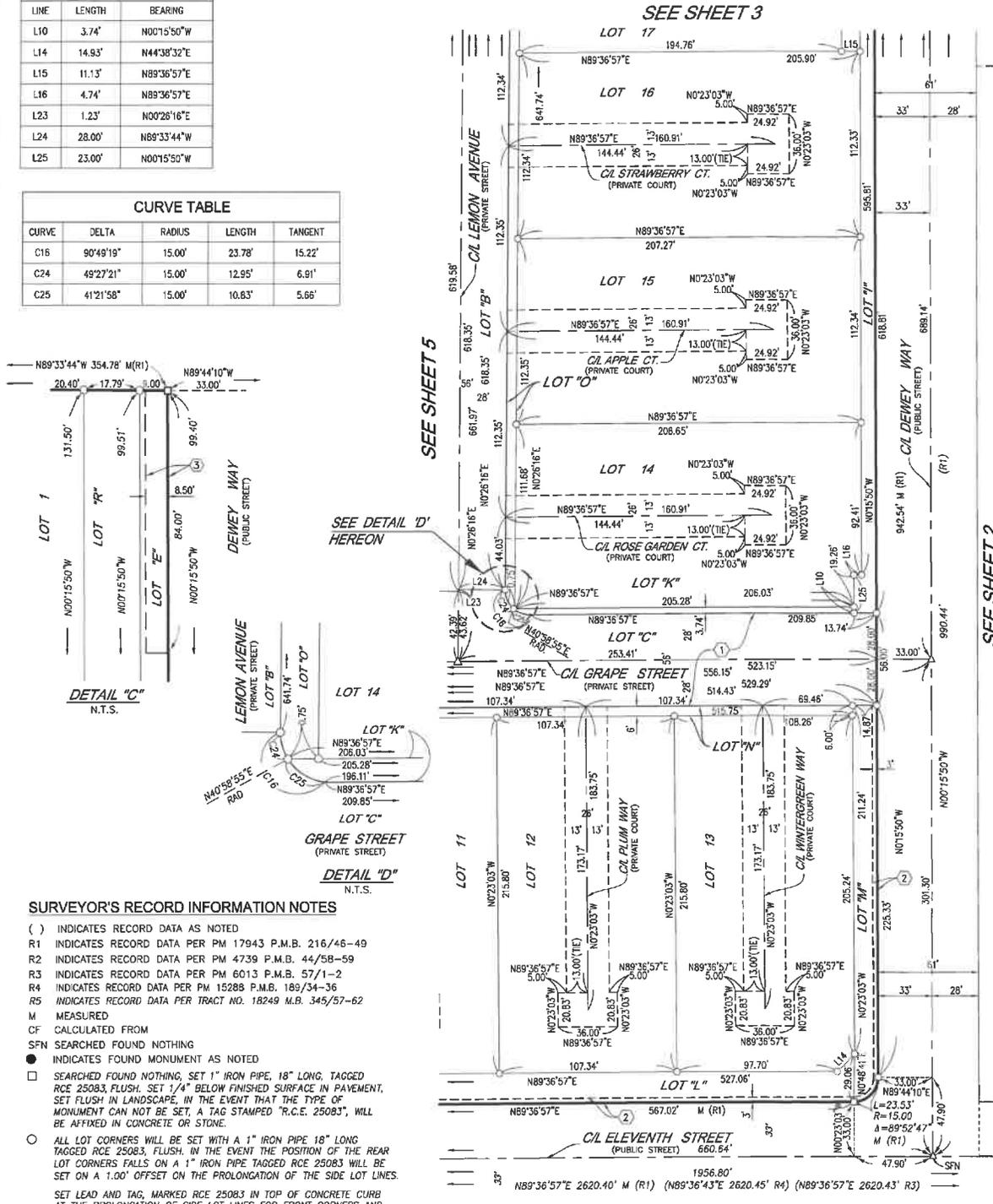
TRACT MAP NO. 18274

SHEET 6 OF 6 SHEETS

IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA
 BEING A SUBDIVISION OF A PARCEL 2, PARCEL MAP NO. 17943, IN THE CITY OF UPLAND, COUNTY OF SAN
 BERNARDINO, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 216 OF MAPS, PAGES 48 THROUGH 49,
 INCLUSIVE, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAN BERNARDINO COUNTY
 ADAMS-STREETER CIVIL ENGINEERS, INC. RANDAL L. STREETER, R.C.E. 25083 2018
 FOR CONDOMINIUM PURPOSES

LINE TABLE		
LINE	LENGTH	BEARING
L10	3.74'	N00°15'50"W
L14	14.93'	N44°38'32"E
L15	11.13'	N89°36'57"E
L16	4.74'	N89°36'57"E
L23	1.23'	N00°26'16"E
L24	28.00'	N89°33'44"W
L25	23.00'	N00°15'50"W

CURVE TABLE				
CURVE	DELTA	RADIUS	LENGTH	TANGENT
C16	90°49'19"	15.00'	23.78'	15.22'
C24	49°27'21"	15.00'	12.95'	6.91'
C25	41°21'58"	15.00'	10.83'	5.66'



SURVEYOR'S RECORD INFORMATION NOTES

() INDICATES RECORD DATA AS NOTED
 R1 INDICATES RECORD DATA PER PM 17943 P.M.B. 216/46-49
 R2 INDICATES RECORD DATA PER PM 4739 P.M.B. 44/58-59
 R3 INDICATES RECORD DATA PER PM 6013 P.M.B. 57/1-2
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 M MEASURED
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 ● INDICATES FOUND MONUMENT AS NOTED
 □ SEARCHED FOUND NOTHING, SET 1" IRON PIPE, 18" LONG, TAGGED RCE 25083, FLUSH, SET 1/4" BELOW FINISHED SURFACE IN PAVEMENT, SET FLUSH IN LANDSCAPE, IN THE EVENT THAT THE TYPE OF MONUMENT CAN NOT BE SET, A TAG STAMPED "R.C.E. 25083", WILL BE AFFIXED IN CONCRETE OR STONE.
 ○ ALL LOT CORNERS WILL BE SET WITH A 1" IRON PIPE 18" LONG TAGGED RCE 25083, FLUSH. IN THE EVENT THE POSITION OF THE REAR LOT CORNERS FALLS ON A 1" IRON PIPE TAGGED RCE 25083 WILL BE SET ON A 1.00' OFFSET ON THE PROLONGATION OF THE SIDE LOT LINES.
 SET LEAD AND TAG, MARKED RCE 25083 IN TOP OF CONCRETE CURB AT THE PROLONGATION OF SIDE LOT LINES FOR FRONT CORNERS AND RADIAL FOR BEGINNING OF CURVES AND END OF CURVES.
 ▲ SET CENTERLINE MONUMENT 1" IF TAGGED RCE 25083

EASEMENT NOTES

① PROPOSED EASEMENT TO THE CITY OF UPLAND FOR SEWER, WATER FIRE, STORM DRAIN AND EMERGENCY ACCESS PURPOSES OVER GRAPE STREET AND LEMON AVENUE.
 ② PROPOSED EASEMENT TO THE CITY OF UPLAND FOR PUBLIC UTILITIES PURPOSES.
 ③ EXISTING EASEMENT TO SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION FOR PUBLIC UTILITIES PURPOSES RECORDED MAY 10, 2017 AS INSTRUMENT NO. 2017-0192866 O.R.



NOTE
 SURVEYOR MONUMENT NOTES ARE SHOWN ON SHEET 2 OF 6.



SUBDIVISION AGREEMENT

Public Improvements

Tract Map Number 18274

THIS AGREEMENT is entered into as of this _____ day of _____ 20____ by and between Lennar Homes of California, Inc. (hereinafter referred to as "Subdivider") and the CITY OF UPLAND, a municipal corporation (hereinafter referred to as the "City").

A. Recitals

- (i) The City approved a Tentative Tract Map pursuant to the California Subdivision Map Act as set forth in California Government Code Section 66410 et. seq. ("Map Act") identified as Tentative Tract Number 18274 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 18274

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 18274 and Final Tract Number 18274, Subdivider undertakes and agrees that it will, at Subdivider's sole cost and expense, design, construct and install all the improvements in accordance with the plans, specifications on file with the City, incorporated herein and made a part hereof, and including all conditions of approval required by the Planning Commission and City Council of the City of Upland.

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

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

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

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

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

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

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

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

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

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

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

(a) A bond in the amount of \$ 2,360,000.00 guaranteeing full performance of all the terms of this Agreement, see Performance Bond No. _____;

(b) A bond in the amount of \$ 1,180,000.00 securing payment to the contractor, his subcontractor and to persons renting equipment or furnishing labor or materials to them with respect to said public improvements, see Labor and Materials Bond No. _____;

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

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

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

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

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

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

BY 

Geoffrey Smith, Vice President Lennar Homes
Name and Company of California, INC

BY _____

Name and Company

CITY OF UPLAND, a municipal Corporation

BY _____
City Manager

BY _____
City Clerk

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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

State of California }
County of Riverside }
On May 2, 2018 before me, Jodie Atha, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Gregory Smith
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 Jodie Atha
Signature of Notary Public

Place Notary Seal and/or Stamp Above

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 of Conservator Trustee Guardian of Conservator
 Other: _____ Other: _____
Signer is Representing: _____ Signer is Representing: _____

BOND NO. SU1150590
Premium = \$7,080.00

SUBDIVISION PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, That we, Lennar Homes of California, Inc., as Principal, and Arch Insurance Company, a corporation organized and existing under the laws of the State of NJ and authorized to transact surety business in the State of California, as Surety, are held and firmly bound unto City of Upland, as Obligee, in the sum of Two Million Three Hundred Sixty Thousand and 00/100 Dollars (\$2,360,000.00) lawful money of the United States, for the payment whereof, well and truly to be made, said Principal and Surety bind themselves, their heirs, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, That, Whereas, said Principal has entered into a Subdivision Agreement or has applied for a certain Permit with the Obligee, dated _____, in which said Principal agrees to perform or to construct a certain designated public improvements, as follows:

City of Upland / T18274 Lofts at Harvest & Liberty at Harvest – public improvement (P&P)

NOW, THEREFORE, if the said Principal shall well and truly perform the work in the manner specified therein and comply with the terms or conditions of the permit/agreement, then this obligation shall be null and void; otherwise to remain in full force and effect.

No party other than the Obligee shall have any rights hereunder as against the Surety. The aggregate liability of the Surety on this bond obligation shall not exceed the penal sum set forth above for any reason whatsoever.

Signed, sealed and dated on May 3, 2018.

Lennar Homes of California, Inc., a California corporation

By: 
Geoffrey Smith, Vice President

Arch Insurance Company

By: 
Cynthia L. Choren, Attorney-in-Fact

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

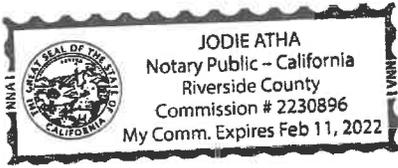
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of Riverside }
On May 4th, 2018 before me, Jodie Atha, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Gregory Smith
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.



Place Notary Seal and/or Stamp Above

Signature Jodie Atha
Signature of Notary Public

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 of Conservator Trustee Guardian of Conservator
 Other: _____ Other: _____
Signer is Representing: _____ Signer is Representing: _____

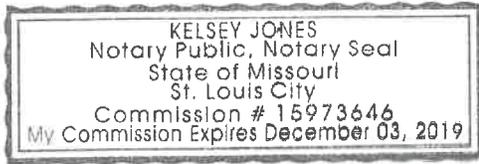
**All-Purpose
Certificate of Acknowledgment**

State of Missouri
City of St. Louis }

On May 3, 2018 before me, Kelsey Jones,
DATE NAME OF NOTARY PUBLIC

personally appeared Cynthia L. Choren
NAME(S) OF SIGNER(S)

- personally known to me - **OR** 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.



Witness my hand and official seal.

Kelsey Jones
SIGNATURE OF NOTARY PUBLIC

Though the data below is not required by law, it may prove valuable to persons relying on the document and prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- Individual(s)
- Corporate Officer:
- Title(s)
- Partner(s)
- Attorney-in-Fact
- Trustee(s)
- Subscribing Witness
- Guardian/Conservator
- Other:

DESCRIPTION OF ATTACHED DOCUMENT(S)

Type of Document

Subdivision Performance

Number of Pages

One

Date of Document

May 3, 2018

Signer(s) Other Than Named Above

SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)
Arch Insurance Company

THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS PRINTED ON BLUE BACKGROUND.

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. Not valid for Note, Loan, Letter of Credit, Currency Rate, Interest Rate or Residential Value Guarantees.

POWER OF ATTORNEY

Know All Persons By These Presents:

That the Arch Insurance Company, a corporation organized and existing under the laws of the State of Missouri, having its principal administrative office in Jersey City, New Jersey (hereinafter referred to as the "Company") does hereby appoint:

Brittany D. Clavin, Cynthia L. Choren, Debra C. Schneider, Heidi A. Notheisen, JoAnn R. Frank, Karen L. Roider, Leah L. Juenger, Pamela A. Beelman and Sandra L. Ham of St. Louis, MO (EACH)

its true and lawful Attorney(s)in-Fact, to make, execute, seal, and deliver from the date of issuance of this power for and on its behalf as surety, and as its act and deed:

Any and all bonds, undertakings, recognizances and other surety obligations, in the penal sum not exceeding Ninety Million Dollars (\$90,000,000.00).

This authority does not permit the same obligation to be split into two or more bonds In order to bring each such bond within the dollar limit of authority as set forth herein.

The execution of such bonds, undertakings, recognizances and other surety obligations in pursuance of these presents shall be as binding upon the said Company as fully and apply to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at its principal administrative office in Jersey City, New Jersey.

This Power of Attorney is executed by authority of resolutions adopted by unanimous consent of the Board of Directors of the Company on September 15, 2011, true and accurate copies of which are hereinafter set forth and are hereby certified to by the undersigned Secretary as being in full force and effect:

"VOTED, That the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, or the Secretary shall have the power and authority to appoint agents and attorneys-in-fact, and to authorize them subject to the limitations set forth in their respective powers of attorney, to execute on behalf of the Company, and attach the seal of the Company thereto, bonds, undertakings, recognizances and other surety obligations obligatory in the nature thereof, and any such officers of the Company may appoint agents for acceptance of process."

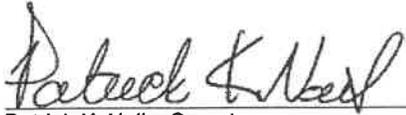
This Power of Attorney is signed, sealed and certified by facsimile under and by authority of the following resolution adopted by the unanimous consent of the Board of Directors of the Company on September 15, 2011:

VOTED, That the signature of the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, and the signature of the Secretary, the seal of the Company, and certifications by the Secretary, may be affixed by facsimile on any power of attorney or bond executed pursuant to the resolution adopted by the Board of Directors on September 15, 2011, and any such power so executed, sealed and certified with respect to any bond or undertaking to which it is attached, shall continue to be valid and binding upon the Company.

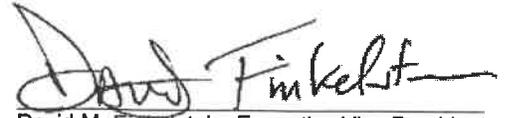
In Testimony Whereof, the Company has caused this instrument to be signed and its corporate seal to be affixed by their authorized officers, this 18th day of January, 2018.

Attested and Certified

Arch Insurance Company


Patrick K. Nails, Secretary

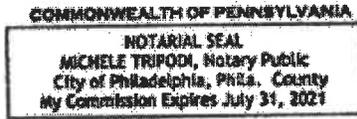



David M. Finkelstein, Executive Vice President

STATE OF PENNSYLVANIA SS

COUNTY OF PHILADELPHIA SS

I, Michele Tripodi, a Notary Public, do hereby certify that Patrick K. Nails and David M. Finkelstein personally known to me to be the same persons whose names are respectively as Secretary and Executive Vice President of the Arch Insurance Company, a Corporation organized and existing under the laws of the State of Missouri, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they being thereunto duly authorized signed, sealed with the corporate seal and delivered the said instrument as the free and voluntary act of said corporation and as their own free and voluntary acts for the uses and purposes therein set forth.

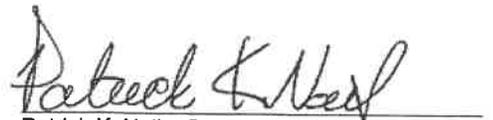



Michele Tripodi, Notary Public
My commission expires 07/31/2021

CERTIFICATION

I, Patrick K. Nails, Secretary of the Arch Insurance Company, do hereby certify that the attached Power of Attorney dated January 18, 2018 on behalf of the person(s) as listed above is a true and correct copy and that the same has been in full force and effect since the date thereof and is in full force and effect on the date of this certificate; and I do further certify that the said David M. Finkelstein, who executed the Power of Attorney as Executive Vice President, was on the date of execution of the attached Power of Attorney the duly elected Executive Vice President of the Arch Insurance Company.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the Arch Insurance Company on this 3rd day of May, 2018.


Patrick K. Nails, Secretary

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

PLEASE SEND ALL CLAIM INQUIRIES RELATING TO THIS BOND TO THE FOLLOWING ADDRESS:

Arch Insurance – Surety Division
3 Parkway, Suite 1500
Philadelphia, PA 19102



SUBDIVISION LABOR & MATERIAL/PAYMENT BOND

Bond No: SU1150590
Premium: included in Perf. Bond

KNOW ALL MEN BY THESE PRESENTS: That Lennar Homes of California, Inc., as Principal, and Arch Insurance Company, a corporation organized and existing under the laws of the State of NJ and authorized to transact surety business in the State of CA, as Surety, are held and firmly bound City of Upland, as Obligee, in the sum of One Million One Hundred Eighty Thousand DOLLARS (\$1,180,000.00), for which the payment whereof, well and truly to be made, said Principal and Surety bind themselves, their heirs, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, That, Whereas, said Principal has entered into a Subdivision Agreement or has applied for a certain Permit with the Obligee, dated _____, in which said Principal agrees to perform or to construct a certain designated public improvements, as follows:

City of Upland / T18274 Lofts at Harvest & Liberty at Harvest – public improvement (P&P)

and, as a condition of approving said Subdivision, the Principal is required to give Labor and Material Payment Bond as herein provided.

NOW, THEREFORE, if said Principal and/or contractor or subcontractor are in default under the Subdivision Agreement and fails to pay for any materials, provisions, or rented equipment used in, upon, or for or about the construction of the public improvements for performance of the work to be done, or any work or labor done of any kind, in or on such improvements, and said Principal and/or contractor shall fail to cure such default after notice pursuant to the Subdivision Agreement, said surety will pay the same in an amount not exceeding the sum set forth above.

This bond shall insure to the benefit of the contractor, his subcontractors, and to persons renting equipment or furnishing labor and materials to them for the improvements.

SIGNED, SEALED, DATED on May 3, 2018.

Lennar Homes of California, Inc., a California corporation Arch Insurance Company
Principal Surety

By: 

By: 

Geoffrey Smith, Vice President
(type or print Name and Title)

Cynthia L. Choren, Attorney-in-Fact
(type or print Name and Title)

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 Riverside }
On May 4th, 2018 before me, Jodie Atha, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Geoffrey Smith
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 Jodie Atha
Signature of Notary Public

Place Notary Seal and/or Stamp Above

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 of Conservator

Other: _____

Signer is Representing: _____

Signer's Name: _____

Corporate Officer – Title(s): _____

Partner – Limited General

Individual Attorney in Fact

Trustee Guardian of Conservator

Other: _____

Signer is Representing: _____

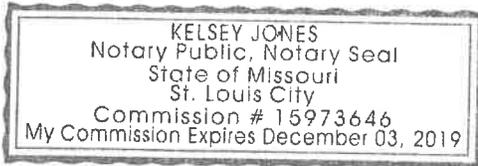
**All-Purpose
Certificate of Acknowledgment**

State of Missouri
City of St. Louis }

On May 3, 2018 before me, Kelsey Jones,
DATE NAME OF NOTARY PUBLIC

personally appeared Cynthia L. Choren
NAME(S) OF SIGNER(S)

- personally known to me - OR 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.



