

ORDINANCE NO. 1946

AN ORDINANCE OF THE CITY OF UPLAND AMENDING THE  
BALLOT LABEL FOR THE CITY OF UPLAND PARK MEASURE  
ON THE NOVEMBER 3, 2020 ELECTION BALLOT

A. RECITALS.

(i) San Antonio Regional Hospital ("SARH") previously requested that the City Council submit the question of discontinuing use as a public park an approximately 4.63 acre portion of Memorial Park (the "Park Parcel") to the City's electors at the November 3, 2020 general election pursuant to Government Code Section 38440 *et seq.* Pursuant to an agreement between the City and SARH, SARH, has agreed to purchase the Park Parcel for no less than \$4,300,000.00 and grant the City an easement for public parking on the Park Parcel, and the City would use the sale proceeds solely for making public improvements to the other parts of Memorial Park, which improvements may include a new baseball field, additional public parking and other new public amenities, landscaping, structures, and walking trails.

(ii) On July 27, 2020, the City Council adopted Ordinance No. 1943 calling a special election on November 3, 2020 to submit to the City electors the question of abandoning and discontinuing use of the Park Parcel as a public park as "City of Upland Park Measure."

(iii) On August 18, 2020, the City was served with a petition for writ of mandate and injunctive relief in the matter of *Marjorie Benesh v. City of Upland et al.*, San Bernardino Sup. Ct. Case No. CIV DS 2016635 (the "Lawsuit"), in which the petitioner alleges, among things, certain defects in the language of the ballot label for the City of Upland Park Measure as specified in Ordinance 1943.

(iv) Although the City and SARH maintain that the allegations in the Lawsuit of any defect in the language of ballot label for the City of Upland Park Measure are without merit, SARH has requested that the City Council consider amending the ballot label out of an abundance of caution and to ensure that the voters of the City have an opportunity to decide this question of public importance.

(v) All legal prerequisites to the adoption of this Ordinance have occurred.

B. ORDINANCE.

THE CITY COUNCIL OF THE CITY OF UPLAND ORDAINS AS FOLLOWS:

Section 1. Recitals. All facts set forth in the recitals above are correct.

Section 2. Amended Ballot Label. The ballot label for the City of Upland Park Measure to be submitted to the voters set forth in Section 3 of Ordinance 1943 is hereby amended in its entirety to read as follows:

Shall the measure allowing the City of Upland to abandon and discontinue using for park purposes approximately 4.63 acres of Memorial Park so it can be sold to San Antonio Regional Hospital, in order to add facilities and increase capacity for medical services, for a price not less than \$4,300,000 that would be used solely for public improvements to Memorial Park, which may include a new baseball field, additional public parking, landscaping, walking trails, and other new public amenities, be adopted?	Yes
	No

The full text of the City of Upland Memorial Park Measure, which appears as Exhibit A to Ordinance No. 1976 shall remain unchanged.

Section 3. Effective Date. This Ordinance shall become effective immediately upon adoption pursuant to California Government Code Section 36937(a).

Section 4. Certification & Election Coordination. The City Clerk shall certify the adoption of this Ordinance and cause it to be published in the manner required by law. The City Clerk is further authorized, instructed and directed to take such actions as are necessary or appropriate to ensure that the amendment to the ballot label amendment set forth in Section 2 of this Ordinance is incorporated into all official ballots and in any other manner necessary in order to properly and lawfully conduct the election.

PASSED, APPROVED and ADOPTED this 24th day of August, 2020.

  
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 Debbie Stone  
 Mayor

I, Alison Walker, Deputy City Clerk of the City of Upland, do hereby certify that the foregoing Ordinance was introduced and adopted at a special meeting of the City Council held on the 24th day of August, 2020, by the following vote:

- AYES: Mayor Stone, Councilmembers Velto, Zuniga
- NOES: None
- ABSENT: None
- ABSTAINED: Councilmember Elliott

ATTEST:  
  
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 Alison Walker  
 Deputy City Clerk