



UPLAND CITY COUNCIL

AGENDA

**April 13, 2015
City Council Chambers**

**RAY MUSSER, MAYOR
GLENN BOZAR, MAYOR PRO TEM
GINO L. FILIPPI, COUNCILMEMBER
DEBBIE STONE, COUNCILMEMBER
CAROL TIMM, COUNCILMEMBER**

**ROD BUTLER, CITY MANAGER
RICHARD L. ADAMS II, INTERIM CITY ATTORNEY**

*** * * * ***
5:30 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 four (4) minutes. The use of visual aids will be included in the time limit.

4. CLOSED SESSION

- A. GOVERNMENT CODE SECTION 54957.6 - CONFERENCE WITH LABOR NEGOTIATORS

Agency designated representatives: City Manager Butler and Human Resources Manager Tanya Bragg

Employee organization: Upland Mid-Management Association, Upland General Employees Association, Upland Police Officers Association, Upland Police Management Association, Upland Captains

Association, Upland Fire Fighters Association,
and Upland Fire Management Association

B. GOVERNMENT CODE SECTION 54956.9 - CONFERENCE WITH LEGAL COUNSEL -
EXISTING LITIGATION

(Paragraph (1) of Subdivision (d) of Section 54956.9)

Case Name: California Cannabis Coalition, et al v. City of Upland, et al (Case No.
CIVDS1503985)

C. GOVERNMENT CODE SECTION 54956.9 - CONFERENCE WITH LEGAL COUNSEL -
EXISTING LITIGATION

(Paragraph (1) of Subdivision (d) of Section 54956.9)

Case Name: Verizon California Inc. v. State Board of Equalization, et al. (Case No.
34-2015-00175609)

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7:00 PM

5. INVOCATION

Pastor Julius West, Sunergeo Christian Fellowship

6. PLEDGE OF ALLEGIANCE

7. PRESENTATIONS

Certificate of Recognition to Eagle Scout Timoteo HoChing, Troop 616

Presentation on OPARC, a non-profit that serves adults with disabilities, provided by Pastor James Pike of Grace Lutheran Church

Proclamation declaring April 2015 as Fair Housing Month, accepted by Marie Flannery and/or Lara Costello of the Inland Fair Housing Mediation Board

Proclamation declaring April 2015 as DMV/Donate Life California Month, accepted by One Legacy City Ambassador Daniel Luevanos

Proclamation declaring April 12 - 18, 2015 as National Library Week, accepted by Library Director Yuri Hurtado

Proclamation declaring April 24, 2015 as National Arbor Day, accepted by Water Conservation Specialist Barbara Taylor

Proclamation declaring May 2015 as Water Awareness Month, accepted by Water Conservation Specialist Barbara Taylor

8. CITY ATTORNEY

9. ORAL COMMUNICATIONS

This is a time for any citizen to comment on any item listed or 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 four (4) minutes. Speakers will be given five (5) minutes during public hearings. 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.

10. 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. WAIVE READING OF ORDINANCES AND RESOLUTIONS

Approve the reading of titles of all ordinances and resolutions and declare that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived. Staff will prepare summaries of all ordinances considered by the City Council and publish the summaries at least five days prior to adoptions.

B. APPROVAL OF WARRANTS AND PAYROLL REGISTERS

Approve Warrant Registers dated March 25, 2015 in the amount of \$792,173.74; March 31, 2015 in the amount of \$7,137.42 and Payroll Registers dated April 2, 2015 in the amounts of \$586,819.40 and \$24,316.02. (Staff Person: Stephanie Mendenhall)

C. APPROVAL OF MINUTES

Approve the Regular Meeting Minutes of March 23, 2015. (Staff Person: Stephanie Mendenhall)

D. 2ND READING OF ORDINANCE 1891 MUNICIPAL CODE AMENDMENT RELATIVE TO DELINQUENT TRASH COLLECTION FEES

Hold 2nd reading by number and title only, and adopt Ordinance No. 1891 electing to have delinquent trash collection fees collected on the tax roll and amending Chapter 13.34 and Section 13.28.170 of Chapter 13.28 of Title 13 of the Upland Municipal Code relating to liens imposed for unpaid trash collection services.

E. EMERGENCY REPLACEMENT OF PLANT NO. 4 SWITCHGEAR

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

F. SEWER SERVICE AGREEMENT FOR 2412 SAN ANTONIO CRESCENT EAST (SSA-2015-03-01)

Authorize the City Manager to execute the Sewer Service Agreement. (Staff Person: Rosemary Hoerning)

G. STREET VACATION OF A 17 FOOT STRIP ALONG 8TH STREET (FROM NORTHEAST CORNER OF SULTANA AVENUE AND 8TH STREET TO APPROXIMATELY 643 FEET EASTERLY)

Declare its intention to vacate a 17 foot strip along 8th Street (from the northeast corner of Sultana Avenue and 8th Street to approximately 643 feet easterly). It is further recommended the City Council set a Public Hearing for May 11, 2015, concerning the vacation. (Staff Person: Rosemary Hoerning)

H. AFFILIATION AGREEMENT BETWEEN MT. SAN ANTONIO COLLEGE AND UPLAND FIRE DEPARTMENT FOR PARAMEDIC TRAINEES

Approve the Affiliation Agreement between Upland Fire Department and Mt. San Antonio College's paramedic trainee program. (Staff Person: Rick Mayhew)

I. AMENDMENT TO RETAINER AGREEMENT WITH THE LAW FIRM OF JONES AND MAYER TO DESIGNATE RICHARD L. ADAMS II AS CITY ATTORNEY AND YOLANDA SUMMERHILL AS ASSISTANT CITY ATTORNEY

Approve the attached amendment to the retainer agreement with Jones & Mayer. (Staff Person: Rod Butler)

11. PUBLIC HEARINGS None

12. COUNCIL COMMITTEE REPORTS

A. POLICE AND FIRE COMMITTEE MEETING, MARCH 23, 2015

13. BUSINESS ITEMS

A. GOVERNOR'S EXECUTIVE ORDER B-29-15 – MANDATORY WATER CONSERVATION

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

14. CITY MANAGER

15. COUNCIL COMMUNICATIONS

16. ADJOURNMENT

The next regularly scheduled City Council meeting is Monday, April 27, 2015.

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 April 9, 2015 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).

D. 54956.9 - CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION

Pursuant to paragraph (4) of Subdivision (d) of Government Code Section 54956.9: 1 case

The City Council reconvened in open session at 7:01 p.m.

5. INVOCATION Pastor James Pike, Grace Lutheran Church

6. PLEDGE OF ALLEGIANCE Councilmember Stone

7. PRESENTATIONS

A presentation was made by Fire Chief Mayhew to the 2014 Firefighter of the Year, Fire Engineer Brad McCaulley.

A homeless taskforce update was presented by Doug Story.

An investment presentation for the City of Upland for the period ending January 31, 2015 was made by Mia Corral of Chandler Asset Management.

8. CITY ATTORNEY

Interim City Attorney Counsel Adams announced that the City Council heard reports and took no reportable action from Closed Session.

He further reported on Councilmembers Filippi and Stone concurring request to discuss his report of the city's ordinance enforcing the current ban against medical marijuana dispensaries at the March 9, 2015 meeting. He stated that the request required more clarification from Mayor Musser and Councilmember Bozar in their instructions requesting alternative scenarios. After receiving clarification, he felt his direction was to include the City's current ban on dispensaries. Councilmember Filippi felt there was no discussion by the City Council for staff to proceed as they did and further felt the March 9, 2015 Staff Report indicated clear prejudice and referred to California State Constitution Article XIII(C).

9. ORAL COMMUNICATIONS

Keith Calvert, Upland, questioned whether the city has an emergency drinking water plan, felt marijuana dispensaries should be legal, and the water should remain with the city.

William Cioci, San Bernardino, felt that recreation marijuana is coming and the City Council needs to think about how the fee can help the city.

A number of individuals spoke on Business Item 13D against outsourcing the Upland Animal Shelter and the following comments were made: felt the shelter's staff is hard working and compassionate; the shelter is run well, rescue and adoption friendly, and has a fast response time; suggested outsourcing to small cities; want better for the city's animals than a cheaper bid; there is a need to educate the residents to spay and neuter their pets; look for new and innovative ways to run the shelter; Friends of the Animal Shelter will continue to fundraise for a possible Thrift Store;

fears the animals will not be taken care of if outsourced; and against Inland Valley Humane Society as it is poorly run, overabundance of animals, and euthanizes their animals. The following spoke:

Jennifer Vicinsky, Upland
Ann Davis, Upland
Kristi Shwartz, Chino
Susan Cushman, Upland
Mia Dravis, Upland

Allison Kreider, Upland
Janice Elliott, Upland
Tina Shubert, Upland
Ellen Calebotta, Upland

Bill White, Upland, invited the City Council to the Colonies HOA 5th Annual Community Picnic on April 18, 2015 from 11 a.m. to 3:00 p.m.