Witness my hand and official seal.

Kelsey Jones

SIGNATURE OF NOTARY PUBLIC

Though the data below is not required by law, it may prove valuable to persons relying on the document and prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- Individual(s)
 Corporate Officer:
 Title(s)
 Partner(s)
 Attorney-in-Fact
 Trustee(s)
 Subscribing Witness
 Guardian/Conservator
 Other:

DESCRIPTION OF ATTACHED DOCUMENT(S)

Type of Document

Subdivision Payment

Number of Pages

One

Date of Document

May 3, 2018

Signer(s) Other Than Named Above

SIGNER IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(IES)

Arch Insurance Company

THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS PRINTED ON BLUE BACKGROUND.

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. Not valid for Note, Loan, Letter of Credit, Currency Rate, Interest Rate or Residential Value Guarantees.

POWER OF ATTORNEY

Know All Persons By These Presents:

That the Arch Insurance Company, a corporation organized and existing under the laws of the State of Missouri, having its principal administrative office in Jersey City, New Jersey (hereinafter referred to as the "Company") does hereby appoint:

Brittany D. Clavin, Cynthia L. Choren, Debra C. Schneider, Heidi A. Notheisen, JoAnn R. Frank, Karen L. Roider, Leah L. Juenger, Pamela A. Beelman and Sandra L. Ham of St. Louis, MO (EACH)

its true and lawful Attorney(s)in-Fact, to make, execute, seal, and deliver from the date of issuance of this power for and on its behalf as surety, and as its act and deed:

Any and all bonds, undertakings, recognizances and other surety obligations, in the penal sum not exceeding Ninety Million Dollars (\$90,000,000.00).

This authority does not permit the same obligation to be split into two or more bonds in order to bring each such bond within the dollar limit of authority as set forth herein.

The execution of such bonds, undertakings, recognizances and other surety obligations in pursuance of these presents shall be as binding upon the said Company as fully and amply to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at its principal administrative office in Jersey City, New Jersey.

This Power of Attorney is executed by authority of resolutions adopted by unanimous consent of the Board of Directors of the Company on September 15, 2011, true and accurate copies of which are hereinafter set forth and are hereby certified to by the undersigned Secretary as being in full force and effect:

VOTED, That the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, or the Secretary shall have the power and authority to appoint agents and attorneys-in-fact, and to authorize them subject to the limitations set forth in their respective powers of attorney, to execute on behalf of the Company, and attach the seal of the Company thereto, bonds, undertakings, recognizances and other surety obligations obligatory in the nature thereof, and any such officers of the Company may appoint agents for acceptance of process.

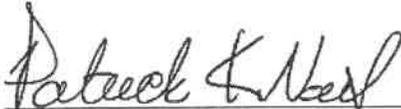
This Power of Attorney is signed, sealed and certified by facsimile under and by authority of the following resolution adopted by the unanimous consent of the Board of Directors of the Company on September 15, 2011:

VOTED, That the signature of the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, and the signature of the Secretary, the seal of the Company, and certifications by the Secretary, may be affixed by facsimile on any power of attorney or bond executed pursuant to the resolution adopted by the Board of Directors on September 15, 2011, and any such power so executed, sealed and certified with respect to any bond or undertaking to which it is attached, shall continue to be valid and binding upon the Company.

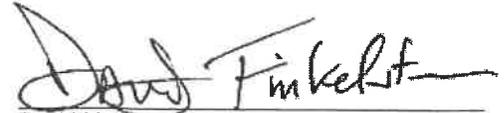
In Testimony Whereof, the Company has caused this instrument to be signed and its corporate seal to be affixed by their authorized officers, this 18th day of January, 2018.

Attested and Certified

Arch Insurance Company


Patrick K. Nails, Secretary

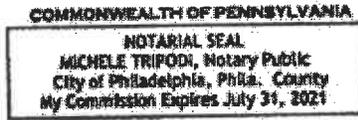


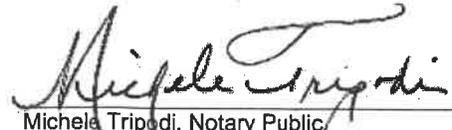

David M. Finkelstein, Executive Vice President

STATE OF PENNSYLVANIA SS

COUNTY OF PHILADELPHIA SS

I, Michele Tripodi, a Notary Public, do hereby certify that Patrick K. Nails and David M. Finkelstein personally known to me to be the same persons whose names are respectively as Secretary and Executive Vice President of the Arch Insurance Company, a Corporation organized and existing under the laws of the State of Missouri, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they being thereunto duly authorized signed, sealed with the corporate seal and delivered the said instrument as the free and voluntary act of said corporation and as their own free and voluntary acts for the uses and purposes therein set forth.




Michele Tripodi, Notary Public
My commission expires 07/31/2021

CERTIFICATION

I, Patrick K. Nails, Secretary of the Arch Insurance Company, do hereby certify that the attached Power of Attorney dated January 18, 2018 on behalf of the person(s) as listed above is a true and correct copy and that the same has been in full force and effect since the date thereof and is in full force and effect on the date of this certificate; and I do further certify that the said David M. Finkelstein, who executed the Power of Attorney as Executive Vice President, was on the date of execution of the attached Power of Attorney the duly elected Executive Vice President of the Arch Insurance Company.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the Arch Insurance Company on this 3rd day of May, 2018.


Patrick K. Nails, Secretary

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

PLEASE SEND ALL CLAIM INQUIRIES RELATING TO THIS BOND TO THE FOLLOWING ADDRESS:

Arch Insurance – Surety Division
3 Parkway, Suite 1500
Philadelphia, PA 19102





STAFF REPORT

ITEM NO. 11.F.

DATE: November 26, 2018
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, ACTING CITY MANAGER
PREPARED BY: ROSEMARY HOERNING, PUBLIC WORKS DIRECTOR
PONCE YAMBOT, PRINCIPAL ENGINEER
SUBJECT: ACCEPTANCE OF SEWER EASEMENT FOR TRACT 20034

RECOMMENDED ACTION

It is recommended that the City Council authorize the Acting City Manager to execute the sewer easement dedication and record the document.

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 September 10, 2018, the City Council accepted the bonds and allowed recordation of Tract 20034 from Diversified Pacific Communities (Developer).

Tract Map 20034 is 8.484 acres in size approved for 66 residential lots with an open space. It is located north of 16th Street, between Upland Hills Drive North and Tanglewood Avenue. This site is within a portion of the existing Upland Hills Country Club Golf Course.

A portion of the sewer line that will serve the project is located on private property. The Sewer Easement will allow the City access to the sewer main for future operations, maintenance and replacement of the public facility.

ISSUES/ANALYSIS

The sewer main traverses thru a private property that is owned by Upland Development, LLC. This sewer easement dedication is executed by Upland Development, LLC to the City of Upland.

FISCAL IMPACTS

There is no fiscal impact to this proposed action.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:**LOCATION MAP**

Executed sewer easement and plats

**TRACT 20034
SEWER EASEMENT**



LOCATION MAP



Order No.
Escrow No.
Loan No.

WHEN RECORDED MAIL TO:
City of Upland
460 N. Euclid Ave
Upland, CA 91786

DOCUMENTARY TRANSFER TAX \$
___ Computed on the Consideration or value of property conveyed; OR
___ Computed on the consideration or value less liens or encumbrances remaining at time of sale.

SPACE ABOVE THIS LINE FOR RECORDER'S

Signature of Declarant or Agent determining tax - Firm Name

EASEMENT DEED
Sewer

UPLAND DEVELOPMENT, LLC, a California limited liability company ("**Grantor**"), hereby grant(s) to the CITY OF UPLAND, a municipal corporation, its successors in interest and assigns ("**Grantee**"), a permanent easement and right of way to construct, repair, maintain, improve, and operate a public sewer and necessary appurtenances thereto, together with the right to maintain said facilities in such manner as shall be determined by Grantee, its successors or assigns, in, over and upon that certain real property situate in the City of Upland, County of San Bernardino, State of California, and more particularly described on **Exhibit "A"** attached hereto and depicted on **Exhibit "B"** attached hereto.

Grantor will exercise only such reserved rights in said land as will not interfere with or prohibit the free and complete use and enjoyment by Grantee, its successors or assigns, of the rights hereby granted.

DATED 8-31-18

UPLAND DEVELOPMENT, LLC, a
California limited liability company

By: 
Name: Christopher Kim
Title: Member

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the deed or grant dated _____ from UPLAND DEVELOPMENT, LLC, a California limited liability company to the City of Upland, a municipal corporation, is hereby accepted by the undersigned officer on behalf of the City of Upland pursuant to authority conferred by Resolution of said City Council adopted on _____, and the Grantee consents to the recordation thereof by its duly authorized officer.

CITY OF UPLAND, a municipal corporation

Dated _____

By: _____

Name: _____

Its: _____

EXHIBIT "A"
(SEWER EASEMENT)

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, BEING A STRIP OF LAND, 25.00 FEET WIDE, ALL WITHIN PARCEL 2 OF PARCEL MAP No. 19747, AS PER MAP FILED IN BOOK 248, PAGES 45 THROUGH 49 INCLUSIVE OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING 12.50 FEET ON BOTH SIDES OF THE FOLLOWING DESCRIBED CENTERLINE;

COMMENCING AT THE SOUTHEAST CORNER OF SAID PARCEL 2, SAID CORNER ALSO BEING A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF 16TH STREET (88 FEET FULL WIDTH) AS SHOWN ON SAID PARCEL MAP 19747;

THENCE, ALONG SAID RIGHT-OF-WAY LINE, NORTH 89°48'46" WEST 71.42 FEET TO THE CENTERLINE OF THAT CERTAIN 15.00 FOOT WIDE EASEMENT, IN FAVOR OF THE CITY OF UPLAND, RECORDED OCTOBER 17, 2000 AS INSTRUMENT NUMBER 2000-375297 OFFICIAL RECORDS OF SAID COUNTY;

THENCE, LEAVING SAID RIGHT-OF-WAY LINE AND ALONG SAID CENTERLINE, NORTH 00°11'14" EAST 24.38 FEET;

THENCE, LEAVING SAID CENTERLINE, NORTH 89°48'46" WEST 7.50 FEET TO A POINT ON THE WEST LINE OF SAID EASEMENT, SAID POINT BEING THE **POINT OF BEGINNING**.

THENCE, CONTINUING, NORTH 89°48'46" WEST 46.50 FEET TO AN ANGLE POINT;

THENCE NORTH 34°58'23" WEST 93.76 FEET TO A **POINT OF TERMINUS** ON THE WEST LINE OF SAID PARCEL 2.

THE SIDELINES OF SAID EASEMENT ARE TO BE LENGTHENED OR SHORTENED AS TO END AT SAID WEST LINE.

SAID AREA CONTAINS 3,508 SQUARE FEET, MORE OR LESS.

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

THE ABOVE DESCRIPTION WAS PREPARED UNDER MY DIRECTION.



ANTHONY HARO
P.L.S. No. 7635
EXPIRATION DATE: 12/31/2018
JN: 766-2663

8/31/18

DATE

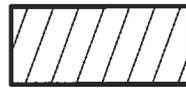


EXHIBIT "B"

PUBLIC SEWER EASEMENT DEDICATION



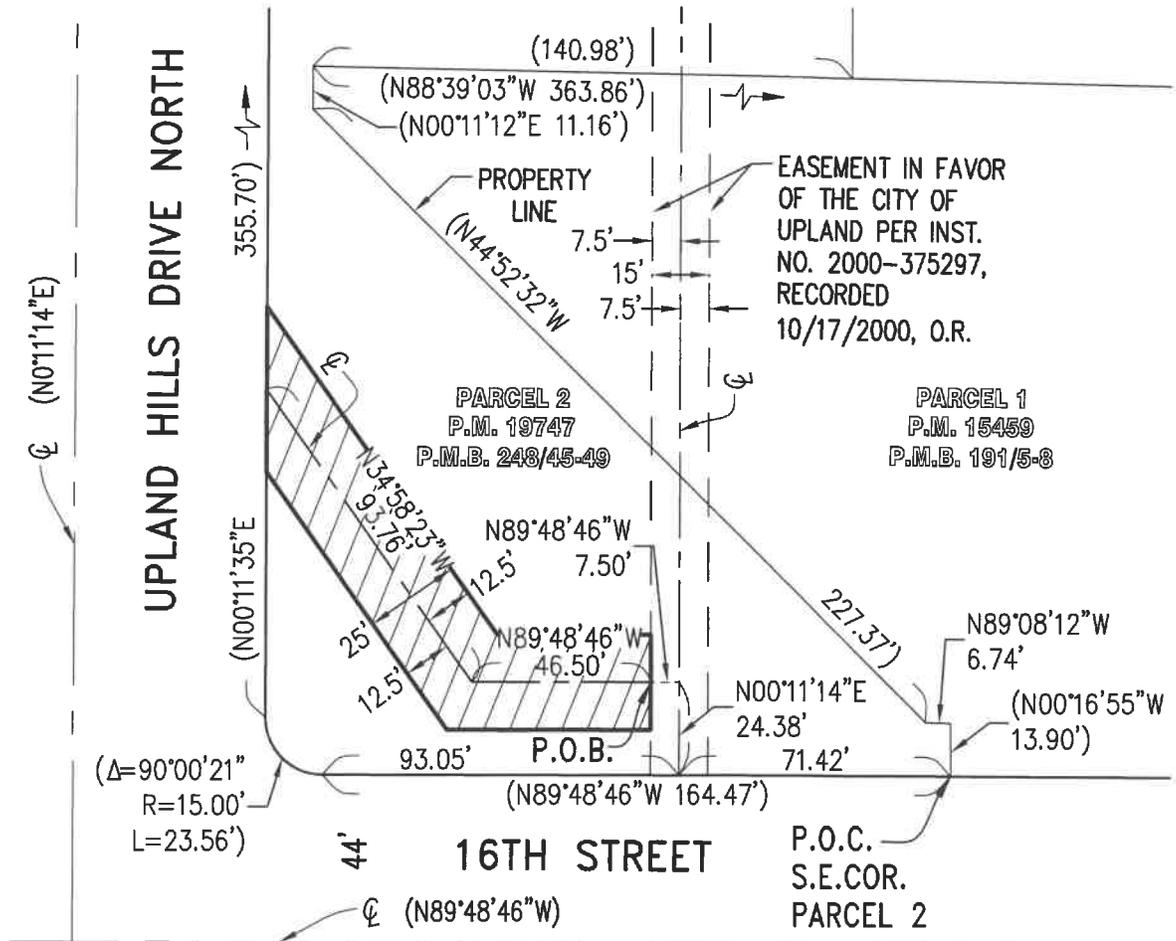
LEGEND



INDICATES PUBLIC EASEMENT DEDICATION AREA FOR SEWER PURPOSES. (3508 S.F.)

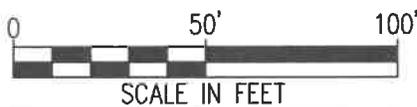
(XXXX)

INDICATES DATA PER PARCEL MAP 19747, P.M.B. 248/45-49.



Anthony Haro 8/31/18

ANTHONY HARO P.L.S. 7635
EXP. 12/31/2018.



PREPARED BY:

MADOLE & ASSOCIATES, INC.

Engineering Communities for Life

J.N.: 766-2663
DWG DATE: 08/31/18

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



STAFF REPORT

ITEM NO. 11.G.

DATE: November 26, 2018
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, ACTING CITY MANAGER
PREPARED BY: ROSEMARY HOERNING, PUBLIC WORKS DIRECTOR
BOB CRITCHFIELD, ENGINEERING MANAGER
SUBJECT: EMERGENCY PURCHASE AND INSTALLATION OF EQUIPMENT
AND PROFESSIONAL SERVICES FOR WATER SYSTEM
IMPROVEMENTS

RECOMMENDED ACTION

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

GOAL STATEMENT

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

BACKGROUND

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

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

ISSUES/ANALYSIS

Reservoir at 17th and Benson Work:

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

appraisal, secured the Intent to Purchase a portion of the San Antonio Water Company property, and on June 1, 2017, began submitting application paperwork necessary for up to a \$16.5 million Drinking Water State Revolving Loan. Staff has submitted all of the required documents to the State for the loan request. The State Project Manager has verbally indicated the application is technically complete. Staff has been working with the State assigned Project Manager to get major elements like the environmental work. The State has received concurrence from the State Historic Preservation Office (SHPO) for the environmental clearance. Staff has been apprised the project has received credit review clearance. The City Attorney's Office is working with the State on the development of the loan agreement. It is anticipated the City will have all of the loan work completed in early 2019.

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

FISCAL IMPACTS

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

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

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

No Attachments Available



STAFF REPORT

ITEM NO. 14.A.

DATE: November 26, 2018
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, ACTING CITY MANAGER
PREPARED BY: STEVEN H. DUKETT, DEVELOPMENT SERVICES CONSULTANT
JOSHUA WINTER, ASSOCIATE PLANNER
SUBJECT: 2018 MILLS ACT CONTRACTS FOR ELEVEN HISTORIC PROPERTIES

RECOMMENDED ACTION

It is recommended that the City Council approve the Mills Act contracts for eleven (11) historic properties and authorize the Acting City Manager to execute the documents, subject to review and approval 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 adopted updated 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, 147 properties have Mills Act contracts.

ISSUES/ANALYSIS

The property owners of ten (10) single-family residences and one (1) commercial property are requesting the City Council's authorization to enter into Mills Act contracts for their historic properties as shown in 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 eleven properties is attached to each contract. The proposed improvements meet the following requirements:

- Improvements should 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 Mills Act Contract (Attachment 1) and proposed Mills Act Improvements 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

The City of Upland receives approximately 17.5 cents per dollar of property tax levied by the County of San Bernardino. Table 3, attached, shows the San Bernardino County Tax Assessor's estimates of annual tax savings for the eleven (11) historic properties and the estimated annual reduction in property tax revenue to the City.

As shown in Table 3, with approval of the proposed Mills Act Contracts the reduction in City tax revenue will be approximately \$5,870.00. The annual reduction will change from year to year due to the fluctuations in the economy, or the properties being rented. The County Assessor estimates that the typical or average increase in property valuation is 2% per year. The properties will be reassessed in early 2019, with the tax relief for the property owners reflected on the fall 2019 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 \$2,000 per property per year after a review of contracts from previous years. Because the City of Upland only receives 17.5 cents for every dollar of property tax collected, the average loss of revenue per property is estimated at \$350. Currently, a total of 147 properties have active Mills Act Contracts which result in a total loss of \$51,450.00 in property tax revenue for the City. The approval of the eleven applications this year would bring the annual total of lost revenue to \$57,320.00.

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 eleven (11) properties. This would save the City approximately \$5,870.00 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 register of Historic Places Code

Table 2 - Properties Applying for Mills Act

Attachment 1 - Standard Mills Act Agreement 2018

Attachment 2 - Mills Act Improvement List 2018

Attachment 3 - UH Support Letter_Mills Act 2018

Table 3 - Annual Tax Savings

Table 1

National Register of Historic Places Eligibility Codes

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

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

	Applicant	Address	APN	District	Year Built	Historic Code	Local Register
MA 18-01	Marisa Johnson	560 N. Campus Ave.	1046-211-08	Pleasant View District	1924	5D	5/28/2003
MA 18-02	Lawrence & Maria Velarde	579 N. 1st Ave	1046-251-09	Old Magnolia District	1900	4D	3/26/2008
MA 18-03	Martin & Jodi Twombly	1423 N. Euclid Ave	1046-223-01	Euclid Avenue District	1929	5D	4/28/2004
MA 18-04	Edward and Tricia McNabb	565 N. Euclid Ave	1046-282-16	Euclid Avenue District	1902	5/3D*	4/28/2004
MA 18-05	Margaret McCormick	434 N. 9th Ave	1046-442-12	Pleasant View District	1938	5D	9/26/2018
MA 18-06	Michael Dominguez	201 N. 1st Ave	1046-401-07	Victorian Row District	1926	5D	12/3/2003
MA 18-07	John D. Lee	794 N. 3rd Ave	1046-231-10	Old Magnolia District	1896	5/4D*	3/26/2003
MA 18-09	Robert Miller	790 N. 1st Ave	1046-272-08	Old Magnolia District	1926	4D	3/26/2003
MA 18-10	Susie L. Ha	811 Washington Blvd	1046-443-14	Pleasant View District	1908	5D	5/28/2003
MA 18-11	Shaida Mansoub	2015 N. Albright Ave	1043-561-46	Individual Listing	1915	5	9/26/2018
MA 18-12	Phillip Alba	793 N. Euclid Ave	1043-283-10	Euclid Avenue District	1911	5/3D*	4/28/2004

*2 codes indicate a review by 2 Agencies. E.g. the City of Upland and the State of California.

HISTORIC PROPERTY PRESERVATION AGREEMENT

THIS AGREEMENT is made and entered into this November 26, 2018, 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 November 26, 2018, 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 November 19, 2018, 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: _____
Jeannette Vagnozzi, Acting 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 2018

**IMPROVEMENTS LIST
FOR**

560 N. Campus Ave., Upland, CA 91786

YEAR

IMPROVEMENTS

1. Upgrade plumbing.
2. Termite inspection/fumigation.
3. Foundation inspection/repairs.
4. Exterior house paint.
5. Replace small north side window with era appropriate window. (wood and size)
6. Restore/refinish wood floors.
7. Remove paint from brick fireplace.
8. Re-landscape front yard.
9. Interior paint/carpet.
10. Re-landscape back yard.

**IMPROVEMENTS LIST
FOR**

579 N. 1st Avenue, Upland, CA 91786

YEAR

IMPROVEMENTS

1. Replace East (front) and North side windows to era appropriate wood.
2. Replace South and West (back) side windows to era appropriate Wood.
3. Paint outside of home.
4. Fence front yard.
5. Remodel bathroom.
6. Remodel kitchen.
7. Upgrade electrical.
8. Paint inside of home.
9. Remodel laundry room.
10. New roof.

**IMPROVEMENTS LIST
FOR**

1423 North Euclid Avenue, Upland, CA 91786

YEAR

IMPROVEMENTS

1. Whole house copper and PEX re-pipe.
2. Convert to tankless water heater.
3. Clean fireplace/chimney and add closable flue insert.
4. Replace and increase attic insulation.
5. Utility room remodel – add shelving and sink.
6. Redo kitchen (cabinets and flooring).
7. Blow-in wall insulation.
8. HVAC swap with efficient ducting.
9. Roof and gutter repair.
10. Update landscaping using traditional colonial Spanish revival style and plantings.

**IMPROVEMENTS LIST
FOR**

565 North Euclid Avenue, Upland, CA 91786

YEAR

IMPROVEMENTS

1. Upgrade knob and tube electrical to new standards.
2. Add central heating and air to the home.
3. Re-plaster, repair and paint all walls and ceilings.
4. Fix old sash windows, strip interior to be stained, fix operating components and wood rot on sashes.
5. Remove all faux painting on doors, millwork and cabinets. Stain doors and trim and paint cabinets.
6. Re-paint exterior of home and look for damage or rot. Fix or replace with like material.
7. Refinish hard wood down stairs.
8. Rip out carpet upstairs and fix and repair damaged wood floors due to old roof leak.
9. Upgrade old plumbing to new standards.
10. Retrofit foundation of the house for seismic control.

**IMPROVEMENTS LIST
FOR**

434 North 9th Avenue, Upland, CA 91786

YEAR

IMPROVEMENTS

1. Bathroom restoration: resurfacing of original bathtub, new/repaired plumbing fixtures for shower/bathtub and cracked wall, sink tile restoration.
2. Interior paint of home and interior wood window restoration.
3. New attic insulation.
4. Linoleum floor restoration of kitchen and bath.
5. Patchwork sidewalk restoration (cracked and un-level from parkway city tree roots).
6. Exterior paint of garage, plaster repair and exterior double hung wood window re-glazing.
7. Exterior paint of house, plaster repair and exterior double hung wood window re-glazing.
8. Restore barn slider garage doors.
9. Garage patio reconstruction (concrete un-level – collects water along garage).
10. Replacement of ridge cap roof shingles on house and garage.

**IMPROVEMENTS LIST
FOR**

201 North 1st Avenue, Upland, CA 91786

YEAR

IMPROVEMENTS

1. Uncover the large main entry between the two columns of the 9th street (south) side of the building and reinstalling a door, re-recreating the sidelights and transom window.
2. Replace/repair exterior windows where bullet holes and etched graffiti exists.
3. Remove carpet/linoleum and restore existing original hardwood flooring.
4. Repair original all windows and doors so they are fully functional.
5. Repair mortar on exterior brick around the structure.
6. Repair/replace the broken skylights (there are 3 of them).
7. Remove cinderblock from 5 west facing window openings and install new windows.
8. Repair cracks and broken sections of original interior ceiling.
9. Replace broken/crumbling asphalt slab in alleyway.
10. Southwest siding, door and window to be replaced to look more era appropriate. Can use existing brick when removed to replace original entrance.

**IMPROVEMENTS LIST
FOR**

794 N. 3rd Ave, Upland, CA 91786

YEAR

IMPROVEMENTS

1. Landscaping/picket fence.
2. Redo outdoor staircase to more era appropriate look.
3. Remove asbestos tiles.
4. Repair wood siding.
5. Exterior paint.
6. Electrical rewire.
7. Remove indoor paneling and wall paper.
8. Interior painting.
9. Build gazebo(era appropriate).
10. Build a garage(era appropriate).

**IMPROVEMENTS LIST
FOR**

790 N. First Avenue and 142 E. 11th Street, Upland, CA 91786

<u>YEAR</u>	<u>IMPROVEMENTS</u>
--------------------	----------------------------

- | | |
|-----|---|
| 1. | Installation of wall heaters [Safety] Termites [Structure] (790) and Repair/Replace missing/damaged Windows to era appropriate (142 and 790). |
| 2. | Redesign of electrical (142) [Safety] and Repair/Replace missing/damaged Windows to era appropriate (142 and 790). |
| 3. | Redesign of electrical (142) [Safety] and Repair/Replace missing/damaged Windows to era appropriate (142 and 790). |
| 4. | Foundation Sister wall (790) [Safety and structure]. |
| 5. | Foundation Sister wall (790) [Safety and structure]. |
| 6. | Foundation Sister wall (142) [Safety and structure]. |
| 7. | Foundation Sister wall (790) [Safety and structure]. |
| 8. | Foundation Pylons (142) [Safety and structure]. |
| 9. | Foundation Pylons (790) [Safety and structure]. |
| 10. | Foundation Pylons (142) and Exterior Paint (142 and 790). |

**IMPROVEMENTS LIST
FOR**

811 Washington Boulevard, Upland, CA 91786

YEAR

IMPROVEMENTS

1. Upstairs bathroom renovation.
2. Plumbing upgrade in main house (drainage system) and fix water heater.
3. Upgrade electrical in main house, primarily electrical panel.
4. Foundation bracing/seismic retrofit.
5. Downstairs bathroom renovation.
6. Kitchen renovation/cabinet resurfacing and new counter top, etc.
7. Install iron/steel (era appropriate) railings for steps in front and side of house at entries.
8. Repair block walls/fence of perimeters.
9. Traditional external window screens repair and replace.
10. Re-paint house exterior.

**IMPROVEMENTS LIST
FOR**

2015 N. Albright Avenue, Upland, CA 91784

YEAR

IMPROVEMENTS

1. Replace the damaged wood/termite wood siding in back of garage and repaint.
2. Re-grouting of cement in stones for entire house.
3. Fix and replace siding in the back of house to original wood siding.
4. Paint the exterior of entire property.
5. Replace shingles in main house.
6. Replace shingles in garages and pool house.
7. Fix all chipped and broken concrete around property.
8. Fix asphalt front and driveways.
9. Replace damaged timbers on second floor in main house.
10. Fix and replace the entry platform/wood, replace the termite on the 4 x 6 holding the decorative wire wood panels at the entry around the pond.

**IMPROVEMENTS LIST
FOR**

793 N. Euclid Avenue, Upland, CA 91786

YEAR

IMPROVEMENTS

1. Fix/reinforce river rock foundation
(No removal, use existing rock).
2. Repair/replace front wrap-around balcony.
3. Landscape front and side yards and add irrigation.
4. Paint exterior of house and garage.
5. Re-roof home and garage.
6. Replace knob and tube/cloth wrap wiring.
7. Repair/replace backyard gazebo/covered patio.
8. Replace galvanized plumbing and water main.
9. Paint interior and refinish floors.
10. Remodel kitchen and bathrooms.



UPLAND HERITAGE
PO Box 1828 Upland, CA 91785
www.uplandheritage.org
909 981-0288

"Preserving the Past to Enrich our Future"

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

November 19, 2018

Dear City Council,

The Mills Act has been a huge benefit to homeowners in the city of Upland. We are seeing continued benefits in that historic homes are improving and are creating wonderful neighborhoods. In turn this enhances the cities imagine which means higher values in the future that will bring in more taxes as well as saving some of our most beautiful historic homes. Which means preserving our wonderful history as a city.

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

560 N. Campus Ave.
579 N. 1st Ave
1423 N. Euclid Ave
565 N. Euclid Ave
434 N. 9th Ave
201 N. 1st Ave
314 E. 11th Street (794 N. 3rd Ave)
790 N. 1st Ave / 142 E. 11th St
811 Washington Blvd
2015 N. Albright Ave
793 N. Euclid Ave

This is a very good tool to entice owners to improve their homes as well as their neighborhoods. Upland Heritage supports the Mills Act and anticipates that you will as well. Please vote yes on the Mills Act request.

Thank you,
Robin Baker
President Upland Heritage &
The Upland Heritage Board of Directors

Table 3
Annual Tax Savings

	Address	APN	Approximate Total Tax Reduction	Approximate Annual Loss to Upland
1	560 N. Campus Ave.	1046-211-08	\$1,156.00	\$202.00
2	579 N. 1st Ave	1046-251-09	\$1,715.00	\$300.00
3	1423 N. Euclid Ave	1046-223-01	\$4,738.00	\$829.00
4	565 N. Euclid Ave	1046-282-16	\$2850.00	\$498.00
5	434 N. 9th Ave	1046-442-12	\$1,022.00	\$178.00
6	201 N. 1st Ave	1046-401-07	\$4,549.00	\$796.00
7	314 E. 11th Street (794 N. 3rd Ave)	1046-231-10	\$1,329.00	\$232.00
8	790 N. 1st Ave	1046-272-08	\$2,169.00	\$379.00
9	811 Washington Blvd	1046-443-14	\$3,083.00	\$539.00
10	2015 N. Albright Ave	1043-561-46	\$7173.00	\$1,255.00
11	793 N. Euclid Ave	1043-283-10	\$3,784.00	\$662.00
				\$5870.00



STAFF REPORT

ITEM NO. 14.B.

DATE: November 26, 2018
TO: MAYOR AND CITY COUNCIL
FROM: JAMES L. MARKMAN, CITY ATTORNEY
PREPARED BY: REVIEWED BY THE CITY ATTORNEY AS TO FORM
SUBJECT: APPROVAL OF A CITY MANAGER EMPLOYMENT AGREEMENT WITH JEANNETTE VAGNOZZI

RECOMMENDED ACTION

It is recommended that the City Council approve a City Manager Employment Agreement with Jeannette Vagnozzi.

GOAL STATEMENT

The proposed action supports the City's goal to ensure continuity in the leadership of the City and proper oversight of the City's functions and employees.

BACKGROUND

A request was made by Mayor Stone and Council Member Sid Robinson to bring forward the appointment of Jeannette Vagnozzi to the position of City Manager. The City Council entered into agreement with Bill R. Manis to serve as City Manager beginning January 2, 2018. After Mr. Manis announced his retirement in September, Ms. Vagnozzi was appointed unanimously to the role of Acting City Manager.

The terms of the employment agreement remain largely the same as the previous City Manager agreements; however the salary stated in the agreement is Step 4 of 13 of the established City Manager's salary range which places this position roughly one salary step ahead of the highest paid executive employee.

ISSUES/ANALYSIS

There were several reasons cited for bringing this item forward at this time. First is continuity of service. Ms. Vagnozzi's knowledge of current projects is crucial during this period of leadership transition. Additionally, with the exception of one department head, the key

executive and administrative management employees are relatively new to the City. Ms. Vagnozzi's leadership will provide stability within the organization. She has also established ties to the business community and has a long standing history in the community. Finally, her experience and education make her very qualified for the role of City Manager.

Jeannette Vagnozzi has 27.5 years of experience in municipal government with the last 3.5 years with the City of Upland as the Assistant City Manager. Ms. Vagnozzi has broad experience from 24 years with the City of La Verne where she served simultaneously as Assistant to the City Manager and as City Treasurer.

Ms. Vagnozzi earned a Master of Science in Leadership and Management and a Bachelor of Science in Business Administration from the University of La Verne and a Certificate in Business Ethics from Colorado State University.

FISCAL IMPACTS

The salary for the position of City Manager has an approved budget allocation for the current fiscal year. It is anticipated that there will be a savings of \$33,000 annually (or \$16,500 for the remainder of the fiscal year) with the proposed contract so no additional funding is necessary.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

City Management Agreement

**CITY MANAGER EMPLOYMENT AGREEMENT BETWEEN
THE CITY OF UPLAND AND JEANNETTE VAGNOZZI**

This Employment Agreement (the "Agreement") is made and entered into effective November 26, 2018 by and between the City of Upland, California, a municipal corporation (the "City") and Jeannette Vagnozzi, an individual (the "City Manager"). The City and the City Manager are sometimes individually referred to as a "Party" and collectively as "Parties."

1. RECITALS

- (a) The City requires the services of a City Manager.
- (b) The City Manager has the necessary education, experience, skills and expertise to serve as the City's City Manager.
- (c) The City Council of the City desires to employ the City Manager to serve as the City Manager of City.
- (d) The City Council of the City desires to provide certain benefits, establish certain conditions of employment and to set working conditions of City Manager.
- (e) The City Manager desires to accept at-will employment as City Manager of City.
- (f) In consideration of these Recitals and the performance by the Parties of the promises, covenants, and conditions herein contained, the parties agree as provided in this Agreement.

2. EMPLOYMENT

The City hereby employs the City Manager as its City Manager, and the City Manager hereby accepts such employment.

(a) Period of Employment

Employee shall, following the assumption of the office of City Manager remain as an exclusive employee of the City for a term of three (3) years ending December 31, 2021 subject to the provisions contained in this Agreement and Chapter 2.04 of the Upland Municipal Code. Employee agrees not to accept, nor to become employed by any other employer until her resignation or termination date. Unless City or Employee has given the other party written notice at least 120 days before the end of the term, this Agreement shall be automatically extended for a period of two (2) years.

3. COMPENSATION

The City agrees to provide the following compensation to the City Manager during the term of the Agreement.

(a) Compensation

(i) Base Salary

- 1) The annual salary for the position of City Manager shall initially be Range 94, Step 5 of the City's salary scale or \$205,368 annually.
- 2) The City Manager shall be paid at the same intervals and in the same manner as other City employees.
- 3) Whenever a cost of living adjustment or other non-merit based pay increase is provided to any other City executive management employee or employees there shall be a similar adjustment or increase to City Manager's Base Salary.
- 4) The City Manager shall be eligible for step increases under the same conditions and intervals as other City employees.

(ii) Performance Evaluation

The City Council will review and evaluate the performance of the City Manager on an annual basis or more frequently if the Council so desires. Failure of the City Council to provide a performance evaluation shall not limit the City's ability to terminate this Agreement pursuant to the terms set forth herein. Review and evaluation shall be in accordance with such criteria as the parties may jointly agree upon, but which the parties contemplate will include mutually agreed upon performance goals for the City Manager and City Council goals, priorities, activities and programs for the City.

(b) Bonding

The City shall bear the full cost of any fidelity or other bonds required of the City Manager under any law or ordinance.

(c) Benefits

To the extent benefits are not specifically addressed in the Agreement, the City Manager shall receive the benefits afforded to any executive management employee or employees.

(d) Car Allowance

City Manager shall have the use of a City vehicle for her use in performing her obligations established in this Agreement or receive a monthly car allowance consistent with the established car allowance for executive staff members.

(e) Vacation and Sick Leave Accrual

City Manager shall accrue vacation and sick leave time at the same rate as the executive management employees.

(t) Professional Activities and Conferences

The City Council desires the City Manager to be reasonably active in professional organizations that will contribute to the City Manager's professional development and standing and that will contribute to the advancement of the City's interests and standing. To that end the City Council will pay for her membership in and attendance of conferences for ICMA, ICSC, CALED, CMMF and the California League of Cities. City Manager may request additional memberships and attendance subject to approval by the City Council.

(g) Reimbursement

The City shall reimburse the City Manager for reasonable and necessary travel costs, subsistence and other business expenses incurred by the City Manager in the performance of his duties including attendance at conferences. Reimbursement shall comply with the current administrative policy on travel.

(h) Resignation/Retirement

The City Manager may resign at any time and agrees to give the City at least 45 days advance written notice of the effective date of the City Manager's resignation, unless the Parties otherwise agree in writing.

(i) Termination and Removal

- (i) The City Manager is an at-will employee and serves at the pleasure of the City Council. Nothing in this Agreement shall prevent the City Council from terminating this Agreement and the services of the City Manager at its sole discretion without cause, except during those periods of time delineated in Subsection 3(i)(iii) below.
- (ii) Except as is provided in Section 3(i)(iii) below, the City Council may remove the City Manager at any time, without cause, by a majority vote of its members. Notice of termination shall be provided to the City Manager in writing.
- (iii) The City Manager shall not be removed from office during or within a period of ninety (90) days next succeeding the date when any member of the City Council takes the oath required to commence any term of office. The purpose of this provision is to allow any newly seated member of the

City Council or a reorganized City Council to observe the actions and ability of the City Manager in the performance of the powers and duties of his office.

- (iv) Given the at-will nature of the position of City Manager, an important element of the employment agreement pertains to termination. It is in both the City's interest and that of the City Manager that any separation of the City Manager is done in a businesslike manner.