Craig Beresh, Upland, felt the Interim City Attorney has hoodwinked the City Council in believing that they are limited by law in their choices on the medical marijuana initiative and that the monies spent fighting this issue could be used for the police department. He offered to provide monies for volunteers.

Dave Stevens, Upland, questioned if other cities were having problems with illegal medical marijuana dispensaries, what they are doing about it, and why they cannot be shut down right away. Further suggested the City Council work together not against each other to raise more funds, build trust with the citizens, and he saw a need a public safety tax.

Bill Scheussler, Upland, stated the city needs to figure out how to make it more enticing for Police Officers, bring back some of their special teams and to work together so we are not in same position in a year from now.

Hal Tanner, Upland, asked the City Manager to investigate, not only his recent complaints, but also all the past petitions to city officials in their failure to respond to his requests, denying him of his rights.

Randy Welty, Upland, felt the City Attorney has given the City Council wrong advice on what a tax is in regards to the marijuana initiative and told them they were going to lose the lawsuit, and should be looking at compassion.

David Wade, Upland, stated he was led to believe that the city would explore all options in the report at the last meeting on the marijuana initiative and that the collection of the tax would help the city financially.

Ari Borland, Upland, asked the City Council to consider a fenced area of Memorial Park for an immediate storage solution for the belongings of the homeless and said Mr. Welty offered to put up toilets in that area.

Marjorie Mikels, Upland, she felt there was no rush in bringing the marijuana initiative to the voters.

Eric Hanson, Upland, felt the timing of the ERP software in Item 13A was horrible with Finance Manager and Administrative Services Director leaving and that the current system is still supportable.

Pat Almazan, Upland, spoke against the marijuana dispensaries as most are sold for recreational use and concerned about the rise in crime with the dispensaries.

Eric Gavin, Upland, was in support of the ERP in Item 13A and answered questions relative to it being the right product, right cost and right time.

Donna McClenehan, Upland, provided an update on the Upland Chamber Leadership Academy currently in progress with 20 students.

10. CONSENT CALENDAR

Mayor Musser removed Consent Calendar Item 10D for separate action. Motion by Councilmember Stone to approve the remainder of the Consent Calendar, seconded by Councilmember Filippi, and carried unanimously.

A. WAIVE READING OF ORDINANCES AND RESOLUTIONS

Approved the reading by title of all ordinances and resolutions and declared that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived. Staff will prepare summaries of all ordinances considered by the City Council and publish the summaries at least five days prior to adoption.

B. APPROVAL OF WARRANTS AND PAYROLL REGISTERS

Approved Warrant Registers March 11, 2015 in the amount of \$1,070,630.90; and Payroll Registers dated March 19, 2015 in the amounts of \$593,978.91 and \$3,469.21

C. APPROVAL OF MINUTES

Approved the Regular Meeting Minutes of March 9, 2015

E. BOARD OF DIRECTORS FOR WEST END CONSOLIDATED WATER COMPANY

Appointed Glenn Bozar as proxy to vote all shares at the annual stockholder's meeting of the West End Consolidated Water Company for the slate of directors.

F. EMERGENCY REPLACEMENT OF PLANT NO. 4 SWITCHGEAR

Received and filed status update.

ITEMS REMOVED FOR SEPARATE ACTION

D. 2015 4th OF JULY FIREWORKS SPECTACULAR

Report given by Community Services Director Knighten, which is on file in the City Clerk's Office.

There was discussion on having another organization take over this event. Councilmember Filippi stated he could not support this item at this time due to the budget risk.

Further it was suggested the city include in their report the monies collected by Kiwanis from the parking and snack bar to show the event in the black to help with fundraising and have the Police and Fire Chiefs come up with innovative ways to minimize overtime costs. However, Finance Manager Buhagiar said the City does not control those funds collected by Kiwanis.

Motion by Mayor Musser to direct the City Manager to execute an agreement with Pyro Spectaculars for pyrotechnic services for the annual 4th of July fireworks show, seconded by Councilmember Bozar, and carried with Councilmembers Filippi and Stone voting no.

11. PUBLIC HEARINGS

A. MUNICIPAL CODE AMENDMENT RELATIVE TO DELINQUENT TRASH COLLECTION FEES

Report given by Finance Manager Buhagiar, which is on file in the City Clerk's Office.

There was discussion on current collection processes for residential and commercial.

Mayor Musser opened the public hearing.

Marjorie Mikels, Upland, expressed her concern about a tenant not paying their bill, the city placing a lien on the owner's property and then taking the property without a lawsuit. She also stated her concerns for people that cannot pay their bill.

Albert Pattison, Upland, stated a tenant left his rented single family residence without paying their bill and he was notified by the County. He never received notification of the non-payment, felt he was entitled to notification and that the system is faulty.

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

Interim City Attorney Adams stated that the ordinance requires the property owner be given notice and is entitled to a lien meeting. Finance Manager Buhagiar stated the city's current rental policy requires the consent of the property owner, who is advised that they will receive notification of any past due amount or disconnection.

Motion by Councilmember Filippi to hold first reading by number and title only and introduce Ordinance No. 1891 electing to have delinquent trash collection fees collected on the tax roll and amending Chapter 13.34 and Section 13.28.170 of Chapter 13.28 of Title 13 of the Upland Municipal Code relating to liens imposed for unpaid trash collection services and waive further reading

of the Ordinance, seconded by Councilmember Bozar, and carried unanimously.

Motion by Councilmember Filippi to adopt Resolution No. 6268 establishing fees in connection with the unpaid trash collection service charges seconded by Councilmember Bozar, and carried unanimously.

12. COUNCIL COMMITTEE REPORTS

A. SPECIAL FINANCE AND ECONOMIC DEVELOPMENT COMMITTEE MEETING, MARCH 12, 2015

1) AUTHORIZATION TO ENTER INTO A CONTRACT WITH TYLER TECHNOLOGIES, INC. TO FURNISH AND DELIVER AN ENTERPRISE RESOURCE PLANNING SYSTEM

Councilmember Stone left the dais at 9:30 p.m. and returned at 9:36 p.m.

Finance Manager Buhagiar and Development Services Director Zwack presented the staff report, along with a power point presentation, which is on file in the City Clerk's Office. Development Services Director Zwack, Public Works Director Hoerning, Fire Chief Mayhew and Acting Police Chief Bonson stated their struggles with the current system and the benefits of the proposed system.

There was discussion on the process and cost if the current system were to crash, deployment concerns with the Finance Manager and Administrative Services Director leaving the city employment, the current system being supported but without enhancements, and the deployment of the utility billing so far down the road.

Motion by Councilmember Bozar to enter into a three-year contract with Tyler Technologies, Inc. to furnish and deliver software, hardware, and services for an Enterprise Resource Planning Software System in an amount not to exceed \$876,738, seconded by Mayor Musser, and carried with Councilmembers Filippi and Stone voting no.

13. BUSINESS ITEMS

A. PROFESSIONAL SERVICE AGREEMENTS WITH HINDELITER DE LLAMAS AND ASSOCIATES AND HDL COREN & CONE FOR SALES TAX AND PROPERTY TAX AUDIT AND INFORMATION SERVICES

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

Motion by Mayor Musser to approve the professional services agreement with Hinderliter de Llamas and Associates to provide the City with Sales Tax Audit and Information Services; and approve the professional services agreement with HdL Coren & Cone to provide the City with Property Tax Audit and

Information Services, seconded by Councilmember Timm, and carried unanimously.

- B. ECONOMIC REFUNDING OF THE UPLAND COMMUNITY REDEVELOPMENT AGENCY UPLAND COMMUNITY REDEVELOPMENT PROJECT TAX ALLOCATION REFUNDED BOND ISSUE OF 2006 [PARTIAL REFUNDING]

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

Motion by Chairman Musser to adopt Successor Agency Board Resolution No. 2015-3 authorizing the issuance and sale of Tax Allocation Refunding Bonds and approving the Form of an Indenture of Trust and authorizing certain other actions in connection therewith, seconded by Agency Member Timm, and carried unanimously.

- C. ECONOMIC REFUNDING OF THE CITY OF UPLAND COMMUNITY FACILITIES DISTRICT NO. 2003-2 (THE COLONIES AT SAN ANTONIO IMPROVEMENT AREA NO. 2) SPECIAL TAX BONDS, SERIES B OF 2004

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

Motion by Mayor Musser to Direct staff to take those actions necessary to refund the above referenced bonds, seconded by Councilmember Timm, and carried unanimously.

- D. CONSIDERATION OF COST REDUCTION OPTIONS AND REVENUE GENERATING IDEAS FOR THE UPLAND ANIMAL SERVICES PROGRAM

Community Services Director Knighten presented the staff report and Animal Services Supervisor Knowlton gave a power point presentation, which are on file in the City Clerk's Office.

There was discussion that the city review all costs and alternatives in making this decision, by sending out a Request for Proposal to see what options are available, and confident staff and City Manager could decide on the goals and directives for the Request. City Manager Butler felt the RFP could be completed and distributed in 21 days.

Motion by Councilmember Stone to direct staff to issue a formal Request for Proposal to provide animal shelter and animal control services, seconded by Councilmember Timm, and carried unanimously.