(j) Severance Pay

- (i) In the event the City Manager is terminated by the City Council during such time that the City Manager is willing and able to perform the City Manager's duties under this Agreement, then in that event the City agrees to continue to compensate the City Manager at his then current rate of pay, as severance pay, for a total of six months, including all benefits and accrued leaves.
- (ii) In exchange for the Severance Pay, the City Manager hereby expressly waives any right he may have under any applicable law, City policy, or otherwise to appeal or grieve his termination and the terms of the Agreement.
- (iii) The above severance provisions are intended to comply with the provisions of Government Code section 53260 *et seq.* Any severance payment under this Agreement is also subject to the forfeiture or repayment provision of Government Code section 53243 *et seq.*

(k) Payment for Unused Leave Balances

- (i) On separation from City employment, the City Manager shall be paid for all unused accrued leave allowances in accordance with City policy or as required by law. This includes all unused leave balances for vacation, sick leave, administrative and floating holidays.
- (ii) In the event the City Manager dies while employed by the City under this Agreement, the City Manager's beneficiaries or those entitled to the City Manager's estate shall be entitled to the City Manager's earned salary and any in-lieu payments for accrued benefits, including compensation for the value of all accrued leave balances in accordance with city policy or as required by law.

4. DUTIES AND RESPONSIBILITIES

(a) Duties and Authority

- (i) The City Manager shall be the chief executive officer of the City and be responsible to the City Council for the proper administration of all affairs

of the City. The City Manager shall also serve as the chief executive officer of the Successor Agency to the Upland Redevelopment Agency and any and all other Agencies as to which the City Council is the board of directors. City Manager agrees that the salary and benefits provided pursuant to this Agreement represents the full compensation to be paid to City Manager for performance of all duties as the City's City Manager, as well as for performance of all duties required of the chief executive officer of the above identified entities.

- (ii) The City Manager shall perform all of the duties of the City Manager as set forth in Chapter 2.04 of the Upland Municipal Code and as may be modified from time to time, the California Government Code, and City policies and procedures approved by the City Council, as may be provided from time to time.

(b) ICMA Code of Ethics

- (i) The Parties acknowledge that the City Manager is a member of the International City Management Association ("ICMA"). The Parties mutually desire that the City Manager be subject to and comply with the ICMA Code of Ethics (Exhibit A).
- (ii) The City Manager commits to comply with the ICMA Code of Ethics.

5. MISCELLANEOUS PROVISIONS

(a) Amendments

This Agreement may *be* amended at any time by mutual agreement of the City and the City Manager. Any amendments are to be negotiated, put in writing, and adopted by the City Council.

(b) Conflict of Interest

- (i) The City Manager shall not engage in any business or transaction or shall have a financial or other personal interest or association, direct or indirect, which is in conflict with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties. Personal as distinguished from financial interest includes an interest arising from blood or marriage relationships or close business, personal, or political associations. This section shall not serve to prohibit independent acts or other forms of enterprise during those hours not covered by active City employment, providing such acts do not constitute a conflict of interest as defined herein.
- (ii) The City Manager shall also be subject to the conflict of interest provisions of the California Government Code and any conflict of interest code applicable to the City Manager's City employment.

(iii) The City Manager is responsible for submitting to the City Clerk the appropriate Conflict of Interest Statements at the time of appointment, annually thereafter, and at the time of separation from the position.

(c) Proprietary Information

"Proprietary Information" is all information and any idea pertaining in any manner to the business of City (or any City affiliate), its employees, clients, consultants, or business associates, which was produced by any employee of City in the course of his or her employment or otherwise produced or acquired by or on behalf of City. Proprietary Information shall include, without limitation, trade secrets, product ideas, inventions, processes, formulae, data, know-how, software and other computer programs, copyrightable material, marketing plans, strategies, sales, financial reports, forecasts, and customer lists. All Proprietary Information not generally known outside of City's organization, and all Proprietary Information so known only through improper means, shall be deemed "Confidential Information." During his employment by City, City Manager shall use Proprietary Information, and shall disclose Confidential Information, only for the benefit of City and as is or may be necessary to perform his job responsibilities under this Agreement. Following termination, City Manager shall not use any Proprietary Information and shall not disclose any Confidential Information, except with express written consent of City. City Manager's obligations under this Section shall survive the termination of his employment and the expiration of this Agreement.

(d) Indemnification

Subject to, in accordance with, and to the extent provided by the California Tort Claims Act [Government Code Section 810 *et seq.*], the City will indemnify, defend, and hold the City Manager harmless from and against any action, demand, suit, monetary judgment or other legal or administrative proceeding, and any liability, injury, loss or other damages, arising out of any act or omission occurring during City Manager's tenure as City Manager.

(e) Severability

If any clause, sentence, part, section, or portion of this Agreement is found by a court of competent jurisdiction or arbitrator to be invalid, illegal, void or unenforceable, such clause, sentence, part, section, or portion so found shall be regarded as though it were not part of this Agreement and the remaining parts of this Agreement shall be fully binding and enforceable by the Parties hereto.

(f) Laws Affecting Title

In addition to those laws affecting a City Manager, the City Manager shall have the same powers, rights and responsibilities as a Chief Executive Officer, City Administrative Officer, Administrator, and/or City Administrator as those terms are used in local, state or federal laws.

(k) Attorney' s Fees

In any legal action, arbitration, or other proceeding brought to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

(l) Interpretation

This Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any Party. By way of example and not in limitation, this Agreement shall not be construed in favor of the party receiving a benefit nor against the party responsible for any particular language in this Agreement.

Captions are used for reference purposes only and should be ignored in the interpretation of the Agreement. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the City Council and City Manager and by no other means. Each Party waives their future right to claim, contest or assert that this Agreement was modified, cancelled, superseded or changed by any oral agreement, course of conduct, waiver or estoppel.

(m) Acknowledgment

City Manager acknowledges that she has had the opportunity to consult legal counsel in regard to this Agreement, that she has read and understands this Agreement, that she is fully aware of its legal effect, and that she has entered into it freely and voluntarily and based on her own judgment and not on any representations or promises other than those contained in this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement, as of the date first indicated above.

CITY
City of Upland
A Municipal Corporation

CITY MANAGER
Jeannette Vagnozzi
An individual

By: _____
Debbie Stone, Mayor

By: _____
Jeannette Vagnozzi

APPROVED AS TO FORM:

By: _____
James L. Markman, City Attorney



STAFF REPORT

ITEM NO. 14.C.

DATE: November 26, 2018
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, ACTING CITY MANAGER
PREPARED BY: STEVEN H. DUKETT, DEVELOPMENT SERVICES CONSULTANT
SUBJECT: RESOLUTION FOR THE AMENDMENT TO THE PARKING AND BUSINESS IMPROVEMENT AREA ORDINANCES

RECOMMENDED ACTION

It is recommended that the City Council adopt the Resolution declaring its intention to amend the Parking and Business Improvement Area Ordinances to reduce the tax levy to zero, set January 14, 2019 at 7:00 PM as the public hearing date to consider such amendment and approve certain related actions.

GOAL STATEMENT

The proposed action supports the City's goal to encourage economic development, revitalization, orderly growth and development, and the elimination of blighting conditions within the Downtown area.

BACKGROUND

Consistent with the provisions therefor within the California Streets and Highways Code (the "SHC"), on November 1, 1966, the City Council adopted Ordinance No. 773 establishing a Parking and Business Improvement Area (the "PBIA") and providing for a tax levy to business licenses for businesses within the PBIA. SHC §§ 36000 through 36081 describe the PBIA Law of 1965, as amended.

On September 26, 1994, the City Council adopted Resolution No. 4560 declaring the intention to disestablish portions of the PBIA, change the rates of the additional tax levy imposed on the businesses within the PBIA and change the uses to which the proceeds from the tax levy shall apply. On November 28, 1994, the City Council adopted Resolution No. 4579, which amended certain provisions of Resolution No. 4560 to confirm when the public meeting and hearing would take place with respect to the subject of Resolution No. 4560. On December

20, 1994, the City Council passed and adopted Ordinance No. 1612, which codified within the Upland Municipal Code the amendments to the PBIA proposed within Resolution No. 4560 and reconfirmed within Resolution No. 4579. Collectively, Ordinance Nos. 773 and 1612 are referred to herein as the "PBIA Ordinances".

On July 23, 2018, the City Council received a status update from staff with respect to the PBIA, which included staff's intent to conduct a needs and fiscal capability analysis of the PBIA and to provide the City Council with a further status update, including recommendations for improving the implementation of the PBIA on a going forward basis. During the November 26, 2018 City Council meeting, staff will present to the City Council the results of the PBIA needs and fiscal capability analysis, including recommendations for improving the implementation of the PBIA on a going forward basis (a description of the "PBIA Recommendations" is included as Exhibit "A" to the attached Resolution).

ISSUES/ANALYSIS

The central theme of the PBIA Recommendations is to cease collecting the PBIA tax levy for a period of time beginning during January 2019 and continuing until such time as the City Council adopts, consistent with applicable provisions of California Law, an amending or replacement ordinance or instead takes such other actions or institutes such other programs as may be necessary and appropriate to institute a program or programs and fiscal strategy that are unrelated to a PBIA or are in addition to a PBIA, but are better suited to meeting the needs of Upland's Town Center.

Pursuant to SHC § 36061, changes to the PBIA rate or levy may only be approved by ordinance of the City Council subsequent to conducting a public hearing that is set by resolution of the City Council that is adopted at least fifteen (15) days prior to the public hearing to consider the ordinance and specifies the proposed change and give the time and place of the public hearing to consider the ordinance.

Adoption of the attached Resolution will declare City Council's intention to conduct a public hearing pursuant to SHC § 36061 for the purpose of considering an amendment to the PBIA Ordinances for the purpose of reducing the tax levy associated with the PBIA to zero for a period of time beginning during January 2019 and continuing in whole calendar year increments until such time as the City Council adopts, consistent with applicable provisions California Law, an amending or replacement ordinance or instead takes such other actions or institutes such other programs as may be necessary and appropriate to institute a program or programs and fiscal strategy that are unrelated to a PBIA or are in addition to a PBIA, but are better suited to meeting the needs of the businesses in Upland's Town Center.

Consistent with SHC § 36061, adoption of the attached Resolution will set the date and time for the City Council to conduct a public hearing and subsequently consider certain amendments to the PBIA Ordinances, as described within the attached Resolution. In addition, the Resolution will authorize the City Clerk to give a notice (the "Notice") of the Hearing, pursuant to SHC § 36022 in the following two ways: 1) One publication of the attached Resolution in a newspaper of general circulation in the City; and 2) mailing a complete and signed copy of the attached Resolution to each business in the PBIA. Further, the City Clerk must cause the publication and mailing to occur no less than 10 days prior to the time of the hearing.

Therefore, staff recommends that a public hearing (the "Hearing") to consider an amendment to the PBIA Ordinances consistent with the attached Resolution, should be held at 7:00 PM, or as soon thereafter as practicable, on Monday, January 14, 2019 at the City Council's Chambers, 460 North Euclid Avenue, Upland, California. During the Hearing, the City Council will hear and receive evidence for or against the proposed action prior to considering the adoption of an amendment to the PBIA Ordinances.

FISCAL IMPACTS

All funds attributable to the PBIA and tax levy payments accruing to the PBIA in the City's possession are the property of the City and shall remain with the PBIA and be used for the purposes of the PBIA as the City Council may appropriate, directly or indirectly through delegation of authority per City policies. If the City Council determines that the PBIA Ordinances shall be amended to reduce the tax levy to zero, then during such period of zero tax levy, no new revenue will accrue to the PBIA.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Resolution of Intention

RESOLUTION NO.

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF UPLAND, CALIFORNIA, DECLARING ITS INTENTION TO AMEND THE PARKING AND BUSINESS IMPROVEMENT AREA ORDINANCES (AS DEFINED HEREIN) TO REDUCE THE TAX LEVY TO ZERO, SET JANUARY 14, 2019 AT 7:00 PM AS THE PUBLIC HEARING DATE TO CONSIDER SUCH AMENDMENT AND APPROVE CERTAIN RELATED ACTIONS

Intent of the parties and findings

(i) Consistent with the provisions therefor within the California Streets and Highways Code (the "SHC"), on November 1, 1966, the City Council adopted Ordinance No. 773 establishing a Parking and Business Improvement Area (the "PBIA") and providing for a tax levy to business licenses for businesses within the PBIA; and

(ii) SHC §§ 36000 through 36081 describe the PBIA Law of 1965, as amended; and

(iii) on September 26, 1994, the City Council adopted Resolution No. 4560 declaring the intention to disestablish portions of the PBIA, change the rates of the additional tax levy imposed on the businesses with the PBIA and change the uses to which the proceeds from the tax levy shall apply; and

(iv) on November 28, 1994, the City Council adopted Resolution No. 4579, which amended certain provisions of Resolution No. 4560 to confirm when the public meeting and hearing would take place with respect to the subject of Resolution No. 4560; and

(v) on December 20, 1994, the City Council passed and adopted Ordinance No. 1612, which codified within the Upland Municipal Code the amendments to the PBIA proposed within Resolution No. 4560 and reconfirmed within Resolution No. 4579; and

(vi) collectively, Ordinance Nos. 773 and 1612 are referred to herein as the "PBIA Ordinances"; and

(vii) on July 23, 2018, the City Council received a status update from staff with respect to the PBIA, which included staff's intent to conduct a needs and fiscal capability analysis of the PBIA and to provide the City Council with a further status update, including recommendations for improving the implementation of the PBIA on a going forward basis; and

(viii) on November 26, 2018, staff presented to the City Council, the results of the PBIA needs and fiscal capability analysis, including recommendations for improving the implementation of the PBIA on a going forward basis (a description of the "PBIA Recommendations" is included as Exhibit "A" to this Resolution); and

(ix) the central theme of the PBIA Recommendations is to cease collecting the PBIA tax levy for a period of time beginning during January 2019 and continuing until such time as the City Council adopts, consistent with applicable provisions of California Law, an amending or replacement ordinance or instead takes such other actions or institutes such other programs as may be necessary and appropriate to institute a program or programs and fiscal strategy that are unrelated to a PBIA or are in addition to a PBIA, but are better suited to meeting the needs of Upland's Town Center; and

(x) pursuant to SHC § 36061, changes to the PBIA rate or levy may only be approved by ordinance of the City Council subsequent to conducting a public hearing that is set by resolution of the City Council that is adopted at least fifteen (15) days prior to the public hearing to consider the ordinance and specifies the proposed change and give the time and place of the public hearing to consider the ordinance; and

(xi) consistent with SHC § 36061, adoption of this Resolution will set the date and time for the City Council to conduct a public hearing and subsequently consider certain amendments to the PBIA Ordinances as described in this Resolution; and

(xii) all of the prerequisites with respect to the approval of this Resolution have been met.

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

Section 1. Recitals. The foregoing recitals are true and correct and are a substantive part of this Resolution.

Section 2. Purpose. The City Council declares its intention to conduct a public hearing pursuant to SHC § 36061 for the purpose of considering amendments to the PBIA Ordinances for the purpose of reducing the tax levy associated with the PBIA to zero for a period of time beginning during January 2019 and continuing until such time as the City Council adopts, consistent with applicable provisions California Law, an amending or replacement ordinance or instead takes such other actions or institutes such other programs as may be necessary and appropriate to institute a program or programs and fiscal strategy that may be unrelated to a PBIA, but are better suited to meeting the needs of Upland's Town Center.

Section 3. Public Hearing. A public hearing (the "Hearing") to consider amendments to the PBIA Ordinances consistent with this Resolution shall be held at 7:00 PM, or as soon thereafter as practicable, on Monday, January 14, 2019 at the City Council's Chambers, 460 North Euclid Avenue, Upland, California. At the time and place set forth above for the Hearing, the City Council shall hear and receive evidence for or against the proposed action.

Section 4. Notice. The City Clerk is hereby authorized and directed to give a notice (the "Notice") of the Hearing, pursuant to SHC § 36022 in the following two ways: 1) One publication of this Resolution in a newspaper of general circulation in

the City; and 2) mailing a complete and signed copy of this Resolution to each business in the PBIA. Further, the City Clerk must cause the publication and mailing to occur no less than 10 days prior to the time of the Hearing. Publication and mailing shall be completed at least 10 days prior to the time of the Hearing.

Section 5. Effectiveness. This Resolution shall take effect upon the date of its adoption.

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 26th day of November, 2018.

Debbie Stone, Mayor

I, Keri Johnson, Deputy City Clerk of the City of Upland, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Council of the City of Upland held on the 26th day of November, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

ATTEST:

Keri Johnson, Deputy City Clerk

PBIA RECOMMENDATIONS

Introduction

On July 23, 2018, the City Council received a written and oral status update from staff with respect to the PBIA, which included a summary of revenues, expenditures, appropriations, funding requests and an overview of the improvements funded and proposed to be completed within the Upland Town Center. Staff also indicated its intent to conduct a needs and fiscal capability analysis of the PBIA and to provide the City Council with a further status update, including recommendations for improving the implementation of the PBIA on a going forward basis.

Current PBIA Fiscal Summary

During Fiscal Year 2017-18, the City Council approved a PBIA budget of \$146,000; \$40,000 for the installation of electrical outlet improvements for downtown and \$106,000 for the 1st Avenue Parking Lot Rehabilitation and Striping Project (Northeast corner of 1st Avenue and "A" Street). The electrical improvements were completed in July 2018 and actually cost about \$28,000 (a budget savings of \$12,000). The 1st Avenue Parking Lot Rehabilitation and Striping Project is in its design phase and is expected to go out to bid during the second half of FY 2018-19. The project is being managed by the City's Public Works Department. It is now anticipated that the Project will require \$150,000 to complete.

As of July 1, 2018, the fund balance in the PBIA fund was approximately \$160,000, consisting of \$150,000 reserved for the 1st Avenue Parking Lot Rehabilitation and Striping Project and \$10,000 for the installation of bike racks in Downtown. Therefore, the current \$160,000 fund balance is fully reserved.

The PBIA has generated about \$43,400 per year of revenue during the last 5 years. Based on conservative estimates, the PBIA fund is projected to receive \$43,600 of revenue during Fiscal Year 2018-19. The approved \$53,600 Fiscal Year 2018-19 PBIA budget includes \$10,000 for the installation of bike racks in Downtown and \$43,600 for Historic Downtown Upland, Inc. (the "HDU"), a legal entity formed by the merchants in to assist them with their operations. At that time, it was envisioned that the HDU assistance would be funded from PBIA revenues (as received).

Summary of Needs Analysis

The Upland Town Center area has significant needs for new and upgraded public infrastructure improvements including, but not limited to street improvements (i.e., surface maintenance and reconstruction), curb, gutter and sidewalk improvements (i.e., surface maintenance, reconstruction and rock curb restoration), water system improvements (i.e., system upgrades and replacements), sewer improvements (i.e., system upgrades and replacements), parking lot improvements (i.e., maintenance, pavement reconstruction, re-striping, lighting, trash enclosures, etc.). Although a specific assessment of the specific improvements that are required has yet been

prepared, a rough magnitude of scale assessment conducted by staff indicates that between \$4 and \$5 million-worth of improvements are needed to fully restore the public infrastructure within PBIA.

Summary of Fiscal Capability Analysis

Based on current revenue estimates (using current tax levy amounts), the PBIA is projected to generate about \$43,600 per year on a going forward basis. As noted above, staff has roughly estimated that the PBIA's public infrastructure needs are between \$4 and \$5 million (in current dollars). If the PBIA were to be the sole funding source for these improvements, it would take between 92 and 115 years to raise such amounts without factoring in inflation. As a result, it is practically impossible for the PBIA to solely fund such improvements. Further, the foregoing evidences that in terms of the PBIA's capability of funding its infrastructure needs, it is incapable of doing so. In other words, the only way that the infrastructure needs of the Upland Town Center can be met within a reasonable period of time is to consider amending or replacing the PBIA Ordinances or instead to take such other actions or institute such other programs as may be necessary and appropriate to institute a program or programs and fiscal strategy that may be unrelated to a PBIA, but are better suited to meeting the needs of Upland's Town Center.