At 11:15 p.m. Mayor Musser recessed the meeting and the City Council re-convened at 11:20 p.m.

- D. UPDATE ON UPLAND POLICE OFFICER HIRING AND RETENTION

Acting Police Chief Bonson presented the staff report and a power point, which are on file in the City Clerk's Office. The City Council was provided with the power point presentation prior to the start of the meeting.

Acting Police Chief Bonson addressed the concurring concerns of Councilmembers Filippi and Stone, stated and requested at the March 9, 2015 meeting, on the shortage of police officers. He addressed the officer training costs, loss of applicants, costs for overtime, the number of residential burglaries in the last six months and the number of applicants withdrawing their applications after going through background. He further stated currently the city is down 15 officers based upon vacancies, injuries and anticipated resignations.

14. CITY MANAGER

A. FINANCIAL REPORT FOR THE MONTH ENDING FEBRUARY 2015

Finance Manager Buhagiar provided the report, which is on file in the City Clerk's office, and the City Council received and filed the Financial Report for the month of February 2015.

15. COUNCIL COMMUNICATIONS

Councilmembers announced various activities throughout the community.

16. ADJOURNMENT

At 12:09 a.m Mayor/Chairman Musser adjourned the meeting in memory of Carl Arthur Forman. The next regularly scheduled City Council meeting is Monday, April 13, 2015.

SUBMITTED BY



Stephanie A. Mendenhall, City Clerk

APPROVED

April 13, 2015



SECOND READING AND ADOPTION
Ord No. 1891 Date 4/13/15 Item No. 10.1

STAFF REPORT

~~ITEM NO. 11.A~~

DATE: MARCH 23, 2015
TO: MAYOR AND CITY COUNCIL
FROM: ROD BUTLER, CITY MANAGER
PREPARED BY: CHRISTA BUHAGIAR, FINANCE MANAGER
SUBJECT: MUNICIPAL CODE AMENDMENT RELATIVE TO DELINQUENT TRASH COLLECTION FEES

RECOMMENDED ACTION

It is recommended that the City Council hold first reading by number and title only and introduce an Ordinance electing to have delinquent trash collection fees collected on the tax roll and amending Chapter 13.34 and Section 13.28.170 of Chapter 13.28 of Title 13 of the Upland Municipal Code relating to liens imposed for unpaid trash collection services and waive further reading of the Ordinance; and adopt a Resolution establishing fees in connection with the unpaid trash collection service charges.

GOAL STATEMENT

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

BACKGROUND

The City contracts with Burrtec Waste Industries, Inc. to provide solid waste collection, processing and disposal services within the City. When trash collection service accounts become delinquent, state law provides cities with several avenues by which the delinquent amount may be recovered even though the city is not directly providing the service because Public Resources Code Section 40059 authorizes the city to provide trash collection services by franchise agreement with a private company.

Health & Safety Code Sections 5470-5473.11 authorize the imposition of liens on properties with unpaid trash collection services if the City first elects to collect delinquent balances on the tax rolls. Upland Municipal Code Chapter 13.34 was recently amended to authorize the City to collect delinquent water and sewer fees on the tax rolls, and the same provisions of state law authorize delinquent trash collection service charges to be collected in a similar manner. The proposed ordinance merely amends Chapter 13.34 to include the collection of delinquent trash collection service charges within its scope.

ISSUES/ANALYSIS

Pursuant to the procedures set forth in Chapter 13.34, the City must first create and file with the City Clerk a report of all properties with unpaid trash collection service charges over 60 days old. The City Council then holds a hearing on the contents of the report where objections and protests

may be presented. If the Council adopts the report, it is filed with the County Assessor and delinquent amounts are then collected on the tax roll. The City may then file a certificate with the County Recorder to place a lien on the property with delinquent service charges. The City can then recover the unpaid balances when the delinquent properties are sold.

Additionally, Health & Safety Code Section 5471(a) authorizes the City to collect fees "in connection with its...sanitation... system" which includes "garbage and refuse collection" under Health & Safety Code Section 5470(f). Fees that cover the cost to the City to place liens on properties with delinquent accounts are in connection with its sanitation system, and thus are valid so long as these fees reasonably approximate the City's actual costs in doing so. The attached resolution establishes the fee to place a lien at \$53.14 based on the billable hourly rate of City employees engaging in these tasks, the associated postage and the amount charged by the San Bernardino County Auditor-Controller for processing the submitted assessment. The fee for releasing a lien shall be \$14 which is the pass-thru cost established by the San Bernardino County Recorder. A public hearing is needed to approve the fees.

FISCAL IMPACTS

For the prior year lien process, staff looked back three years and determined that the total amount of delinquent trash collection fees totaled \$41,389. A large portion of this could be recovered through the proposed lien process.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

[Ordinance](#)

[Resolution](#)

ORDINANCE NO. __

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF UPLAND ELECTING TO HAVE DELINQUENT TRASH COLLECTION FEES COLLECTED ON THE TAX ROLL AND AMENDING CHAPTER 13.34 AND SECTION 13.28.170 OF CHAPTER 13.28 OF TITLE 13 OF THE UPLAND MUNICIPAL CODE RELATING TO LIENS IMPOSED FOR UNPAID TRASH COLLECTION SERVICES

WHEREAS, the City Council of the City of Upland has adopted Ordinance No. 1712 by a 5-0 vote of its members prescribing fees for trash collection service, and the municipal code sections were subsequently renumbered by Ordinance No. 1812; and

WHEREAS, the City contracts with Burrtec Waste Industries, Inc., to provide solid waste collection, processing and disposal services within the City pursuant to Public Resources Code Section 40059; and

WHEREAS, the City Council finds that there are a significant number of property owners with delinquent trash collection service charges; and

WHEREAS, Health and Safety Code Section 5470, *et seq.*, authorizes the City to secure a lien upon a property within the City that has delinquent trash service collection fees if, among other procedural requirements, the City elects to have such fees collected on the tax roll; and

WHEREAS, all legal prerequisites prior to the adoption of this ordinance have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF UPLAND DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Pursuant to Health & Safety Code Sections, 5470(f), 5473 and 5473a, the City Council elects to have delinquent charges for trash collection services collected on the tax roll in the same manner, by the same persons, and at the same time as and together with its general taxes.

Section 2. Pursuant to Health & Safety Code Sections 5473 and 5473.11, the City Council directs City Staff to prepare a written report annually which contains the amount of all delinquent trash collection service accounts that have been unpaid for at least 60 days and a description of each parcel of real property with such an account. Staff is also directed to file this report with the City Clerk and publish notice in a newspaper of general circulation within the City of Upland that a hearing on the contents of the report and placement of a lien on the property will be conducted at a specified date, time, and place. Staff shall also mail written notice to each property owner with a delinquent trash collection service account, at least 10 days prior to the public hearing, or such other time as may be prescribed by state law.

Section 3. If, after the hearing on the contents of the report, the City Council adopts the report as written or as amended, the City Clerk shall file the report with the County Auditor along with a signed statement that the report was adopted by the City Council. The County Auditor shall enter the charges against each property contained in the report, after which time the City Clerk may secure a lien against each property contained in the report by filing a certificate with the County Recorder.

Section 4. Section 13.28.170 of Chapter 13.28 of Title 13 of the Upland Municipal Code is hereby repealed and replaced with the following:

13.28.170 Billing.

A. The billing and collection of the fees imposed by the collectors for solid waste and recyclables collection services shall be the responsibility of the collector and the city shall have no liability or responsibility therefor, although the city may assist in collection of unpaid accounts as authorized by state law and the provisions of this code.

B. Every commercial/industrial business owner and residential owner shall pay the collector the applicable fees for collection services rendered pursuant to this chapter.

C. Unpaid trash collection service charges may be collected pursuant to the provisions of Chapter 13.34.

Section 5. Chapter 13.34 to Title 13 of the Upland Municipal Code is hereby repealed and replaced as follows:

Chapter 13.34 Lien Procedure for Delinquent Water, Sewer and Trash Collection Service Charges

Section 13.34.010 Definitions.

As used in this chapter, the following terms shall have the following definitions:

- A. "City" shall mean the City of Upland.
- B. "City clerk" shall mean the City Clerk of the City of Upland.
- C. "City council" shall mean the City Council for the City of Upland.
- D. "County" shall mean the County of San Bernardino.
- E. "County auditor" shall mean the Auditor-Controller for the County of San Bernardino.
- F. "County recorder" shall mean the Recorder for the County of San Bernardino.

- G. "Current assessment roll" shall mean current assessment roll for the County of San Bernardino.
- H. "Delinquent service charges" shall mean service charges for water and/or sewer and/or trash collection services, including any associated penalties and fees, that remain unpaid for 60 days or more.
- I. "Hearing" shall mean a proceeding before the Upland City Council where protests and objections to the report may be heard and where the Council may adopt, revise, change, reduce or modify any charge or overrule any or all objections to the charges contained in the report.
- J. "Newspaper" shall refer to any newspaper of general circulation within the City of Upland.
- K. "Property owner" shall mean the person, persons, or entity that is listed on the San Bernardino County Current Equalized Assessment Roll as the owner or owners of the subject property.
- L. "Report" shall mean the report described in Section 13.34.020.

Section 13.34.020 Report of delinquent service charges.

The city may periodically cause to be created and filed with the city clerk a report describing properties with delinquent service charges and the amount of such charges.

Section 13.34.030 Notice of hearing to property owners.

The city council shall conduct a hearing where it will consider the contents of the report and any objections or protests from affected property owners. The city clerk shall publish notice of the date, time and location of the hearing in a newspaper of general circulation within the City of Upland, once a week for two consecutive weeks prior to the hearing as set forth in California Government Code section 6066. Notice containing the date, time and location of the hearing shall also be mailed to each property owner with delinquent service charges at least 10 days prior to the hearing.

Section 13.34.040 Hearing.

At the hearing, the city council shall hear any objections or protests from property owners with delinquent service charges. The city council may adopt, revise, change, reduce or modify any charge or overrule any or all objections to the charges contained in the report.

Section 13.34.050 Filing of report with county auditor.

If adopted by the city council, the city clerk shall file the report with the county auditor by August 10 of each year along with a signed statement that the report was adopted by the city council. The county auditor shall then enter the amount of a delinquent service charge against each property contained in the report as it appears on the current assessment roll.

Section 13.34.060 Filing of certificate with county recorder – placement of lien.

After filing the report and statement with the county auditor pursuant to Section 13.34.050, the amount of delinquent services charges may be secured at any time by filing for record in the office of the county recorder a certificate specifying the amount of delinquent service charges and the name and address of the person liable for those unpaid charges.

Section 13.34.070 Fees.

The city may charge fees in connection with the provisions of this chapter in an amount set by resolution of the city council and such fees and may be added onto the amount of any delinquency that is assessed on the tax roll or recorded against any property as a lien.

Section 6. Any provision of the Upland Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

Section 7. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Upland hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 8. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in that regard and this Ordinance shall take effect 30 days after its final passage.

PASSED, APPROVED AND ADOPTED this 6th day of April, 2015.

Ray M. Musser, Mayor

I, Stephanie A. Mendenhall, City Clerk of the City of Upland, California, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Upland held on the 23rd day of March, 2015, and was adopted at a regular meeting of said City Council of the City of Upland on the 6th day of April, 2015, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

ATTEST: _____
Stephanie A. Mendenhall, City Clerk



STAFF REPORT

ITEM NO. 10.E

DATE: APRIL 13, 2015
TO: MAYOR AND CITY COUNCIL
FROM: ROD BUTLER, CITY MANAGER
PREPARED BY: ROSEMARY HOERNING, PUBLIC WORKS DIRECTOR
SUBJECT: EMERGENCY REPLACEMENT OF PLANT NO. 4 SWITCHGEAR

RECOMMENDED ACTION

It is recommended 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 to provide safe and reliable service to the community.

BACKGROUND

On February 9, 2015, the City Council adopted a Resolution declaring an emergency condition and approved the execution of a construction contract with KSM Electric, Inc. to replace the "switchgear" at City of Upland Plant No. 4.

Plant No. 4 is located east of Euclid Avenue and north of 19th Street. The switchgear is used to control four booster pumps which generally boost water from a lower water pressure zone into the upper zone reservoirs. These boosters convey water to City reservoirs located between Mountain Avenue and San Antonio Avenue north of 21st Street. The switchgear is the electrical control system that manages the power supply (440 Volts) to the boosters and well facility. It is extremely important to maintain boosted water supply operations to the upper reservoir system. These upper reservoirs serve to manage pressure and meet water supply demands to many customers.

It is essential that the replacement of the critical Plant No. 4 switchgear be addressed in advance of the peak summer water demand season.

ISSUES/ANALYSIS

An inspection of the unit identified probable reliability concerns and also potential safety issues. Electrical equipment can be a long lead item. The switchgear at Plant No. 4 is in need of replacement prior to the summer season.

Electrical equipment is being assembled to replace the switchgear assembly. This work is in progress.

FISCAL IMPACTS

The City Council authorized up to \$75,000 for this replacement project. The budget for this particular project is located in 640-400-9118-4258.

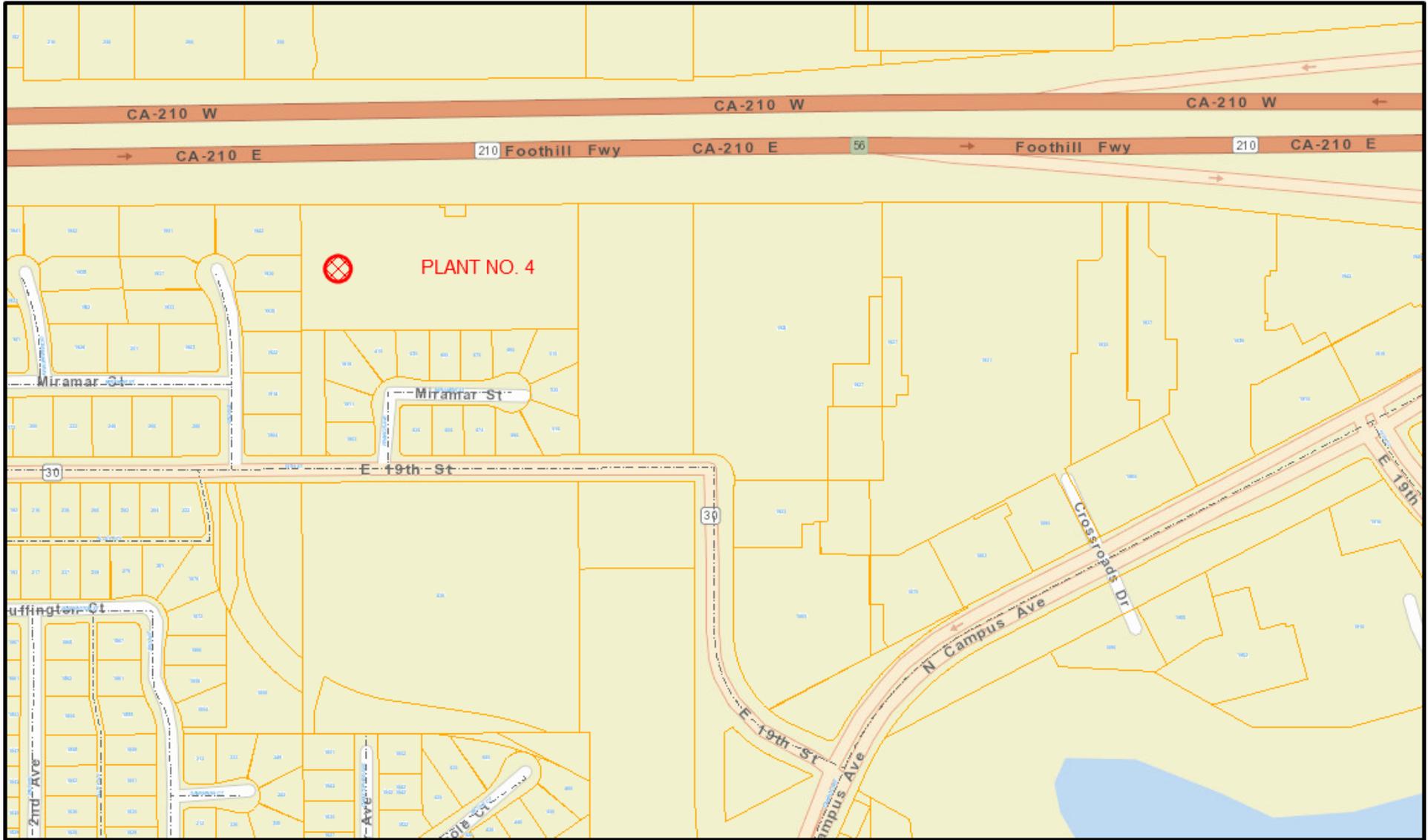
ALTERNATIVES

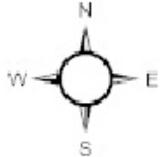
Provide alternative direction to staff.

ATTACHMENTS:

[Location Map for Plant No. 4](#)

EMERGENCY REPLACEMENT OF PLANT NO. 4 SWITCHGEAR



1" = 376 ft	Location Map	02/04/2015		
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This map represents a visual display of related geographic information. Data provided hereon is not a guarantee of actual field conditions. To be sure of complete accuracy, please contact Upland for the most up-to-date information.



STAFF REPORT

ITEM NO. 10.F

DATE: APRIL 13, 2015
TO: MAYOR AND CITY COUNCIL
FROM: ROD BUTLER, CITY MANAGER
PREPARED BY: ROSEMARY HOERNING, PUBLIC WORKS DIRECTOR
HARRISON NGUYEN, ENVIRONMENTAL QUALITY ADMINISTRATOR
ROBERT HERBSTER, ASSISTANT ENGINEER
SUBJECT: SEWER SERVICE AGREEMENT FOR 2412 SAN ANTONIO CRESCENT
EAST (SSA-2015-03-01)

RECOMMENDED ACTION

It is recommended that the City Council authorize the City Manager to execute the Sewer Service Agreement.