Recommendations

Based on the foregoing, staff is recommending that the City Council consider alternative ways of meeting the needs of Upland's Town Center. This would include the preparation of a specific infrastructure deficiency study by professional engineers and an assessment of financing and funding mechanisms that are better suited to meeting the needs of Upland's Town Center. The specifics of the work program needed to for this purpose would be included with a future City budget. In the interim, staff recommends that the City cease collecting the PBIA tax levy for a period of time beginning during January 2019 and continuing until such time as the City Council adopts, consistent with applicable provisions of California Law, an amending or replacement ordinance or instead takes such other actions or institutes such other programs as may be necessary and appropriate to institute a program or programs and fiscal strategy that are unrelated to a PBIA or are in addition to a PBIA, but are better suited to meeting the needs of Upland's Town Center.



STAFF REPORT

ITEM NO. 14.D.

DATE: November 26, 2018
TO: MAYOR AND CITY COUNCIL
FROM: JEANNETTE VAGNOZZI, ACTING CITY MANAGER
PREPARED BY: STEVEN H. DUKETT, DEVELOPMENT SERVICES CONSULTANT
LIZ CHAVEZ, DEVELOPMENT SERVICES MANAGER
SUBJECT: APPROVAL OF A PROPOSED PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS WITH THE POMONA VALLEY HABITAT FOR HUMANITY, INC. WITH RESPECT TO REAL PROPERTY LOCATED AT THE SOUTHWEST CORNER OF WASHINGTON STREET AND 6TH AVENUE (A PORTION OF APN 1046-433-23)

RECOMMENDED ACTION

It is recommended that the City Council approve a proposed Purchase and Sale Agreement and Escrow Instructions with the Pomona Valley Habitat for Humanity, Inc. with respect to an 8,090 square foot vacant parcel of real property located at the southwest corner of Washington Street and 6th Avenue (a portion of APN 1046-433-23) and authorize the Acting City Manager to execute said Agreement and make ministerial changes if required.

GOAL STATEMENT

The proposed action supports the City of Upland's ("City") goal to further programs, projects and initiatives that will increase, improve or preserve affordable housing within the City for persons or families of low- to moderate-incomes and protect historical resources.

BACKGROUND

During December 2017, the City caused a home (donated to the City by the Tierra Alta developers) to be moved from the northeast corner of Euclid Avenue and East 8th Street to a City owned 8,090 square foot vacant parcel of real property located at the southwest corner of Washington Street and 6th Avenue (a portion of APN 1046-433-23) (the "Site"). The Site was originally purchased by the former Upland Community Redevelopment Agency using Low- and Moderate-Income Housing Fund (the "LMIHF") money to be used for a future affordable housing project.

Pursuant to Health and Safety Code (the "HSC") § 34172 (a) (1), the Upland Community Redevelopment Agency (the "Former RDA") was dissolved on February 1, 2012. Consistent with the provisions of the HSC, during January of 2012 the Mayor and City Council of the City of Upland elected to serve in the capacity of the Successor Agency to the Former RDA (the "Successor Agency"), which is a separate legal entity. In addition and consistent with the provisions of the HSC, the Mayor and City Council of the City of Upland elected to serve in the capacity of the Successor Housing Agency to the Former RDA (the "Successor Housing Agency"), which is a functional title only.

As a part of the process of winding-down the affairs of the Former RDA and in compliance with the HSC, the Successor Agency previously transferred all of its real property assets that were acquired with LMIHF money, including the Site, to the City in its capacity as the Successor Housing Agency. Consequently, the City, in its capacity as Successor Housing Agency, is now responsible for fulfilling the Former RDA's affordable housing responsibilities with respect to the re-use of the real property assets received from the Successor Agency. Further, pursuant to the requirements of the HSC, the LMIHF assets received from the Successor Agency are now held by the Successor Housing Agency in its Low- and Moderate Income Housing Asset Fund (the "LMIHAF"), which has superseded the LMIHF.

Concurrently with the relocation of the donated home to the Site, negotiations were initiated with the Pomona Valley Habitat for Humanity, Inc. (the "Habitat") for Habitat's possible acquisition of the Site together with the relocated home for the purpose of renovating it and then selling it to an income eligible family. Habitat's reputation in creating, restoring and rehabilitation of affordable homes for lower income families is well documented and their partnership with the City will ensure success in this endeavor. The negotiations with Habitat have resulted in a proposed Purchase and Sale Agreement and Escrow Instructions (copy of attached and drafted by the City Attorney's office) which will result in the creation of a renovated infill single-family home that will be affordable to a family of low- to moderate-income. In addition, the renovations to the Home will be consistent with the Former RDA's intended development requirements for the Site and with the character and style of the surrounding historical neighborhood.

ISSUES/ANALYSIS

The home is a 1914 craftsman bungalow of approximately 1,400 square feet and is listed on the City's Historic Resources Survey and within the Euclid District of the Historic Downtown Upland Specific Plan. Due to the intact nature of the home's original architecture, it was determined by City and Habitat staff to be a prime candidate for salvaging and rehabilitation in line with Upland's long history of historical preservation. To date, the City, in its capacity as Successor Housing Agency, has invested nearly \$80,000 of its LMIHAF money to relocate and store the home on the Site.

Pursuant to the Purchase and Sale Agreement and Escrow Instructions, Habitat will cause the home to be fully renovated for an ultimate sale to a family that meets both Habitat's Homeownership Program and the City's First Time Homebuyer Program requirements. Habitat has estimated the cost of renovating the home to be approximately \$180,000, half of which will come from Habitat's fund raising efforts and the other half will come from a short-term zero interest construction loan from the City, in its capacity as Successor Housing Agency. The construction loan will be secured by a deed of trust and repaid in full by Habitat upon sale of the home. Habitat has estimated that the renovation and ultimate sale of the home will require approximately six months from the close of escrow to complete.

Prior to the close of escrow, the City is responsible for completing the lot line adjustment for the Site which will create a separate parcel that can be sold. Based on an appraisal dated June 2017 the Site is valued at \$139,000. The Site together with the home is proposed to be sold to Habitat for \$1.00 plus a 45-year affordability covenant to be recorded for the Site. This

ensures that the home remains an affordable housing unit for the 45-year term of the covenant.

Approval of this project will provide the following benefits to the community:

- i. Eliminating blight by developing the vacant land with a historic single-family home;
- ii. Preserve and enhance the character of a historically designated neighborhood;
- iii. Enhance the value of neighboring properties due to development of the site;
- iv. Provide a decent, safe and sanitary home that will be affordable to an income eligible family; and
- v. Increase the City’s property tax revenues from the developed Site.

The City’s basic responsibilities for this project include:

- i. Relocating and storing the home until Habitat acquires the Site;
- ii. Completing the lot line adjustment needed to create a separate parcel of the Site; and
- iii. Funding a short-term construction loan to Habitat to partially fund the costs of renovating the home.

Habitat’s basic responsibilities for this project include:

- i. Raising the balance of the funds needed to renovate the home;
- ii. Pay all applicable City building permit and Development Impact Fees;
- iii. Cause the relocation of the home to a permanent foundation and renovation of the home;
- iv. Select a qualified income eligible buyer to purchase the completed home.

FISCAL IMPACTS

Consistent with the LMIHAF’s mission to increase, improve and preserve affordable housing within the City, it is estimated that the Habitat project will require approximately \$219,000 of assistance, as described below:

Amount	Description
\$80,000	To date expenditure from LMIHAF to relocate/store home
\$138,999	Estimate of Value for project land (minus \$1 sale price)
\$90,000	Construction loan
\$308,999	Total City Expenditure
(\$90,000)	Repayment of Construction Loan
\$218,999	NET expenditure

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

Purchase Agreement with attachments

**AGREEMENT FOR PURCHASE AND SALE
AND ESCROW INSTRUCTIONS**

THIS AGREEMENT FOR PURCHASE AND SALE AND ESCROW INSTRUCTIONS (this "Agreement") is dated as of _____, 2018 and is entered into by and between the CITY OF UPLAND, a California municipal corporation ("Seller" or "City"), and POMONA VALLEY HABITAT FOR HUMANITY, INC., a California nonprofit public benefit corporation ("Buyer").

In consideration of the mutual covenants and terms hereinafter set forth, and other consideration, the sufficiency of which is hereby acknowledged, Buyer and Seller hereby agree as follows:

1. **SALE AND PURCHASE PRICE.**

1.1 **Sale and Purchase.** Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller the real property in the City of Upland, County of San Bernardino, State of California, described on Exhibit "A" attached hereto (the "Property"), for the price and upon all of the terms and conditions hereinafter set forth.

1.2 **Purchase Price.** The purchase price ("Purchase Price") for the Property shall be ONE AND NO/100 DOLLARS (\$1.00).

2. **TITLE.**

2.1 **General.** Title to the Property shall be conveyed by grant deed and shall be evidenced by an owner's title insurance policy ("Title Policy"), issued by Ticor Title Insurance Company, 4120 Concourse Ave., Suite 400, Ontario, CA 91764 ("Title Company"), with liability in the amount of \$139,000, insuring title to the Property as vested in Buyer, free and clear of all liens (except liens for property taxes and assessments not yet payable), but subject to all other matters of record.

2.2 **Acts After Date of Agreement.** During the period from the date of this Agreement through the Closing Date (defined in Section 4.3 below), Seller shall not improve or otherwise alter the Property, or record or file for record (or permit to be recorded or filed for record) any document or instrument which will affect the title to or use of the Property, without the prior written consent of the Buyer.

3. **DOCUMENTS AND INSPECTIONS.**

Within five (5) business days after the date of this Agreement, Seller shall deliver to Buyer copies of any and all material reports, documents, studies and agreements in Seller's possession or control that relate in any way to the Property.

Within ten (10) days after the date of this Agreement, Seller shall promptly obtain and deliver to Buyer a preliminary report for the Property from the Title Company and shall deliver it to Buyer with copies of (or hyperlinks to) all title exception documents described therein.

If Buyer is not satisfied with the title to the Property in its sole and absolute discretion, the Buyer may terminate this Agreement by written notice to Seller given prior to _____, 2018.

4. ESCROW.

4.1 Escrow Instructions. The term “Escrow Holder” shall mean Altus Escrow, 870 N. Mountain Ave., Suite 128, Upland, CA 91786, Attn: Nancy Silberberg (909/920-9187). This Agreement shall constitute escrow instructions. However, the parties shall execute such further instructions as Escrow Holder reasonably requires in order to clarify the duties and responsibilities of Escrow Holder. In the event of any conflict between the terms and conditions of this Agreement and such further escrow instructions, the terms and conditions of this Agreement shall control.

4.2 Opening of Escrow. Buyer and Seller shall open an escrow with the Escrow Holder within five (5) business days after the date of this Agreement by depositing an executed copy or executed counterparts of this Agreement with Escrow Holder and requesting that an escrow be opened.

4.3 Close of Escrow. Provided all of Seller’s and Buyer’s obligations to be performed on or before Close of Escrow have been performed and all the conditions to the Close of Escrow set forth in this Agreement have been satisfied, escrow shall close on or before _____, 2018 (“Closing Date”); **provided, however, that the foregoing shall not prohibit Buyer and Seller from closing earlier if they so desire.** All risk of loss or damage with respect to the Property shall pass from Seller to Buyer upon the Close of Escrow. Possession of the Property shall be delivered to Buyer upon the close of escrow.

4.4 Buyer’s Deliveries. On or before the date that is at least one (1) business day prior to the Closing Date, Buyer shall deposit into escrow the following (properly executed and acknowledged, if applicable), except that the Buyer executed counterpart of the Promissory Note may be delivered directly to Seller outside of escrow prior to the Closing Date:

4.4.1 The Purchase Price;

4.4.2 A Promissory Note and Disbursement Agreement in the form attached hereto as Exhibit “B” (“Promissory Note”);

4.4.3 A deed of trust in the form attached hereto as Exhibit “C”, executed by Buyer and acknowledged (“Deed of Trust”);

4.4.4 A counterpart original of a Declaration of Affordability Covenants, Conditions, and Restrictions in the form attached hereto as Exhibit “D” (“Affordability Covenants”), executed by Buyer and acknowledged;

4.4.5 A Notice of Affordability Covenants in the form attached hereto as Exhibit “E” (“Notice”).

4.4.6 All other documents and funds contemplated by this Agreement and required by Escrow Holder to be deposited by Buyer to carry out this Agreement.

4.5 Seller's Deliveries. Before the date that is at least one (1) business day prior to the Closing Date, Seller shall deposit into escrow the following (properly executed and acknowledged, if applicable), except that the counterpart of the Promissory Note may be delivered directly to Seller outside of escrow prior to the Closing Date:

4.5.1 A grant deed conveying the Property to Buyer (duly executed and acknowledged) in the form attached hereto as Exhibit "F";

4.5.2 A counterpart of the Promissory Note and Disbursement Agreement, executed by Seller;

4.5.3 A counterpart of the Affordability Covenant, executed by Seller and acknowledged;

4.5.4 A counterpart of the Notice, executed by Seller and acknowledged;

4.5.5 If required by Escrow Holder, executed Federal and State non-foreign affidavits with respect to Seller; and

4.5.6 Any other documents contemplated by this Agreement or required by Escrow Holder or the Title Company to be deposited by Seller to carry out the transaction described in this Agreement.

4.6 Conditions to the Close of Escrow. Each party's obligation to proceed with the transaction contemplated by this Agreement is subject to the satisfaction of all of the following conditions precedent:

(i) If delivered outside of escrow, delivery by each party to the other of counterparts of the Promissory Note, duly executed;

(ii) The issuance of all construction related permits necessary for Buyer to complete the Project, and Buyer shall have provided Seller with reasonable evidence of the insurance requirement under Section 18.2 below;

(iii) Seller shall have performed all agreements to be performed by Seller hereunder;

(iv) As of the Closing Date, there shall have been no adverse changes in the physical condition of, or title to, the Property;

(v) Title Company shall have issued or shall have committed to issue the Title Policy to Buyer, showing fee title to the Property to be vested in Buyer, subject only to the title exceptions in the preliminary report (except for liens, other than liens for property taxes and assessments not yet done).

Escrow Holder, upon notice by Buyer of a failure of a condition shall promptly return to Buyer all funds (and all interest accrued thereon) and documents deposited by Buyer in escrow and to return to Seller all documents deposited by Seller in escrow and which are held by Escrow Holder on the date of the termination (less the amount of any charges required to be paid under Section 4.9 below).

4.7 Recording. Upon receipt of the funds and instruments described in this Section 4, Escrow Holder shall cause the Grant Deed, then the Affordability Covenant, and then the Deed of Trust to be recorded in the office of the County Recorder of San Bernardino County, California (with no intervening recordings).

4.8 Prorations. All assessments shall be prorated between Buyer and Seller as of the close of escrow based on the latest available assessment information. Buyer is exempt from property taxes; consequently property taxes shall not be prorated.

4.9 Costs. Each party shall pay 50% all escrow fees, all recording fees and all documentary transfer taxes. Seller shall pay all title insurance premiums.

4.10 No Broker's Commissions. Buyer and Seller represent to one another that no broker or finder has been engaged by it in connection with the transaction contemplated by this Agreement, or to its knowledge is in any way connected with such transaction. Each party shall indemnify, defend, protect and hold harmless the other, from and against all claims of any agent, broker, finder or other person or entity arising from or in connection with its communications or agreements with any such agent, broker, finder or similar person or entity in connection with the transaction described herein.

4.11 Escrow Cancellation Charges. In the event that this escrow shall fail to close by reason of the default of either party hereunder, the defaulting party shall be liable for all escrow and title cancellation charges. In the event that the escrow shall fail to close for any other reason, each party shall pay one-half (1/2) of all escrow and title cancellation charges.

5. ATTORNEYS' FEES. In any action between Buyer and Seller seeking enforcement of any of the terms and provisions of this Agreement, the prevailing party in such action shall be awarded, in addition to damages, injunctive or other relief, its reasonable costs and expenses, not limited to taxable costs, reasonable attorneys' fees and reasonable fees of expert witnesses.

6. NOTICES. All notices, requests, demands and other communication given or required to be given hereunder shall be in writing and sent by first class United States or certified mail, postage prepaid, return receipt requested, or sent by a nationally recognized courier service such as Federal Express for overnight delivery, duly addressed to the parties as follows:

To Buyer: Pomona Valley Habitat for Humanity, Inc.
2111 Bonita Ave.
La Verne, CA 91750
Attn: Reggie Varra

To Seller: City of Upland
460 North Euclid Avenue
Upland, CA 91786
Attn: Liz Chavez

Delivery of any notice or other communication hereunder shall be deemed made on the date indicated in the return receipt or courier's records as the date of delivery or as the date of first attempted delivery, if sent by mail or courier service. Any party may change its address for purposes of this Section by giving notice to the other party and to Escrow Holder as herein provided.

7. ASSIGNMENT. Neither this Agreement nor any interest herein may be assigned by either party without the prior written consent of the other party.

8. BINDING EFFECT. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their successors and assigns.

9. ENTIRE AGREEMENT. This Agreement contains all of the agreements of the parties hereto with respect to the matters contained herein, and all prior or contemporaneous agreements or understandings, oral or written, pertaining to any such matters are merged herein and shall not be effective for any purpose. No provision of this Agreement may be amended, supplemented or in any way modified except by an agreement in writing signed by the parties hereto or their respective successors in interest and expressly stating that it is an amendment of this Agreement.

10. ENFORCEMENT OF AGREEMENT BY BUYER. It is agreed that the rights granted to Buyer by Seller hereunder are of a special and unique kind and character, and that, if there is a breach by Seller of any material provision of this Agreement, Buyer would not have any adequate remedy at law. It is expressly agreed, therefore, that Buyer's rights hereunder may be enforced by an action for specific performance and such other equitable or legal relief as is provided under the laws of the State of California.

11. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

12. TIME OF THE ESSENCE. Time is of the essence of this Agreement.

13. THIRD PARTIES. Nothing contained in this Agreement, expressed or implied, is intended to confer upon any person, other than the parties hereto and their successors and assigns, any rights or remedies under or by reason of this Agreement.

14. SEVERABILITY. If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein, unless such invalidity, illegality or unenforceability materially affects the economic terms of the transactions contemplated by this

Agreement or materially impedes the ability of either party to perform its obligations under this Agreement. In such case, either party may terminate this Agreement and the escrow upon written notice to the other party given no later than ten (10) business days after the party giving such notice becomes aware of such invalidity, illegality or unenforceability. In the event of such termination, all funds deposited with Escrow Holder by Buyer and any interest accrued thereon shall be returned to Buyer.

15. ADDITIONAL DOCUMENTS; FURTHER ASSURANCES. Each party hereto agrees to perform any further acts and to execute, acknowledge and deliver any further reasonable documents that may be reasonably necessary to carry out the provisions of this Agreement.

16. PROPERTY PURCHASE "AS IS"; RELEASE. IT IS AGREED THAT THE PROPERTY SHALL BE CONVEYED BY SELLER AND ACCEPTED BY BUYER AS IS AND WITH ALL FAULTS AND THAT SELLER IS MAKING NO REPRESENTATIONS OR WARRANTIES REGARDING THE CONDITION OF THE PROPERTY EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT.

Buyer hereby waives, to the maximum legal extent, any and all claims, remedies and causes of action for damages, liabilities, losses or injuries related to Buyer's acquisition of the Property, whether known or unknown, foreseeable or unforeseeable. Buyer, on behalf of itself and its successors and assigns, hereby fully releases Seller, its successors, agents, representatives and assigns from all claims and causes of action by reason of any damage which has been sustained, or may be sustained, as a result of Buyer's purchase of the Property.