GOAL STATEMENT

The proposed action supports the City's goal of providing sewer services to the county unincorporated area within the City's sphere of influence.

BACKGROUND

On June 13, 1989, a memorandum of agreement was entered into between the City and the County of San Bernardino concerning the conveyance, treatment and disposal of wastewater from the County unincorporated areas within the City's sphere of influence.

Pursuant to State law, Local Agency Formation Commission (LAFCO) must approve the connection of parcels within the county areas to the City's sewage or water system, and review City contracts for services outside the City boundaries.

In December 1998, the City established a policy relating to the connection of County unincorporated areas to the City sewer system. In the interest of groundwater supply protection, the City prefers to allow extension of sewer services to new developments in lieu of the use of septic tanks.

ISSUES/ANALYSIS

Mr. Norton has applied for a permit to connect his property to the public sewer on San Antonio. The application for extension of sewer service by contract was submitted to LAFCO. On March 25, 2015, LAFCO granted statutory exemption of the service contract from environmental review and approved the service extension agreement.

The proposed agreement allows the owner to connect sewer facilities from his existing single-family residential building to the City of Upland sewer system on San Antonio. The City will collect all fees

applicable to the discharge of the proposed development's wastewater to the City sewers and its conveyance to the regional treatment plants for treatment and disposal.

FISCAL IMPACTS

The cost of the sewer installation will be borne by the property owner.

ALTERNATIVES

Provide alternative direction to staff.

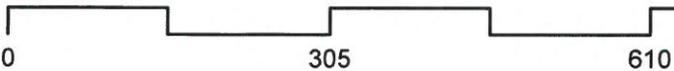
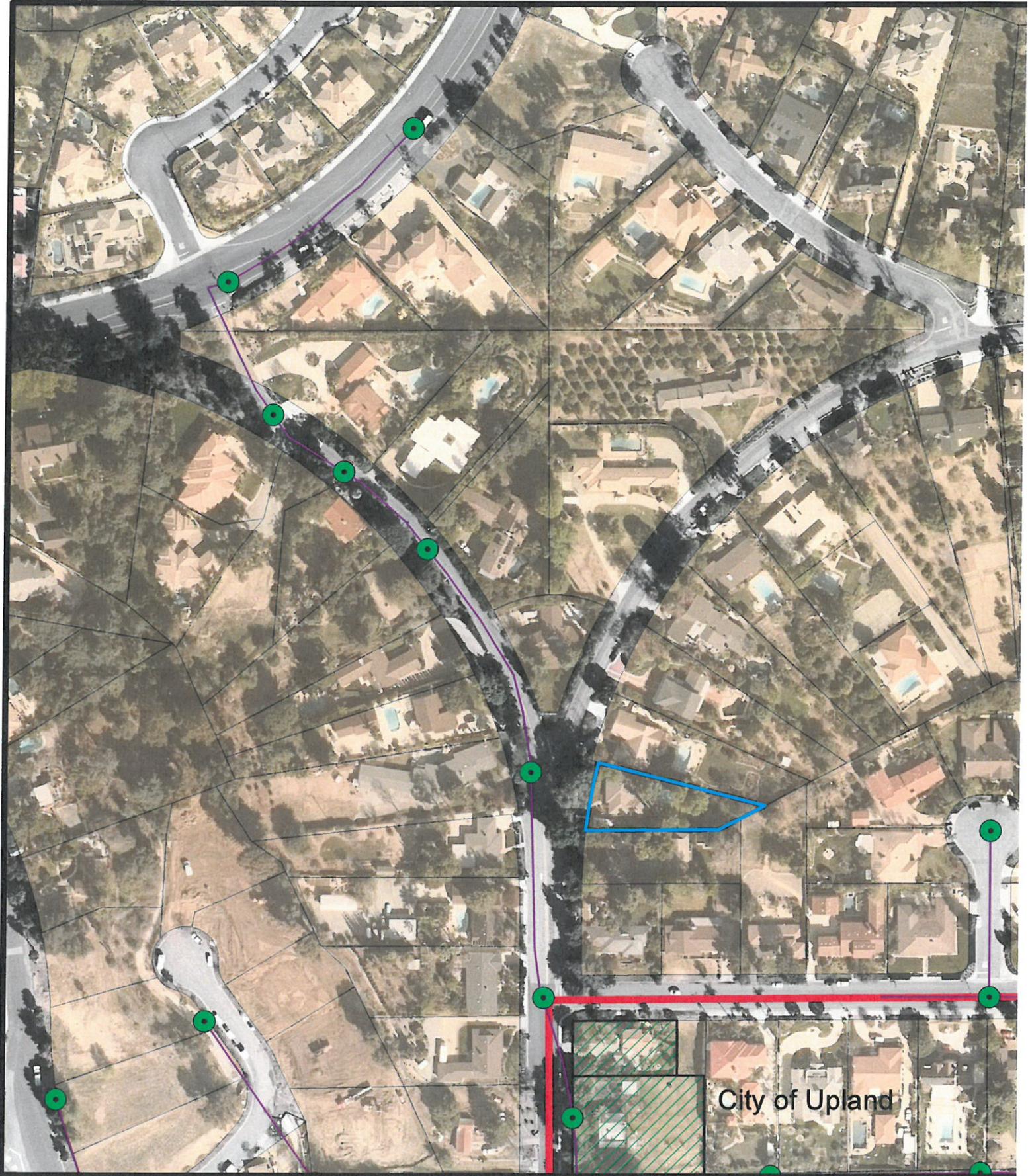
ATTACHMENTS:

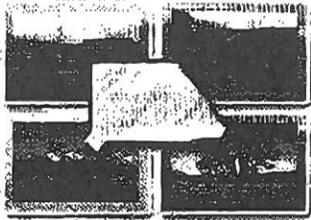
[Location Map](#)

[LAFCO Approval](#)

[Sewer Service Agreement](#)

2412 N San Antonio Crescent East





LAFCO

Local Agency Formation Commission for San Bernardino County

215 North D Street, Suite 204
San Bernardino, CA 92415-0490
909.383.8800 | Fax 909.383.8801
E-mail: lafco@lafco.sbcounty.gov
www.sbaiafco.org

Established by the State of California
to serve the Citizens, Cities, Special Districts
and the County of San Bernardino

COMMISSIONERS

JIM BAGLEY
Public Member

KIMBERLY COX, Vice Chair
Special District

JAMES V. CURATALO, Chair
Special District

ROBERT A. LOVINGOOD
Board of Supervisors

LARRY McCALLON
City Member

JAMES RAMOS
Board of Supervisors

DIANE WILLIAMS
City Member

ALTERNATES

STEVEN FARRELL
Special District

JANICE RUTHERFORD
Board of Supervisors

SUNIL SETHI
Public Member

ACQUANETTA WARREN
City Member

STAFF

KATHLEEN ROLLINGS-McDONALD
Executive Officer

SAMUEL MARTINEZ
Assistant Executive Officer

MICHAEL TUERPE
Project Manager

REBECCA LOWERY
Clerk to the Commission

LEGAL COUNSEL

CLARK M. ALSOP

Sent Via Fax (909) 291-2974 and Mail

March 24, 2015

Rod Butler, City Manager
City of Upland
P.O. Box 460
Upland, CA 91785

Dear Mr. Butler:

RE: City of Upland Sewer Service Agreement No. 2015-3-01

LAFCO has received the proposed out-of-agency service agreement for sewer service from the City of Upland. The area to be served is located at 2412 N. San Antonio Crescent East Street (APN 1003-311-19) in the City of Upland's northern sphere of influence, commonly known as "San Antonio Heights". The application submitted is determined to be complete and has been assigned the following identification number: LAFCO SC#392.

Pursuant to the provisions within Government Code Section 56133 and policies adopted by the Local Agency Formation Commission, our review of the application submitted by the City of Upland shows that an administrative approval by the Executive Officer can be provided. The determinations related to the agreement are:

1. The agreement meets the criteria outlined within the Commission's guidelines for processing of out-of-agency contracts in response to health and safety concerns. The agreement proposes to provide sewer service to the parcel comprising 0.48+/- acres located on the south side of San Antonio Crescent East (2412 N. San Antonio Crescent East) between 24th Street and Sierra Drive, an existing single-family residence.
2. The agreement has been determined to be categorically exempt from environmental review. It has been determined that the agreement falls under the Class 3 Categorical Exemption, Section 15303(d) of the California Environmental Quality Act Guidelines as it relates to the connection of an existing structure to existing infrastructure. A Notice of Exemption has been filed.
3. The area to be served by agreement is within the sphere of influence assigned the City of Upland. The signing of the agreement anticipates that a future change of organization will take place in compliance with State law and Commission policy.

4. The LAFCO filing fee of \$500 for this review has been paid.

In keeping with the determinations outlined above, the City of Upland is hereby authorized to proceed to provide the requested sewer service through final action on the service agreement.

Should you have questions concerning this correspondence, please do not hesitate to contact our office at the number listed above.

Sincerely,



KATHLEEN ROLLINGS-McDONALD
Executive Officer

KRM:sm
Encs.

cc: Robert Herbster, Assistant Engineer, City of Upland, w/encs.
Michael C. Norton, property owner

**LOCAL AGENCY FORMATION COMMISSION
FOR SAN BERNARDINO COUNTY**

215 North D Street, Suite 204, San Bernardino, CA 92415-0490
(909) 383-9900 • Fax (909) 383-9901
E-MAIL: lafco@lafco.sbcounty.gov
www.sbclafco.org

DATE: MARCH 24, 2015

FROM: KATHLEEN ROLLINGS-MCDONALD, Executive Officer 

TO: FILE

SUBJECT: ENVIRONMENTAL ANALYSIS FOR LAFCO SC#392

The City of Upland has submitted an application for the provision of sewer service outside its corporate boundaries as permitted by Government Code Section 56133. The out-of-agency service agreement will initiate sewer service to an existing single-family residence within the City of Upland's northern sphere of influence, commonly referred to as "San Antonio Heights".

The application is identified as follows:

LAFCO SC#392 – City of Upland Sewer Service Agreement No. 2015-3-01

The lot to be served is generally located on the south side of San Antonio Crescent East (2412 N. San Antonio Crescent East) between 24th Street and Sierra Drive. The parcel (APN 1003-311-19) comprises approximately 0.48 acres and has an existing residence on it that is served by an on-site septic system. Sewer service is to be provided by the City from an existing 8-inch sewer main in San Antonio Crescent East.

The purpose of the City's request is to alleviate a potential health and safety concern associated with the septic system that serves this lot. The City's application was reviewed and determined to meet the criteria outlined within the Government Code and Commission policy for out-of-agency service agreements.

As outlined within the California Environmental Quality Act (CEQA) and the Commission's adopted environmental guidelines, the provision of sewer service to this lot is categorically exempt from CEQA. This exemption is outlined within CEQA Guidelines Section 15303 (d) (Class 3 category) that addresses extensions of water mains, sewer mains and other extensions of reasonable length to serve construction of new facilities.

KRM:sm



State of California—Natural Resources Agency
 CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
 2015 ENVIRONMENTAL FILING FEE CASH RECEIPT

LAFCO SC # _____

RECEIPT# 36-2015-180
STATE CLEARING HOUSE # (if applicable) N/A

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY

LEAD AGENCY Local Agency Formation Commission			DATE 03/25/2015
COUNTY/STATE AGENCY OF FILING San Bernardino			DOCUMENT NUMBER N/A
PROJECT TITLE LAFCO SC#392—City of Upland Sewer Service Agreement No. 2015-03-01			
PROJECT APPLICANT NAME City of Upland			PHONE NUMBER (909) 383-9900
PROJECT APPLICANT ADDRESS 215 North "D" Street, Suite 204	CITY San Bernardino	STATE CA	ZIP CODE 92415-0490
PROJECT APPLICANT (Check appropriate box):			
<input checked="" type="checkbox"/> Local Public Agency <input type="checkbox"/> School District <input type="checkbox"/> Other Special District <input type="checkbox"/> State Agency <input type="checkbox"/> Private Entity			

CHECK APPLICABLE FEES:

<input checked="" type="checkbox"/> Environmental Impact Report (EIR)	\$3,069.75	\$	0.00
<input type="checkbox"/> Mitigated/Negative Declaration (MND)(ND)	\$2,210.00	\$	0.00
<input type="checkbox"/> Application Fee Water Diversion (State Water Resources Control Board only)	\$850.00	\$	0.00
<input type="checkbox"/> Projects Subject to Certified Regulatory Programs (CRP)	\$1,043.75	\$	0.00
<input checked="" type="checkbox"/> County Administrative Fee	\$50.00	\$	50.00
<input checked="" type="checkbox"/> Project that is exempt from fees			
<input type="checkbox"/> Notice of Exemption (attach)			
<input type="checkbox"/> CDFW No Effect Determination (attach)			
<input type="checkbox"/> Other _____		\$	_____

PAYMENT METHOD:

Cash
 Credit
 Check
 Other TOF

TOTAL RECEIVED \$ _____ 50.00

SIGNATURE X	PRINTED NAME AND TITLE Melissa Crowell, Deputy Clerk
----------------	---

Posted On: 3/25/15

Removed On: 5/7/15

Receipt No: 36-2015-180

**LOCAL AGENCY FORMATION COMMISSION
COUNTY OF SAN BERNARDINO**

**NOTICE OF EXEMPTION
CALIFORNIA ENVIRONMENTAL QUALITY ACT**

LAFCO SC # 392

TO:
Clerk of the Board of Supervisors
County Government Center, 2nd Floor
385 North Arrowhead Avenue
San Bernardino, CA 92415-0130

FROM:
Local Agency Formation Commission
215 North "D" Street, Suite 204
San Bernardino, CA 92415-0490

PROJECT TITLE: LAFCO SC#392-- City of Upland Sewer Service Agreement No. 2015-03-01

PROJECT LOCATION: An existing single-family residence located on the south side of San Antonio Crescent East (2412 N. San Antonio Crescent East) between 24th Street and Sierra Drive, within the northern sphere of influence of the City of Upland, commonly known as "San Antonio Heights", County of San Bernardino.

DESCRIPTION: Approval of a service extension agreement submitted by the City of Upland to provide sewer service to the parcel identified in the project location (APN 1003-311-19).

PUBLIC AGENCY APPROVING THE PROJECT: Local Agency Formation Commission

AGENCY CARRYING OUT THE PROJECT: City of Upland

EXEMPT STATUS AND REASONS: The Executive Officer of the Local Agency Formation Commission has determined that the approval of LAFCO SC#392 is categorically exempt from environmental review. The Executive Officer determines that approval of the service extension agreement falls under the Class 3 Categorical Exemption, Section 15303(d) of the State California Environmental Quality Act Guidelines, as the agreement relates to the connection of an existing structure to existing infrastructure. Therefore, this proposal is not subject to environmental review under the provisions of the State CEQA Guidelines section cited above or the Commission's adopted CEQA Guidelines.

CONTACT PERSON: Local Agency Formation Commission Staff
Phone: (909) 383-9900

DATE: March 24, 2015



KATHLEEN ROLLINGS-MCDONALD
Executive Officer

cc: Robert Herbster, Assistant Engineer, City of Upland

SEWER SERVICE AGREEMENT

No. 2015-3-01

THIS AGREEMENT, is entered into this ____ day of _____, 2015; by and between Michael C Norton., hereinafter referred to as "OWNER", and the City of Upland, a municipal corporation, hereafter referred to as "CITY".

WITNESSETH:

WHEREAS, OWNER holds title to the parcels of real property presently located in unincorporated areas of the County of San Bernardino, and the parcels are further described by legal description and San Bernardino County Assessor's Parcel Number 1003-311-19-0000. The subject real property shall be referenced hereafter as the "Land";

WHEREAS, the Land is within the Sphere of Influence of the CITY; and

WHEREAS, the City of Upland and the County of San Bernardino entered into a Memorandum of Understanding on June 13, 1989, allowing the City of Upland to provide sewer service to the county unincorporated area to those requesting it; and

WHEREAS, OWNER desires to obtain sewer service for the Land; and

WHEREAS, sewer service could be provided to said parcels by connecting to the CITY's sewage system, said system otherwise being available only to properties with the City of Upland corporate limits; and

WHEREAS, CITY's sewage system and the regional wastewater treatment plants have sufficient capacity to convey and treat the sewage generated by the Land;

WHEREAS, CITY is willing to allow connection of the Land to its sewage system, due to the fact that the Land is within CITY's Sphere of Influence; and

WHEREAS, the covenants and conditions set forth herein shall create a binding covenant running with the land upon the Land, and shall be fully binding upon OWNER's heirs, successors and assigns.

NOW, THEREFORE, the parties hereto agree as follows:

SECTION I: **OWNER Agrees:**

1. To construct, at their own cost and expense, the sewer main extensions and appurtenances thereto, connecting their development to the CITY's sewer system.

2. To pay all fees and charges and make all deposits required by CITY to connect to and use the sewer, and further agrees to be bound by all CITY ordinances, rules and regulations respecting the sewage system. The service charge for the sewer users subject to this agreement is anticipated to be 1.5 times the normal rate or fees paid by users within the city limits. The additional monies are required to offset additional costs to provide the services outside of the CITY's corporate boundary.

3. To comply with Section 13.32.140, "General Restrictions and Prohibitions on the Use of the Community Sewers" of the Upland Municipal Code, relating to the discharge of materials into CITY's sewage system, and all other applicable County, State, Federal or district regulations applicable to discharges.

4. To make application to the Local Agency Formation Commission (LAFCO) and pay all applicable fees, for approval to connect to CITY's sewage system, pursuant to Section 56133 of the Government Code.

5. To make application to the County of San Bernardino for Road Excavation Permits as applicable and comply with all permit conditions under which the connection shall be made.