Buyer hereby acknowledges that it has either consulted with legal counsel, or had an opportunity to consult with legal counsel regarding, and represents and warrants that it is familiar with the provisions of, California Civil Code Section 1542, which provides,

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

Buyer acknowledges that with respect to the sale of the Property to Buyer, Buyer may have sustained damage, loss, costs or expenses which are presently unknown and unsuspected, and such damage, loss, costs or expenses which may have been sustained, may give rise to additional damage, loss, costs or expenses in the future. Nevertheless, Buyer hereby acknowledges, represents and warrants that this Agreement has been negotiated and agreed upon in light of that situation, and hereby waives, to the maximum legal extent, any rights accruing to it under Section 1542 or other statute or judicial decision of similar effect.

Buyer's Initials

This acknowledgment and release shall survive the Close of Escrow.

17. CITY MANAGER AUTHORITY. The City Manager of Seller shall have the authority to give all consents and approvals and notices hereunder on behalf of City, and may enter into non-substantial amendments of this Agreement, provided they are in writing.

18. PROJECT; INSURANCE; INDEMNITY; RIGHT OF REVERTER. Buyer shall complete the project described on Exhibit "G" ("Project") on or before the date that is six (6) calendar months after the date of this Agreement, subject to delays beyond control of Buyer (excluding lack of funds) ("Completion Deadline").

18.1 Insurance. Buyer shall obtain and maintain reasonable casualty/builders risk and liability insurance for the Property, the home that Seller relocates onto the Property, and the Project, which shall name Seller as additional insured.

18.2 Indemnity. Buyer shall defend, indemnify and hold Seller harmless from and against any and all claims, liabilities, losses, damages, costs and expenses relating to or arising from the Project or Property.

18.3 Right of Reverter. If the Project is not completed by the Completion Deadline, then the Property and Project (including the home) shall be conveyed to Seller for no consideration.

18.4 Survival. The provisions of this Section 18 shall survive the Close of Escrow and the delivery and recording of the Grant Deed.

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

BUYER:

POMONA VALLEY HABITAT FOR HUMANITY, INC.

By: _____
Name: _____
Title: _____

SELLER:

CITY OF UPLAND,
a municipal corporation

By: _____
Jeannette Vagnaozzi,
Acting City Manager

Attest:

Keri Johnson, Deputy City Clerk

APPROVED AS TO FORM:
Richards, Watson & Gershon

By: _____
James Markman,
City Attorney

EXHIBIT "A"

DESCRIPTION OF THE PROPERTY

- A. BEING THE EASTERLY 150.00 FEET OF THAT PORTION OF LOT 12 OF HARWOOD BROTHERS SUBDIVISION OF ONTARIO COLONY LANDS, LOTS 579 TO 604, IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, PER PLAT RECORDED IN BOOK 14, PAGE 19 OF MAPS, AND PARCEL "C" OF THAT CERTAIN LOT LINE ADJUSTMENT LA-06-03, RECORDED AUGUST 5, 2010 AS DOCUMENT NO. 2010-0316372, BOTH RECORDS OF SAID COUNTY:

COMMENCING AT THE NORTHEAST CORNER OF LOT 2 EYMANN PLACE TRACT NO. 1965, PER PLAT RECORDED IN BOOK 28 OF MAPS, PAGE 51 RECORDS OF SAID COUNTY; THENCE NORTH 89° 58'21" WEST, 14.44 FEET ALONG THE NORTHERLY LINE OF SAID LOT 2; THENCE NORTH 0° 01'00" WEST, 2.74 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89° 58'21" WEST, 124.00 FEET; THENCE SOUTH 76° 43'25" WEST, 11.92 FEET TO THE NORTHWEST CORNER OF SAID LOT 2; THENCE NORTH 89° 58'21" WEST, 4.40 FEET ALONG THE NORTHERLY LINE OF LOT "A" AS SHOWN ON SAID EYMANN PLACE TRACT NO. 1965 TO THE WESTERLY LINE OF LOT 11 OF SAID HARWOOD BROTHERS SUBDIVISION; THENCE NORTH 0° 01'00" WEST, 142.76 FEET ALONG THE WESTERLY LINE OF SAID LOTS 11 AND 12 TO A POINT ON THE SOUTHERLY LINE OF THE LAND CONVEYED TO THE CITY OF UPLAND BY DEED RECORDED AUGUST 23, 1954 IN BOOK 3447, PAGE 74, OFFICIAL RECORDS, SAID POINT ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 100 FEET, A RADIAL TO SAID CURVE BEARS NORTH 22° 11'13" WEST; THENCE NORTHERLY 38.91 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 22° 17' 27" ALONG SAID SOUTHERLY LINE; THENCE SOUTH 89° 53'46" EAST, 266.49 FEET, CONTINUING ALONG SAID SOUTHERLY LINE TO A POINT ON THE EASTERLY LINE OF SAID LOT 12; THENCE SOUTH 0° 01'00" EAST, 53.83 FEET TO THE SOUTHEAST CORNER OF SAID LOT 12; THENCE NORTH 89° 58'21" WEST, 164.44 FEET ALONG THE SOUTHERLY LINE OF SAID LOT 12 TO THE NORTHEAST CORNER OF THE WESTERLY 140.00 FEET OF SAID LOT 11; THENCE SOUTH 0° 01'00" EAST, 93.26 FEET ALONG SAID EASTERLY LINE TO THE POINT OF BEGINNING.

SAID LAND IS DEPICTED ON PAGE A-2.

- B. 1914 CRAFTSMAN HOUSE LOCATED AT SOUTHWEST CORNER OF WASHINGTON STREET AND 6TH AVENUE, UPLAND, CA ON A PORTION OF APN 1046-433-23 (BUT NOT ON THE ADJACENT LAND DESCRIBED IN CLAUSE A ABOVE).

EXHIBIT “B”

FORM OF PROMISSORY NOTE

(Attached.)

**SECURED PROMISSORY NOTE AND
DISBURSEMENT AGREEMENT**

Note Amount: \$90,000.00

_____, 2018
Upland, California

FOR VALUE RECEIVED, POMONA VALLEY HABITAT FOR HUMANITY, INC., a California nonprofit public benefit corporation (“Borrower”) promises to pay to CITY OF UPLAND, a California municipal corporation (“City”) located at 460 N. Euclid Ave., Upland, CA 91786, or at such other address as City may direct from time to time in writing, the sum of NINETY THOUSAND AND NO/100 DOLLARS (\$90,000.00) (“Note Amount”).

Reference is made to:

- (a) The Declaration of Affordability Covenants, Conditions and Restrictions recorded in the Office of the San Bernardino County Recorder on or about the date hereof as may be amended from time to time (“Declaration”).
- (b) The Deed of Trust securing this Note executed by Borrower in favor of City, recorded in the Office of the San Bernardino County Recorder on or about the date hereof, as may be amended from time to time.
- (c) The Agreement for Purchase and Sale and Escrow Instructions between City, as seller, and Borrower, as buyer, pursuant to which this Secured Promissory Note and Disbursement Agreement was executed and delivered (“Purchase Agreement”).

19. Note Amount; Interest.

19.1 **Note Amount.** The Note Amount represents the financial assistance provided by City to Borrower that is intended to enable Borrower to relocate and rehabilitate onto the property described in the Deed of Trust for occupancy, a historic single family home (the “Home”).

19.2 **Interest.** No interest shall accrue on the outstanding principal Note Amount.

19.3 **Disbursements.** A single disbursement of principal shall be made by City to Borrower one (1) business day after the Close of Escrow under the Purchase Agreement. Within five (5) business days after the Maturity Date, Borrower shall provide City with recordable evidence (including copies of invoices) of the costs paid with the principal showing that such costs relate to the improvements by Borrower required by the Purchase Agreement.

20. Maturity Date; Repayment.

20.1 All outstanding principal under this Note shall be due and payable on or before the deadline for completion of work set forth in the Purchase Agreement (“Maturity Date”).

20.2 The Maturity Date shall be automatically accelerated upon a default under the Declaration or Deed of Trust.

21. Default and Cross-Default. Borrower shall be deemed in default of this Note in the event of a default of any of the covenants, terms, or provisions of this Note, or Deed of Trust or the Declaration. In the event of a default, all portions of the Note Amount that have been disbursed shall become immediately due and payable.

22. Collection Costs; Attorneys' Fees. If the Note Amount becomes due and is not paid, Borrower shall pay all costs of collection, including, but not limited to, attorneys' fees and all expenses incurred in connection with the protection or realization of the collateral securing the payment hereof or enforcement of any guarantee, incurred by City on account of such collection, whether or not suit is filed hereon.

23. Waiver of Presentment, Etc. Borrower and all endorsers, guarantors and persons liable or to become liable on this Note waive presentment, protest and demand, notice of protest, demand and dishonor and nonpayment of this Note and any and all other notices or matters of a like nature, and consent to any and all renewals and extensions near the time of payment hereof and agree further that at any time, and from time to time without notice, the terms of payment herein may be modified or the security described in any documents securing this Note released in whole or in part, or increased, changed or exchanged by agreement between City and any owner of the premises affected by said documents securing this Note, without in any way affecting the liability of any party to this Note or any persons liable or to become liable with respect to any indebtedness evidenced hereby.

24. Severability; Governing Law; Amendment. The unenforceability or invalidity of any provision or provisions of this Note as to any persons or circumstances shall not render that provision or those provisions unenforceable or invalid as to any other provisions or circumstances, and all provisions hereof, in all other respects, shall remain valid and enforceable. This Note has been executed and delivered by Borrower in the State of California and is to be governed and construed in accordance with the laws thereof. Neither this Note nor any term hereof may be waived, amended, discharged, modified, changed, or terminated orally; nor shall any waiver of any provision hereof be effective except by an instrument in writing signed by Borrower and City.

25. No Waiver by City. No waiver of any breach, default, or failure of condition under the terms of this Note, the Declaration, or the Deed of Trust shall be implied from any failure of City to take, or any delay be implied from any failure by City in taking action with respect to such breach, default, or failure from any prior waiver of any similar or unrelated breach, default, or failure.

"Borrower":

POMONA VALLEY HABITAT FOR
HUMANITY, INC., a California nonprofit
public benefit corporation

By: _____

Print Name: _____
Title: _____

“City”:
CITY OF UPLAND

By: _____
Jeannette Vagnozzi,
Acting City Manager

EXHIBIT "C"

FORM OF DEED OF TRUST

(Attached.)

RECORDING REQUESTED BY, AND
WHEN RECORDED MAIL TO:

City of Upland
460 N. Euclid Ave.
Upland, CA 91786

With a copy to:

Pomona Valley Habitat for Humanity, Inc.
2111 Bonita Ave.
La Verne, CA 91750
Attn: Executive Director

APN: Portion of 1046-433-23

(Above Space for Recorder's Use)
Exempt from Recordation Fee per Government Code Section 27383.

DEED OF TRUST AND ASSIGNMENT OF RENTS

This DEED OF TRUST AND ASSIGNMENT OF RENTS ("Deed of Trust") is made as of _____, 2018, by POMONA VALLEY HABITAT FOR HUMANITY, INC. ("Trustor"), the CITY OF UPLAND, whose address is 460 N. Euclid Ave., Upland, CA 91786 ("Trustee"), and the CITY OF UPLAND, whose address is 460 N. Euclid Ave., Upland, CA 91786 ("Beneficiary").

Grant in Trust. Trustor grants to Trustee in trust, with power of sale and right of entry and possession, that certain property/parcel of land located in the City of Upland, County of San Bernardino, State of California, more particularly described on Exhibit "A" and all rents and income therefrom, and the home described on Exhibit "A" and all rents and income therefrom.

26. **Obligations Secured.** Trustor makes this grant and assignment for the purpose of securing payment of the sum of Ninety Thousand and No/100 Dollars (\$90,000.00) ("Note Amount"), or so much thereof as shall have been disbursed by City, according to the terms of that certain Secured Promissory Note and Disbursement Agreement of substantially even date herewith executed by Trustor, and payable to the order of Beneficiary, and any written modification(s) thereof (the "Note").

27. **Acceleration of Note Amount Upon Sale, Encumbrance, or Default.** To the extent permitted by applicable law, if Trustor shall: (a) directly or indirectly, voluntarily, or involuntarily, sell, assign, transfer, dispose of, alienate, encumber, lease, or agree to sell, assign, transfer, dispose of, alienate, encumber, or lease all or any portion of any interest in the Property in violation of that certain Declaration of Affordability Covenants, Conditions and Restrictions executed by Trustor and Beneficiary and recorded in the Official Records of San Bernardino County, California (the "Restrictions") or (b) default under this Deed of Trust or the Restrictions, and not cure the default within thirty (30) days after written notice, then Beneficiary, at its option, may declare the entire indebtedness secured hereby, including, without limitation, all

accrued interest, if applicable, to be immediately due and payable and collectible then or thereafter as Beneficiary may elect.

HOWEVER, PAYMENT OF THE NOTE, WHETHER VOLUNTARY OR DUE TO AN EVENT OF ACCELERATION, SHALL NOT TERMINATE THE RESTRICTIONS OR THE FORTY-FIVE YEAR AFFORDABILITY PERIOD SET FORTH IN THE RESTRICTIONS.

Trustor's Initials _____

28. **No Cure.** In the event Beneficiary collects and receives any rents, such collection or receipt shall in no way constitute a curing of the default, except if and to the extent the same are sufficient to cure all monetary defaults and no other defaults then exist.

29. **Possession Upon Default.** Upon the occurrence of and during the continuation of a default, Beneficiary, after having given notice of default and thirty (30) days to cure with the default having not been cured (hereinafter, a "default"), may, at its option, without any action on its part being required and without in any way waiving such default, take possession of the Property in accordance with applicable law and have, hold, manage, lease and operate the same, on such terms and for such period of time as Beneficiary may deem proper, and may collect and receive all rents and profits, with full power to make, from time to time, all commercially reasonable alterations, renovations, repairs or replacements thereto as may seem proper to Beneficiary, and to apply such rents and profits to the payment of (a) the cost of all such alterations, renovations, repairs and replacements, and all costs and expenses incident to taking and retaining possession of the Property, and the management and operation thereof, and keeping the same properly insured; (h) all taxes, charges, claims, assessments, and any other liens which may be prior to this Deed of Trust, and premiums for insurance, with interest on all such items; and (c) the indebtedness secured hereby, together with all costs and attorney's fees, in such order or priority as to any of such items as Beneficiary in its sole discretion may determine, any statute, law, custom or use to the contrary notwithstanding. Any amounts received by Beneficiary or its agents in the performance of any acts prohibited by the terms of this assignment, including, but not limited to, any amounts received in connection with any cancellation, modification or amendment of any lease prohibited by the terms of this assignment and any rents and profits received by Trustor after the occurrence of a default shall be held by Trustor as trustee for Beneficiary and all such amounts shall be accounted for to Beneficiary and shall not be commingled with other funds of the Trustor. Any person receiving any portion of such trust funds shall receive the same in trust for Beneficiary as if such person had actual or constructive notice that such funds were impressed with a trust in accordance therewith.

30. **Receiver.** In addition to any and all other remedies of Beneficiary set forth under this Deed of Trust or permitted at law or in equity, if a default shall have occurred and not have been cured within any applicable cure period, Beneficiary, to the extent permitted by law and without regard to the value, adequacy or occupancy of the security and any obligations or sums secured hereby, shall be entitled as a matter of right if it so elects to the appointment of a receiver to enter upon and take possession of the Property and to collect all rents and profits and apply the same as the court may direct, and such receiver may be appointed by any court of competent jurisdiction by ex parte application and without notice, notice of hearing being hereby expressly

waived. The expenses, including receiver's fees, attorneys' fees, costs and agent's compensation, incurred pursuant to the power herein contained shall be secured by this Deed of Trust.

31. **Reconveyance of Deed of Trust.** Provided Trustor is not in default under the Restrictions, and the Restrictions have expired, this Deed of Trust shall be reconveyed.

32. **Incorporation of Fictitious Deed of Trust.** To protect the security of this Deed of Trust, and with respect to the property above described, Trustor expressly makes each and all of the agreements, and adopts and agrees to perform and be bound by each and all of the terms and provisions set forth or incorporated in the "fictitious" deed of trust recorded in San Bernardino County in Book 7090 at Page 14 to the extent not in conflict with the other provisions hereof.

Notwithstanding the foregoing;

32.1 In the event of a fire or other casualty for which Trustor has procured insurance, if, upon Trustor receipt of the insurance proceeds thereunder, Trustor will be financially, and in all other respects, capable of rebuilding the improvements on the Property, as reasonably determined by Beneficiary, Trustor shall be entitled to retain the insurance proceeds for the sole purpose of rebuilding the improvements on the Property.

32.2 In the event of a condemnation of any portion of the Property, if, upon Trustor receipt of the condemnation award in connection therewith, Trustor will be financially, and in all other respects, capable of rebuilding the improvements on the Property, as reasonably determined by Beneficiary, Trustor shall be entitled to retain the condemnation award for the sole purpose of rebuilding the improvements on the Property.

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust as of the date set forth above.

POMONA VALLEY HABITAT FOR
HUMANITY, INC.

By: _____
Print Name: _____
Title: _____

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

State of California)
County of San Bernardino)

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

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT "A"

LEGAL DESCRIPTION

- C. BEING THE EASTERLY 150.00 FEET OF THAT PORTION OF LOT 12 OF HARWOOD BROTHERS SUBDIVISION OF ONTARIO COLONY LANDS, LOTS 579 TO 604, IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, PER PLAT RECORDED IN BOOK 14, PAGE 19 OF MAPS, AND PARCEL "C" OF THAT CERTAIN LOT LINE ADJUSTMENT LA-06-03, RECORDED AUGUST 5, 2010 AS DOCUMENT NO. 2010-0316372, BOTH RECORDS OF SAID COUNTY:

COMMENCING AT THE NORTHEAST CORNER OF LOT 2 EYMANN PLACE TRACT NO. 1965, PER PLAT RECORDED IN BOOK 28 OF MAPS, PAGE 51 RECORDS OF SAID COUNTY; THENCE NORTH 89° 58'21" WEST, 14.44 FEET ALONG THE NORTHERLY LINE OF SAID LOT 2; THENCE NORTH 0° 01'00" WEST, 2.74 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89° 58'21" WEST, 124.00 FEET; THENCE SOUTH 76° 43'25" WEST, 11.92 FEET TO THE NORTHWEST CORNER OF SAID LOT 2; THENCE NORTH 89° 58'21" WEST, 4.40 FEET ALONG THE NORTHERLY LINE OF LOT "A" AS SHOWN ON SAID EYMANN PLACE TRACT NO. 1965 TO THE WESTERLY LINE OF LOT 11 OF SAID HARWOOD BROTHERS SUBDIVISION; THENCE NORTH 0° 01'00" WEST, 142.76 FEET ALONG THE WESTERLY LINE OF SAID LOTS 11 AND 12 TO A POINT ON THE SOUTHERLY LINE OF THE LAND CONVEYED TO THE CITY OF UPLAND BY DEED RECORDED AUGUST 23, 1954 IN BOOK 3447, PAGE 74, OFFICIAL RECORDS, SAID POINT ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 100 FEET, A RADIAL TO SAID CURVE BEARS NORTH 22° 11'13" WEST; THENCE NORTHERLY 38.91 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 22° 17' 27" ALONG SAID SOUTHERLY LINE; THENCE SOUTH 89° 53'46" EAST, 266.49 FEET, CONTINUING ALONG SAID SOUTHERLY LINE TO A POINT ON THE EASTERLY LINE OF SAID LOT 12; THENCE SOUTH 0° 01'00" EAST, 53.83 FEET TO THE SOUTHEAST CORNER OF SAID LOT 12; THENCE NORTH 89° 58'21" WEST, 164.44 FEET ALONG THE SOUTHERLY LINE OF SAID LOT 12 TO THE NORTHEAST CORNER OF THE WESTERLY 140.00 FEET OF SAID LOT 11; THENCE SOUTH 0° 01'00" EAST, 93.26 FEET ALONG SAID EASTERLY LINE TO THE POINT OF BEGINNING.