6. To make application to CITY for a Sewer Connection Permit and comply with the permit terms and conditions under which the connection shall be made and maintained.

7. That no connection to the CITY system shall occur until all the requirements of this Agreement, including the actions of third parties have been fully completed.

SECTION II: CITY Agrees:

1. To allow the Land to connect to the CITY's sewage system subject to payment of all applicable fees and permits, and further subject to satisfaction of the terms and conditions of this Agreement.

SECTION III: Be it Mutually Agreed, as follows:

a. City Clerk for CITY shall record the Agreement with the County Recorder.

b. The benefit to the Land will inure to the benefit of subsequent owners, their heirs, successors, and assigns, and the agreements, conditions, and covenants contained herein shall be binding upon them and run with the land.

c. The approval granted to connect said Land to CITY's sewage system is contingent upon OWNER securing final, unappealable approval from the Local Agency Formation Commission.

d. Indemnification: OWNER shall defend indemnify and save harmless CITY, its elected and appointed officials, officers, agents and employees, from all liability from loss, damage or injury to persons or property, including the payment by OWNER of any and all legal costs and attorney's fees, in any manner arising out of the acts and/or omissions of OWNER pursuant to this Agreement, including, but not limited to, all consequential damages, to the maximum extent permitted by law.

e. Assignment: No assignment of this Agreement or of any part or obligation of performance hereunder shall be made, either in whole or in part by OWNER without the prior written consent of the CITY.

f. Independent OWNER: The parties hereto agree that OWNER and its employees, officers and agents are independent OWNERS under this Agreement and shall not be construed for any purpose to be employees of CITY.

g. Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of California.

h. Attorney's Fees: In the event any legal proceeding is instituted to enforce any term or provision of the Agreement, the prevailing party in said legal proceeding shall be entitled to recover attorney's fees and costs from the opposing party in an amount determined by the court to be reasonable.

i. Entire Agreement: This Agreement supersedes any and all other agreements, either oral or in writing, between the parties with respect to the subject matter herein. Each party to this Agreement acknowledges that no representation by any party, which is not embodied herein, nor any other agreement, statement, or promise not contained in the Agreement shall be valid and binding. Any modification of this Agreement shall be effective only if it is in writing signed by all parties.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their respective officials thereunto duly authorized.

OWNER

By:



Michael C Norton, Owner

CITY OF UPLAND

By:

Rod Butler, City Manager for
Ray M. Musser, Mayor

ATTEST:

Stephanie A. Mendenhall
City Clerk



STAFF REPORT

ITEM NO. 10.G

DATE: APRIL 13, 2015
TO: MAYOR AND CITY COUNCIL
FROM: ROD BUTLER, CITY MANAGER
PREPARED BY: ROSEMARY HOERNING, PUBLIC WORKS DIRECTOR
PONCE YAMBOT, PRINCIPAL ENGINEER
SUBJECT: STREET VACATION OF A 17 FOOT STRIP ALONG 8TH STREET (FROM
NORTHEAST CORNER OF SULTANA AVENUE AND 8TH STREET TO
APPROXIMATELY 643 FEET EASTERLY)

RECOMMENDED ACTION

It is recommended that the City Council declare its intention to vacate a 17 foot strip along 8th Street (from the northeast corner of Sultana Avenue and 8th Street to approximately 643 feet easterly). It is further recommended the City Council set a Public Hearing for May 11, 2015, concerning the vacation.

GOAL STATEMENT

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

BACKGROUND

On June 25, 2014, the Planning Commission adopted Resolution No. 4794, making a General Plan Conformity Determination for SV-14-01, which involves the vacation of a 17 foot strip along 8th Street (from the northeast corner of Sultana Avenue to approximately 643 feet east) along 8th Street (see Exhibits A and B). The public hearing was continued to July 23, 2014 to ensure that residents were properly notified.

The vacation of the 17 foot segment is in conformance with the Upland General Plan and the Historic Downtown Upland Specific Plan, which supports the development of the proposed project. The Specific plan specifies a 66-foot right-of-way for 8th Street. William Lyons Homes, Inc. currently owns the property adjacent to the 17 foot strip to be vacated.

ISSUES/ANALYSIS

In addition to the Planning Commission's determinations, the California Streets and Highways Code 8320 et seq contains specific proceedings in vacating public roadways, as follows:

- City to declare its intention to vacate the street;
- City to set a public hearing by fixing the date, hour and place of the hearing;

- City has caused the publishing and posting of the hearing notices;
- City Council to hold a public hearing, and make its determination of the approval or disapproval of the vacation.

Approval by City Council will declare the City's intention to vacate a portion of the street, as well as setting the public hearing date/time/location. Following the public hearing, the City Council can adopt a resolution ordering the vacation of the street right-of-way.

FISCAL IMPACTS

The street vacation may result in a minor reduction to annual street maintenance costs.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

[Exhibit A & B](#)

[Vicinity Map](#)

[Notice of Public Hearing](#)

[Aerial View](#)

EXHIBIT "A"
LEGAL DESCRIPTION
STREET VACATION
8TH STREET

THE FOLLOWING DESCRIBED REAL PROPERTY IS SITUATED IN THE CITY OF UPLAND, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, BEING ALL OF THE SEVENTEEN FEET (17') WIDE DEDICATION ALONG 8TH STREET TO SAID CITY FOR PUBLIC USE AS SHOWN ON PARCEL MAP No. 3741, AS PER MAP THEREOF FILED IN BOOK 37, PAGE 4, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF PARCEL 2 OF SAID PARCEL MAP;

THENCE, ALONG THE SOUTHERLY LINE OF SAID PARCEL 2 AND CONTINUING ALONG THE SOUTHERLY LINE OF PARCEL 3 OF SAID PARCEL MAP, NORTH 89°58'30" WEST 643.55 FEET TO THE BEGINNING OF A TANGENT CURVE, CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 20.00 FEET;

THENCE, NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 89°59'22", AN ARC LENGTH OF 31.41 FEET TO A POINT OF CUSP ON THE EASTERLY RIGHT OF WAY LINE OF SULTANA AVENUE, SIXTY-SIX FEET (66') WIDE, AS SHOWN ON SAID PARCEL MAP, A RADIAL LINE TO SAID POINT OF CUSP BEARS SOUTH 89°59'08" EAST;

THENCE, ALONG SAID EASTERLY RIGHT OF WAY, SOUTH 00°00'52" WEST 37.00 FEET TO A POINT ON A LINE THAT IS PARALLEL TO AND 33.00 FEET NORTHERLY, MEASURED AT RIGHT ANGLES, FROM THE CENTERLINE OF 8TH STREET, THIRTY-THREE FEET (33') HALF WIDTH, AS SHOWN ON SAID PARCEL MAP;

THENCE, ALONG SAID PARALLEL LINE, SOUTH 89°58'30" EAST 663.55 FEET TO A POINT OF INTERSECTION WITH THE SOUTHERLY PROLONGATION OF THE EASTERLY LINE OF SAID PARCEL 2;

THENCE, ALONG SAID SOUTHERLY PROLONGATION, NORTH 00°00'12" EAST 17.00 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE DESCRIBED VACATION IS SHOWN ON THE MAP ATTACHED HERewith AND MADE A PART HEREOF, ENTITLED EXHIBIT "B" SHEET 2 OF 2.

SAID PARCEL OF LAND CONTAINING 11,366 SQUARE FEET MORE OR LESS

THE ABOVE DESCRIPTION WAS PREPARED UNDER MY DIRECTION.



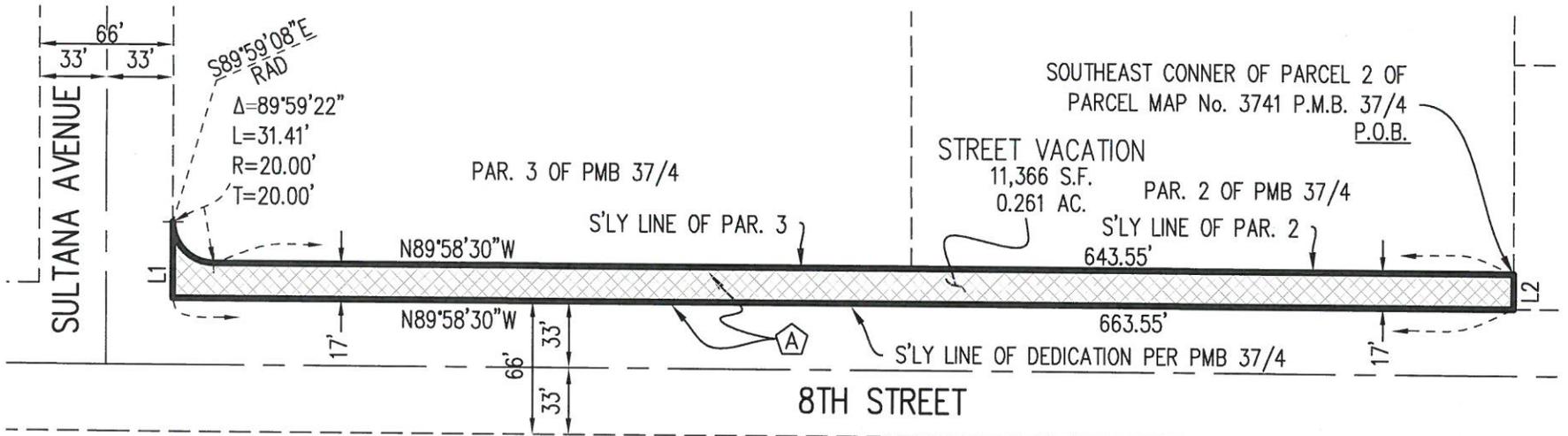
ANTHONY HARO
P.L.S. No. 7635
EXPIRATION DATE: 12/31/2016
JN: 142-2604



DATE



EXHIBIT "B"



LINE TABLE		
LINE	BEARING	LENGTH
L1	S00°00'52"W	37.00'
L2	N00°00'12"E	17.00'

SCALE: 1" = 80'

NOTE TABLE

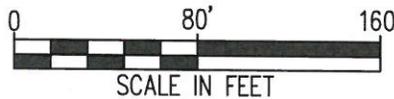
 DEDICATION TO THE CITY OF UPLAND FOR PUBLIC USE PER P.M. No. 3741 P.M.B. 37/4 TO BE VACATED.