SAID LAND IS DEPICTED ON PAGE A-2.

- D. 1914 CRAFTSMAN HOUSE LOCATED AT SOUTHWEST CORNER OF WASHINGTON STREET AND 6TH AVENUE, UPLAND, CA ON A PORTION OF APN 1046-433-23 (BUT NOT ON THE ADJACENT LAND DESCRIBED IN CLAUSE A ABOVE).

EXHIBIT “D”

FORM OF AFFORDABILITY COVENANTS

(Attached.)

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Upland
460 North Euclid Avenue
Upland, CA 91786
Attn: City Clerk

with a copy to:

Pomona Valley Habitat for Humanity, Inc.
2111 Bonita Ave.
La Verne, CA 91750
Attn: Executive Director

APN: Portion of 1046-433-23

(Above Space for Recorder's Use)

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

**DECLARATION OF AFFORDABILITY
COVENANTS, CONDITIONS AND RESTRICTIONS**

This DECLARATION OF AFFORDABILITY CONDITIONS, COVENANTS AND RESTRICTIONS (the "Declaration") is made as of _____, 2018 by and between CITY OF UPLAND, a California municipal corporation ("City") and POMONA VALLEY HABITAT FOR HUMANITY, INC., a California nonprofit public benefit corporation ("Developer") (each sometimes referred to herein individually as a "Party" or collectively as the "Parties").

RECITALS

E. City has sold the land and home described on Exhibit "A" to Developer for the purpose of relocating onto said land a historic single family home and renovating/rehabilitating such home so that it is fit for occupancy, and selling the land and home (collectively "Property") to a very low income senior household at a sale price that will result in an Affordable Sales Price (hereinafter defined) for a very low income household.

F. The purchase and sale agreement for City's sale of the land to Developer conditions the sale upon Developer executing this Declaration, and causing it to be recorded in the Official Records of San Bernardino County, California in order to restrict Developer's initial sale of the Property and all subsequent sales for forty-five (45) years after initial sale by Developer of the Property to households at an affordable housing cost, and restrict occupancy of the Property so that it remains owner-occupied (*i.e.*, the Property may not be rented or leased by Developer by any subsequent owner during said 45 year period).

NOW, THEREFORE, Developer covenants and agrees as follows:

33. Definitions.

“Adjusted for Family Size Appropriate for the Property” shall mean, for purposes of calculating an Affordable Sales Price, a household of three (3) persons for a two (2) bedroom Home, a household of four (4) persons for a three (3) bedroom Home. (California Health and Safety Code, Section 50052.5).

“Affordability Period” shall be forty-five (45) years from the date the Home is first sold by Developer to a Qualified Household.

“Affordable Sales Price” shall mean the price that results in an “affordable housing cost” for the applicable Qualified Household under Section 50052.5(b) of the California Health and Safety Code, considering the Monthly Housing Cost (defined below) that results from the sale price.

“City” shall mean the incorporated City of Upland, California.

“Declaration” shall mean this Declaration of Affordability Covenants, Conditions and Restrictions

“Deed of Trust” shall mean that certain Deed of Trust and Assignment of Rents dated substantially concurrently herewith executed by Developer in favor of City securing the Note.

“Developer” shall mean Pomona Valley Habitat for Humanity, Inc.

“Home” shall mean the land described on Exhibit “A”, and the house to be relocated to and renovated on such land.

“Indemnified Parties” refers to City and its officers, officials, agents, employees, and representatives.

“Monthly Housing Cost” shall include all of the following associated with the Home, estimated or known as of the date of the proposed sale of the Home: (a) principal and interest payments to be paid to a third party first mortgage lender; (b) property taxes and assessments; (c) fire and casualty insurance covering replacement value of the home; and (d) a reasonable utility allowance. The Monthly Housing Cost for a Qualified Household shall be an average of estimated costs for the next twelve (12) months.

“Note” shall mean that certain Secured Promissory Note in the amount of \$90,000.00 dated substantially concurrently herewith executed by Developer in favor of City.

“Owner” shall mean any Qualified Household to whom is conveyed fee title to the Home or any successor in interest to all or any portion of the Property, other than Developer.

“Property and/or Site” shall mean the land and home.

“Proposed Buyer” shall mean a person or family to whom Developer and/or then-current Qualified Household owner desires, and proposes, to transfer the Home.

“Qualified Household” shall mean a household consisting of a person who is sixty-two (62) years of age or older, together with any qualified permanent residents under the provisions of California Civil Code Section 51.3, whose collective annual household income does not exceed the qualifying limits under California law for “very low income households” under California Health and Safety Code Section 50105 and Title 25 of the California Code of Regulations Sections 6910 et seq.

“Sales Price” shall mean the purchase price paid by a Qualified Household for the acquisition of the Property, including the purchase price designated in any purchase agreement. Sales price shall not exceed fair market value, and shall be financed with a loan resulting in an Affordable Sales Price.

“Successive Qualified Household” refers to a purchaser who is a Qualified Household and who purchases the Home from a Qualified Household, which sale will be subject to the restrictions in this Declaration.

“Transfer” shall mean: (i) any sale, assignment, or transfer of an interest in the Property, including, without limitation, a fee simple interest, tenancy in common, joint tenancy, community property, tenancy by the entirety, life estate, or other limited estate, or (ii) any equitable interest evidenced by a land contract. “Transfer” shall not include a conveyance resulting from death or from dissolution of marriage.

34. Sale of Home; Restrictions.

34.1 During the Affordability Period, Developer may only sell the Home to a Qualified Household at an Affordable Sales Price.

For purposes of satisfying the requirement that the Home shall be occupied by a Qualified Household, an individual or family who meets the requirements as a Qualified Household at the time he and/or she first takes title to the Home will be deemed a Qualified Household so long as he and/or she continues to hold title to such Home even though he and/or she subsequently ceases to meet the applicable income requirements, and when the current Qualified Household owner releases title to the Home, the Home will be considered occupied by a Qualified Household if it is held vacant and available for such occupancy until title is transferred to a Successive Qualified Household, provided the Qualified Household seller is diligently pursuing the transfer of title to the Home to a Successive Qualified Household.

34.2 The Home may not be rented/leased, but must remain owner-occupied.

35. Acknowledgement.

35.1 DEVELOPER, THE INITIAL QUALIFIED HOUSEHOLD AND EACH SUCCESSIVE QUALIFIED HOUSEHOLD UNDERSTANDS THAT THE DETERMINATION OF THE AFFORDABLE SALES PRICE CAN BE MADE ONLY AT THE TIME OF THE PROPOSED TRANSFER, TAKING INTO CONSIDERATION INTEREST RATES, PROPERTY TAXES AND OTHER FACTORS THAT CANNOT BE ACCURATELY PREDICTED, AND THAT THE AFFORDABLE SALES PRICE PERMITTED HEREUNDER MAY NOT INCREASE OR DECREASE IN THE SAME

MANNER AS OTHER SIMILAR REAL PROPERTY WHICH IS NOT ENCUMBERED BY THESE RESTRICTIONS. DEVELOPER AND EACH QUALIFIED HOUSEHOLD SELLER FURTHER ACKNOWLEDGES THAT IN SETTING THE SALES PRICE, THE PRIMARY OBJECTIVE OF THE CITY AND THIS DECLARATION IS TO PROVIDE HOUSING TO QUALIFIED HOUSEHOLDS AT AN AFFORDABLE SALES PRICE. THE AFFORDABLE SALES PRICE MAY BE LESS THAN THE SALES PRICE OF OTHER SIMILAR PROPERTIES WHICH HAVE NO RESTRICTIONS.

35.2 Determination of Affordable Sales Price.

The method of determining Affordable Sales Price is as generally stated in Section 1 but, as noted in Section 3a above, can only be determined at the time of the proposed Transfer.

35.3 Mechanics of Transfer of the Home.

Developer, and any Qualified Household or Successor Qualified Household selling the Home must calculate the Affordable Sales Price for the Successive Qualified Household buyer of the Home in accordance with the definitions set forth in Section 1 of this Declaration.

The Seller proposing to sell the Home, shall provide to the City, and obtain City's written approval of, the form of the purchase and sale agreement, and the documents used by the Seller to determine whether the buyer is a Qualified Household and whether the sales price results in an Affordable Housing Cost for the Buyer and shall also send to City the form attached hereto and incorporated herein as Exhibit "B", fully completed and executed by the Seller and the proposed buyer, as well as all documents required by such form.

Upon the close of the Transfer, the seller promptly shall provide the City with a certified copy of the recorded documents, a copy of the final sales contract, settlement statement, escrow instructions, any other documents which City may request.

36. Maintenance of Property

Developer and current Qualified Household owner shall be obligated to properly maintain the buildings, landscaping and yard areas on the Property during their respective periods of ownership, as follows:

36.1 No improperly maintained landscaping shall be visible from public rights-of-way, including:

36.1.1 no lawns with grasses in excess of six (6) inches in height;

36.1.2 no untrimmed hedges;

36.1.3 no trees, shrubbery, lawns, and other plant life dying from lack of water or other necessary maintenance;

36.1.4 no trees and shrubbery grown uncontrolled without proper pruning;

and 36.1.5 no vegetation so overgrown as to be likely to harbor rats or vermin;

36.1.6 no dead, decayed, or diseased trees, weeds, and other vegetation.

36.2 No yard areas shall be left unmaintained, including:

36.2.1 no broken or discarded furniture, appliances, and other household equipment stored in yard areas for periods exceeding one (1) week;

36.2.2 no packing boxes, lumber, trash, dirt, and other debris stored in yards for periods exceeding one (1) week in areas visible from public property or neighboring properties;

36.2.3 no unscreened trash cans, bins, or containers stored for unreasonable periods in areas visible from public property or neighboring properties; and

36.2.4 no vehicles parked or stored in areas other than approved parking areas.

36.3 No buildings may be left in an unmaintained condition, including:

36.3.1 no violations of state law, Uniform Codes, or City ordinances;

36.3.2 no condition that constitutes an unsightly appearance that detracts from the aesthetics or property value of the subject property or constitutes a private or public nuisance;

36.3.3 no broken windows or chipped, cracked, or peeling paint; and

36.3.4 no conditions constituting hazards and/or inviting trespassers or malicious mischief; and

36.3.5 no graffiti.

37. Other Use Restrictions.

37.1 Occupancy Standards. The Home may not be occupied by more than the total number of persons allowed pursuant to the general requirements of HUD which as of the date of this Declaration is equal to the total number of bedrooms in the Home multiplied by 2, plus 1 (e.g., a two-bedroom Home would be limited to occupancy by 5 persons and a three-bedroom Home would be limited to occupancy by 7 persons).

37.2 Nuisances. No obnoxious, illegal, or offensive activities shall be carried out upon or in the Home, or upon any part of the Site, nor shall anything be done thereon which may be or may become an annoyance or a nuisance, or which may in any way interfere with the quiet enjoyment of the Home, or which will impair the structural integrity of any building on the Site.

38. Insurance.

Developer and each Qualified Household shall be required to procure and maintain an all-risk property insurance policy insuring the Home in an amount equal to the full replacement value of the structures located thereon, with no coinsurance penalty provision, in a form, content and with companies approved by City. Such insurance shall contain a statement of obligation on behalf of the carrier to notify City of any material change, cancellation or termination of coverage at least thirty (30) days in advance of the effective date of such material change, cancellation or termination.

39. Repair of Damage.

If any improvements shall be totally or partially destroyed or rendered wholly or partly uninhabitable by fire or other casualty, then subject to the terms of the senior loan, the owner shall promptly proceed to obtain insurance proceeds and take all steps necessary to begin reconstruction and, immediately upon receipt of insurance proceeds, promptly and diligently commence the repair to or replacement of the improvements to substantially the same condition as the improvements are required to be maintained pursuant to this Declaration, whether or not the insurance proceeds are sufficient to cover the actual cost of repair, replacement, or restoration, and shall complete the same as soon as possible thereafter so that the Site can continue to be operated and occupied as an affordable housing project in accordance with this Declaration. In no event shall the repair, replacement, or restoration period exceed six (6) months from the date of the destruction unless the City Manager, in his or her sole and absolute discretion, approves a longer period of time in writing.

40. Default and Remedies.

40.1 Defaults. Failure or delay by Developer or any Qualified Household (including any Successor Qualified Household) to comply with or perform any term or provision of this Declaration which is not cured within thirty (30) days after delivery of notice from City specifying the default shall entitle City to accelerate the maturity date of any City loan secured by the Home. Failure or delay in giving such notice shall not constitute a waiver of any default, nor shall it change the time of default.

40.2 Institution of Legal Actions. In addition to any other rights or remedies, including without limitation City's rights under its deed of trust or promissory note secured thereby, City may institute legal action to cure, correct, or remedy any default, or to obtain equitable remedies (such as injunctive or declaratory relief) consistent with the purposes of this Declaration notwithstanding Section 8a.

40.3 Rights and Remedies are Cumulative. Rights and remedies are cumulative, and the exercise of one or more of its rights or remedies shall not preclude the exercise, at the same or different times, of any other rights or remedies for the same default or any other default.

41. Severability.

Every provision of this Declaration is intended to be severable. In the event any term or provision of this Declaration is declared by a court of competent jurisdiction to be unlawful, invalid or unenforceable for any reason, such determination shall not affect the balance of the terms and provisions of this Declaration, which terms and provisions shall remain binding and enforceable.

42. Covenants/Restrictions Run With Land.

This Declaration is designed to create equitable servitudes and covenants running with the Property in accordance with the provisions of Civil Code Section 1468. The covenants, conditions, restrictions, reservations, equitable servitudes, liens and charges set forth herein: shall run with the land and shall be binding upon all persons having any right, title or interest in the Property, or any part thereof, their heirs, successive owners and assigns; shall inure to the benefit of City and its successors and assigns; shall be binding upon Developer, its successors and assigns and successors in interest (included all Qualified Household and Successor Qualified Household owners); and may be enforced by City and its successors and assigns. Developer hereby declares its understanding and intent that the burden of the covenants set forth herein touches and concerns the land and that Developer's interest in the Property is rendered less valuable thereby. Developer hereby further declares its understanding and intent that the benefits of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Property by Qualified Households.

All covenants without regard to technical classification or designation shall be binding for the benefit of City and such covenants shall run in favor of City for the entire period during which such covenants shall be in force and effect, without regard to whether City is or remains an owner of any land or interest therein to which such covenants relate. However, all such covenants and restrictions shall be deemed to run in favor of all real property owned by City which real property shall be deemed the benefited property of such covenants. Furthermore, all of the covenants, conditions, and restrictions contained herein shall also constitute easements in gross running in favor of City. City shall have the right, in the event of any breach of any such agreement or covenant, to exercise all the rights and remedies, and to maintain any action at law or suit in equity or other proper proceedings to enforce the curing of such breach of agreement or covenant.

43. Notices, Demands and Communications

Written notices, demands and communications shall be sufficiently given if (i) delivered by reputable overnight courier service that provides a receipt showing date and time delivery, or (ii) delivery by certified mail, postage prepaid, return receipt requested, as follows:

Developer:

Pomona Valley Habitat for Humanity, Inc.
2111 Bonita Avenue
La Verne, CA 91750
Attn: Executive Director

City:

City of Upland
460 North Euclid Avenue
Upland, CA 91786
Attention: City Manager

Qualified Household or
Successive Qualified Household:

To the Property.

Such addresses for notices for Developer or City may be changed from time to time upon notice to the other Parties.

Any written notice, demand or communication shall be deemed received upon receipt if delivered by such overnight courier, and shall be deemed received on the third (3rd) calendar day from the date it is postmarked if delivered by certified mail.

44. Expiration Date.

This Declaration shall automatically terminate and be of no further force or effect as to the Home as of forty-five (45) years from the date the Developer first sells the Home to a Qualified Household.

45. Attorneys' Fees and Costs.

If any Party to this Declaration commences an action against any other Party to this Declaration arising out of or in connection with this Declaration, the prevailing Party shall be entitled to recover reasonable attorneys' fees, expert witness fees, costs of investigation, and costs of suit from the non-prevailing Party.

46. Interpretation; Governing Law.

This Declaration shall be construed according to its fair meaning and as if prepared by both of the Parties hereto. This Declaration shall be construed in accordance with the laws of the State of California.

47. City Manager Authority.

The City Manager shall have the authority to make approvals, issue interpretations, execute documents, waive provisions, and/or enter into certain amendments of this Declaration on behalf of City so long as such actions do not materially or substantially change the uses or development permitted on the project site or add to the costs incurred or to be incurred by City. All other material and/or substantive interpretations, waivers, or amendments shall require the consideration, action and written consent of the City Council.

48. Counterparts

This Declaration may be executed in counterparts each of which, when both Developer and City have signed this Declaration, shall be deemed an original and shall constitute one and same instrument.

49. Time of Essence.

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

IN WITNESS WHEREOF, City and Developer have caused this instrument to be executed on their behalf by their respective officers hereunto duly authorized as of the date set forth above.

CITY:

CITY OF UPLAND

By: _____
Jeannette Vagnozzi, Acting City
Manager

“DEVELOPER”:

POMONA VALLEY HABITAT FOR
HUMANITY, INC., a California nonprofit
public benefit corporation

By: _____
Print Name: _____
Title: _____

CALIFORNIA ALL-PURPOSE 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, _____,
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

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

State of California)
County of San Bernardino)

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

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT "A"

DESCRIPTION OF PROPERTY

- G. BEING THE EASTERLY 150.00 FEET OF THAT PORTION OF LOT 12 OF HARWOOD BROTHERS SUBDIVISION OF ONTARIO COLONY LANDS, LOTS 579 TO 604, IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, PER PLAT RECORDED IN BOOK 14, PAGE 19 OF MAPS, AND PARCEL "C" OF THAT CERTAIN LOT LINE ADJUSTMENT LA-06-03, RECORDED AUGUST 5, 2010 AS DOCUMENT NO. 2010-0316372, BOTH RECORDS OF SAID COUNTY:

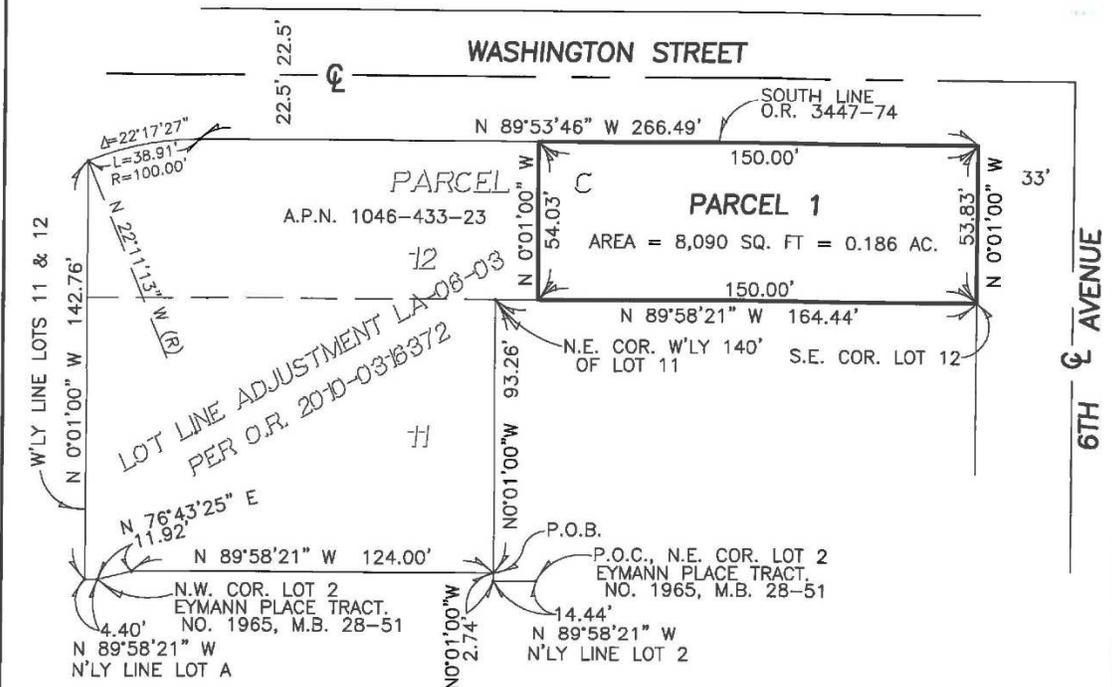
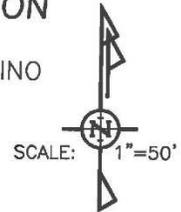
COMMENCING AT THE NORTHEAST CORNER OF LOT 2 EYMANN PLACE TRACT NO. 1965, PER PLAT RECORDED IN BOOK 28 OF MAPS, PAGE 51 RECORDS OF SAID COUNTY; THENCE NORTH 89° 58'21" WEST, 14.44 FEET ALONG THE NORTHERLY LINE OF SAID LOT 2; THENCE NORTH 0° 01'00" WEST, 2.74 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89° 58'21" WEST, 124.00 FEET; THENCE SOUTH 76° 43'25" WEST, 11.92 FEET TO THE NORTHWEST CORNER OF SAID LOT 2; THENCE NORTH 89° 58'21" WEST, 4.40 FEET ALONG THE NORTHERLY LINE OF LOT "A" AS SHOWN ON SAID EYMANN PLACE TRACT NO. 1965 TO THE WESTERLY LINE OF LOT 11 OF SAID HARWOOD BROTHERS SUBDIVISION; THENCE NORTH 0° 01'00" WEST, 142.76 FEET ALONG THE WESTERLY LINE OF SAID LOTS 11 AND 12 TO A POINT ON THE SOUTHERLY LINE OF THE LAND CONVEYED TO THE CITY OF UPLAND BY DEED RECORDED AUGUST 23, 1954 IN BOOK 3447, PAGE 74, OFFICIAL RECORDS, SAID POINT ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 100 FEET, A RADIAL TO SAID CURVE BEARS NORTH 22° 11'13" WEST; THENCE NORTHERLY 38.91 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 22° 17' 27" ALONG SAID SOUTHERLY LINE; THENCE SOUTH 89° 53'46" EAST, 266.49 FEET, CONTINUING ALONG SAID SOUTHERLY LINE TO A POINT ON THE EASTERLY LINE OF SAID LOT 12; THENCE SOUTH 0° 01'00" EAST, 53.83 FEET TO THE SOUTHEAST CORNER OF SAID LOT 12; THENCE NORTH 89° 58'21" WEST, 164.44 FEET ALONG THE SOUTHERLY LINE OF SAID LOT 12 TO THE NORTHEAST CORNER OF THE WESTERLY 140.00 FEET OF SAID LOT 11; THENCE SOUTH 0° 01'00" EAST, 93.26 FEET ALONG SAID EASTERLY LINE TO THE POINT OF BEGINNING.

SAID LAND IS DEPICTED ON PAGE A-2.

- H. 1914 CRAFTSMAN HOUSE LOCATED AT SOUTHWEST CORNER OF WASHINGTON STREET AND 6TH AVENUE, UPLAND, CA ON A PORTION OF APN 1046-433-23 (BUT NOT ON THE ADJACENT LAND DESCRIBED IN CLAUSE A ABOVE).

SKETCH TO ACCOMPANY LEGAL DESCRIPTION

IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO
STATE OF CALIFORNIA



 **PFEILER & ASSOCIATES ENGINEERS, INC.**
CIVIL ENGINEERING & LAND SURVEYING
22609 La Palma Avenue, Suite 202, Yorba Linda, CA 92887
Telephone (909) 993-5800 Fax (909) 993-5801

2018-022A

EXHIBIT "B"

VERIFICATION OF PROPOSED BUYER

THIS FORM MUST BE DELIVERED TO THE CITY BEFORE PROCEEDING WITH ANY CONVEYANCE/TRANSFER OF THE HOME.

City of Upland
460 North Euclid Avenue
Upland, CA 91786
Attn: _____

Re: Request for Verification of Proposed Buyer

To Whom It May Concern:

("Current Owner") desires to transfer the Home located at _____, Upland, California (the "Property") and by this letter is requesting the City to verify that the proposed buyer is a "Qualified Household" (as that term is defined in the Declaration of Covenants, Conditions and Restrictions).

1. The Proposed Buyer is:

Name: _____

Current Address: _____

Telephone Number: _____
Describe Household: _____

2. The terms of the proposed transfer are

(a) Sales price of \$ _____. This sales price is based on the lesser of
_____(i) Fair market value; or
_____(ii)

IN ORDER TO ANSWER QUESTION 2(a) YOU MUST CALCULATE THE PROPOSED SALES PRICE BASED ON THE HOUSING COST LIMITATIONS SET FORTH IN CALIFORNIA HEALTH & SAFETY CODE SECTION 50052.5, TAKING INTO CONSIDERATION ALL ITEMS LISTED IN THE DEFINITION OF MONTHLY HOUSING COST.

(b) Price of any personal property being sold to the proposed Qualified Household Buyer: \$ _____. (If none, so state.)

(c) The price of \$_____ to be paid by the proposed qualified buyer for any services provided or to be provided by the seller. (If none, so state).

(d) All other amounts of money or other consideration, if any, concerning the Property or any other matter to be paid by the proposed buyer: \$ _____. (If none, so state.)

(e) Sources of payment of sales price:

Sales price	\$ _____
Cash down payment	\$ _____
1st loan	\$ _____
Other (describe)	\$ _____
Total	\$ _____

(f) The financing obtained by the proposed buyer to purchase the Property is as follows:

Loan:

Loan amount	\$ _____
Equal monthly payments:	\$ _____ (must be fully amortizing)
Interest rate	_____ (must be fixed)

Lender: _____

Lender's address: _____

Other Loans: (describe, if none, so state) _____

(g) The Monthly Housing Cost to be paid by the proposed transferee:

loan monthly payment: \$ _____

[Other loans monthly payment:	\$ _____]
Taxes and assessments (1/12 of yearly taxes and assessments):	\$ _____
Insurance (1/12 of yearly premium):	\$ _____
Total:	\$ _____

3. The proposed buyer represents, warrants, and covenants the following:

(a) The buyer is 62 years of age.

(b) The Property will be and remain the principal residence of the proposed transferee.

(c) The combined maximum annual income for all household members of the proposed buyer is \$_____. (This figure must include all sources of income.)

(d) The proposed buyer will deliver to the City a signed financial statement on a form acceptable to the City, and supporting documentation for the income, as well as copies of tax returns for buyer and each household member.

4. The proposed buyer's household consists of the following persons who will reside in the Property and their annual incomes are listed below opposite their names:

Adults (18 or over) - [name of each]:

Minors (under 18) [name of each]:

5. We have been provided with and have reviewed 25 California Code Regulations Section 6914 which describes what needs to be included in income.

6. A true and correct copy of the purchase and sale or other agreement between current Qualified Household (seller) and the proposed buyer is attached hereto.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

CURRENT OWNER (SELLER):

Date

signature

signature

print name

print name

street address telephone

city state zip code

PROPOSED BUYER:

Date

signature

signature

print name

print name

street address telephone

city state zip code

EXHIBIT “E”
FORM OF NOTICE

(Attached.)

RECORDING REQUESTED BY,
AND WHEN RECORDED MAIL TO:

City of Upland
460 North Euclid Avenue
Upland, CA 91786
Attn: City Clerk

with a copy to:

Pomona Valley Habitat for Humanity, Inc.
2111 Bonita Ave.
La Verne, CA 91750
Attn: Executive Director

APN: Portion of 1046-433-23

Exempt From Recording Fee Pursuant to Government Code § 27383

**NOTICE OF AFFORDABILITY RESTRICTIONS
ON TRANSFER OF PROPERTY**

Important notice to owners, purchasers, tenants, lenders, brokers, escrow and title companies, and other persons, regarding affordable housing restrictions on the real property described in this Notice: Affordable housing restrictions have been recorded with respect to the property described below (referred to in this Notice as the “Site”) which require that the Site be as affordable housing (the “Project”) and that the home thereon be sole to and occupied by senior persons and households of limited income at affordable rents.

Title of Document Containing Affordable Housing Restrictions: Declaration of Affordability Covenants, Conditions and Restrictions (“Agreement”).

Parties to Agreement: Pomona Valley Habitat for Humanity, Inc., a California nonprofit public benefit corporation (“Developer”), and the City of Upland (“City”).

The Agreement is recorded concurrently with this Notice, in the Official Records of San Bernardino County.

Legal Description of Site: See Exhibit “A” attached hereto and incorporated herein by this reference.

Site Location: See Exhibit “A”.

Assessor’s Parcel Number of Site: Portion of 1046-433-23

Summary of Agreement:

- The Agreement contemplates that Developer will move a home onto the Site and rehabilitate it, the Site is being acquired by Developer from the City.
- The Agreement restricts the sale of the home to households that are both: (i) very low income households, as described in California Health and Safety Code Section 50105; and are also (ii) households consisting of a person who is sixty-two (62) years of age or older, together with any qualified permanent resident under California Civil Code Section 51.3.

Term: The Term of the Agreement is for forty-five (45) years after the home is moved onto the Site and rehabilitated and sold by Developer in accordance with the Agreement.

This Notice does not contain a full description of the details of all of the terms and conditions of the Agreement. You will need to obtain and read the Agreement to fully understand the restrictions and requirements which apply to the Site.

This Notice is being recorded and filed in compliance with Health and Safety Code Section 33334.3(f).

CITY:

CITY OF UPLAND

Date: _____, 2018

By: _____
Jeannette Vagnozzi,
Acting City Manager

DEVELOPER:

POMONA VALLEY HABITAT FOR HUMANITY,
INC.

By: _____
Print Name: _____
Title: _____

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

State of California)
County of Los Angeles)

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

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

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

State of California)
County of Los Angeles)

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

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY/SITE

BEING THE EASTERLY 150.00 FEET OF THAT PORTION OF LOT 12 OF HARWOOD BROTHERS SUBDIVISION OF ONTARIO COLONY LANDS, LOTS 579 TO 604, IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, PER PLAT RECORDED IN BOOK 14, PAGE 19 OF MAPS, AND PARCEL "C" OF THAT CERTAIN LOT LINE ADJUSTMENT LA-06-03, RECORDED AUGUST 5, 2010 AS DOCUMENT NO. 2010-0316372, BOTH RECORDS OF SAID COUNTY:

COMMENCING AT THE NORTHEAST CORNER OF LOT 2 EYMANN PLACE TRACT NO. 1965, PER PLAT RECORDED IN BOOK 28 OF MAPS, PAGE 51 RECORDS OF SAID COUNTY; THENCE NORTH 89° 58'21" WEST, 14.44 FEET ALONG THE NORTHERLY LINE OF SAID LOT 2; THENCE NORTH 0° 01'00" WEST, 2.74 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89° 58'21" WEST, 124.00 FEET; THENCE SOUTH 76° 43'25" WEST, 11.92 FEET TO THE NORTHWEST CORNER OF SAID LOT 2; THENCE NORTH 89° 58'21" WEST, 4.40 FEET ALONG THE NORTHERLY LINE OF LOT "A" AS SHOWN ON SAID EYMANN PLACE TRACT NO. 1965 TO THE WESTERLY LINE OF LOT 11 OF SAID HARWOOD BROTHERS SUBDIVISION; THENCE NORTH 0° 01'00" WEST, 142.76 FEET ALONG THE WESTERLY LINE OF SAID LOTS 11 AND 12 TO A POINT ON THE SOUTHERLY LINE OF THE LAND CONVEYED TO THE CITY OF UPLAND BY DEED RECORDED AUGUST 23, 1954 IN BOOK 3447, PAGE 74, OFFICIAL RECORDS, SAID POINT ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 100 FEET, A RADIAL TO SAID CURVE BEARS NORTH 22° 11'13" WEST; THENCE NORTHERLY 38.91 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 22° 17' 27" ALONG SAID SOUTHERLY LINE; THENCE SOUTH 89° 53'46" EAST, 266.49 FEET, CONTINUING ALONG SAID SOUTHERLY LINE TO A POINT ON THE EASTERLY LINE OF SAID LOT 12; THENCE SOUTH 0° 01'00" EAST, 53.83 FEET TO THE SOUTHEAST CORNER OF SAID LOT 12; THENCE NORTH 89° 58'21" WEST, 164.44 FEET ALONG THE SOUTHERLY LINE OF SAID LOT 12 TO THE NORTHEAST CORNER OF THE WESTERLY 140.00 FEET OF SAID LOT 11; THENCE SOUTH 0° 01'00" EAST, 93.26 FEET ALONG SAID EASTERLY LINE TO THE POINT OF BEGINNING.

EXHIBIT "F"
FORM OF GRANT DEED

(Attached.)Recording Requested By,
And When Recorded Mail to:

Pomona Valley Habitat for Humanity, Inc.
2111 Bonita Ave.
La Verne, CA 91750

APN: Portion of 1046-433-23

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

This instruction is exempt from Recording Fees (Govt. Code Section 27383). Documentary Transfer Tax is \$0.00; conveyance for no consideration. Property is in the City of Upland, County of San Bernardino, California.

GRANT DEED

The CITY OF UPLAND (“Grantor”), hereby GRANTS to POMONA VALLEY HABITAT FOR HUMANITY, INC., a California nonprofit public benefit corporation (“Grantee”), that certain real property in the City of Upland, County of San Bernardino, State of California, described on Exhibit “A”, attached hereto, subject to all matters visible and all matters of record, and the rights described in Section 18.E of that certain Agreement for Purchase and Sale and Escrow Instructions between Grantor and Grantee dated _____, 2018.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on _____, 2018.

GRANTOR:

CITY OF UPLAND

By: _____
Jeannette Vagnozzi,
Acting City Manager

EXHIBIT "A"

Description of Property

- I. BEING THE EASTERLY 150.00 FEET OF THAT PORTION OF LOT 12 OF HARWOOD BROTHERS SUBDIVISION OF ONTARIO COLONY LANDS, LOTS 579 TO 604, IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, PER PLAT RECORDED IN BOOK 14, PAGE 19 OF MAPS, AND PARCEL "C" OF THAT CERTAIN LOT LINE ADJUSTMENT LA-06-03, RECORDED AUGUST 5, 2010 AS DOCUMENT NO. 2010-0316372, BOTH RECORDS OF SAID COUNTY:

COMMENCING AT THE NORTHEAST CORNER OF LOT 2 EYMANN PLACE TRACT NO. 1965, PER PLAT RECORDED IN BOOK 28 OF MAPS, PAGE 51 RECORDS OF SAID COUNTY; THENCE NORTH 89° 58'21" WEST, 14.44 FEET ALONG THE NORTHERLY LINE OF SAID LOT 2; THENCE NORTH 0° 01'00" WEST, 2.74 FEET TO THE POINT OF BEGINNING; THENCE NORTH 89° 58'21" WEST, 124.00 FEET; THENCE SOUTH 76° 43'25" WEST, 11.92 FEET TO THE NORTHWEST CORNER OF SAID LOT 2; THENCE NORTH 89° 58'21" WEST, 4.40 FEET ALONG THE NORTHERLY LINE OF LOT "A" AS SHOWN ON SAID EYMANN PLACE TRACT NO. 1965 TO THE WESTERLY LINE OF LOT 11 OF SAID HARWOOD BROTHERS SUBDIVISION; THENCE NORTH 0° 01'00" WEST, 142.76 FEET ALONG THE WESTERLY LINE OF SAID LOTS 11 AND 12 TO A POINT ON THE SOUTHERLY LINE OF THE LAND CONVEYED TO THE CITY OF UPLAND BY DEED RECORDED AUGUST 23, 1954 IN BOOK 3447, PAGE 74, OFFICIAL RECORDS, SAID POINT ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 100 FEET, A RADIAL TO SAID CURVE BEARS NORTH 22° 11'13" WEST; THENCE NORTHERLY 38.91 FEET ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 22° 17' 27" ALONG SAID SOUTHERLY LINE; THENCE SOUTH 89° 53'46" EAST, 266.49 FEET, CONTINUING ALONG SAID SOUTHERLY LINE TO A POINT ON THE EASTERLY LINE OF SAID LOT 12; THENCE SOUTH 0° 01'00" EAST, 53.83 FEET TO THE SOUTHEAST CORNER OF SAID LOT 12; THENCE NORTH 89° 58'21" WEST, 164.44 FEET ALONG THE SOUTHERLY LINE OF SAID LOT 12 TO THE NORTHEAST CORNER OF THE WESTERLY 140.00 FEET OF SAID LOT 11; THENCE SOUTH 0° 01'00" EAST, 93.26 FEET ALONG SAID EASTERLY LINE TO THE POINT OF BEGINNING.

SAID LAND IS DEPICTED ON PAGE A-2.

- J. 1914 CRAFTSMAN HOUSE LOCATED AT SOUTHWEST CORNER OF WASHINGTON STREET AND 6TH AVENUE, UPLAND, CA ON A PORTION OF APN 1046-433-23 (BUT NOT ON THE ADJACENT LAND DESCRIBED IN CLAUSE A ABOVE).

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

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

State of California)
County of San Bernardino)

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

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

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

WITNESS my hand and official seal.

Signature _____

(Seal)

EXHIBIT "G"

DESCRIPTION OF REQUIRED PROJECT

1. Level and Grade the land
2. Obtain Building Permits, Construction Plans and Engineering Reports
3. Tie into Utilities (Gas, Water, Sewer, Electric and Telecommunications)
4. Relocate/Move House to Receptor Lot
5. Construct Foundation
6. Construct Garage
7. Construct Driveway
8. Construct Walkways
9. Install Perimeter Fencing
10. Conduct Lead/Asbestos Abatement/Mitigation
11. Complete Full House Rehabilitation, including:
 - a. Roof
 - b. Termite/Dryrot Repairs
 - c. Electrical
 - i. Main Panel
 - ii. House Rewire
 - iii. Outlets/Switches
 - iv. Light Fixtures
 - v. Smoke CO2 Detectors
 - d. Plumbing
 - i. Water Supply Lines
 - ii. Sewer Lines
 - iii. Irrigation Lines
 - e. Attic/Wall Insulation
 - f. Flooring
 - i. Carpet
 - ii. Hardwood Floors
 - iii. Linoleum
 - g. Siding/Woodwork
 - h. Windows/Doors
 - i. Paint
 - i. Interior
 - ii. Exterior
 - j. Full Bathroom Rehabilitation
 - k. Full Kitchen Rehabilitation
12. Install Landscaping
13. Promptly Level/Grade Land from which home is removed to its current condition (after house is removed/relocated)