SHEET 2 OF 2

Anthony Haro
 ANTHONY HARO P.L.S. 7635
 EXP. 12/31/2016.
 DATE 3/26/16



 STREET VACATION



PREPARED BY:



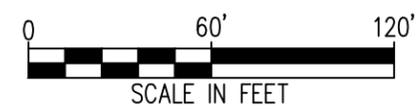
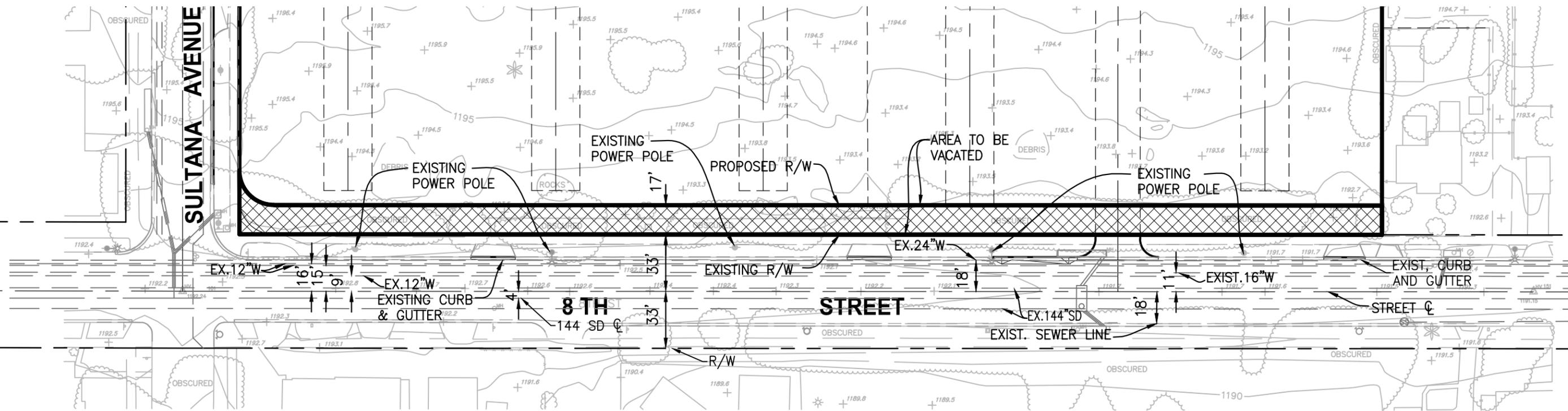
9302 PITTSBURGH AVE, SUITE 230
 RANCHO CUCAMONGA, CA. 91730
 PHONE: 909.481.6322
 FAX: 909.481.6321

J.N.: 142-2604 DWG DATE: 12/18/2014

STREET VACATION OF A 17' FOOT STRIP ALONG 8TH STREET FROM NORTHEAST

TRACT NO. 18697
17' VACATION
SITE PLAN

SCALE: 1" = 60'



MADOLE
& ASSOCIATES, INC.
Engineering Communities for Life

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



NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City Council of the City of Upland will hold a public hearing on Monday, May 11, 2015, at 7:00 p.m., in the Council Chambers of the Upland City Hall, 460 North Euclid Avenue, Upland, CA 91786, to consider the item described herein:

STREET VACATION SV-15-01 to vacate a 17 foot strip along 8th Street (from the northeast corner of Sultana Avenue and 8th Street to approximately 643 feet east). The street vacation is an area of approximately 11,366 square feet.

ENVIRONMENTAL ASSESSMENT: The Development Services Director has determined that the proposed street vacation does not constitute a project as defined by the California Environmental Quality Act (CEQA).

Notice and conduct of public hearing will be in accordance with all pertinent provisions of Article IX (Planning and Zoning) of the Government Code of the State of California.

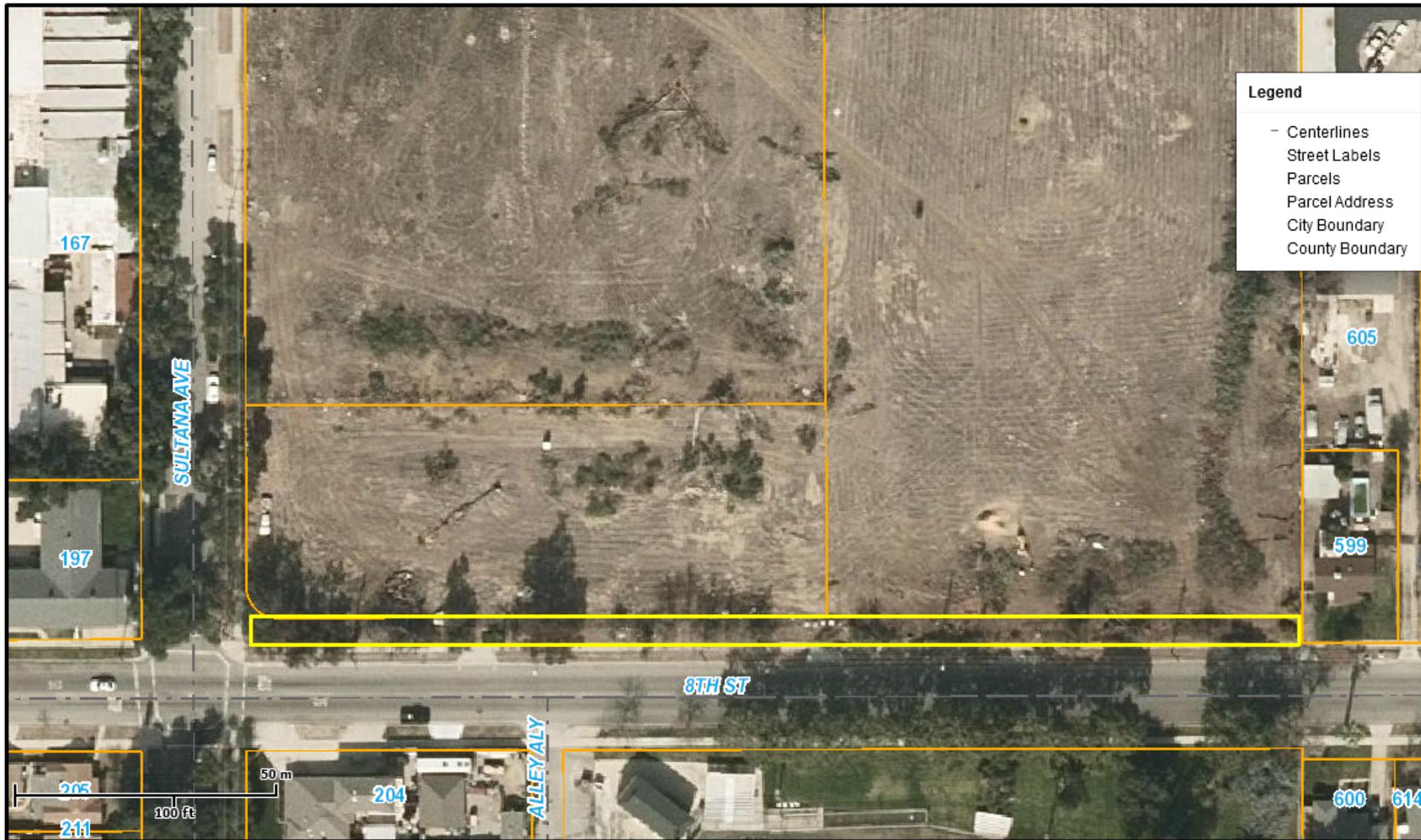
All maps, environmental information, and other data pertinent to this proposed project are filed in the Development Services Department and will be available for inspection during normal business hours prior to the public hearing. All interested persons are invited to attend this public hearing and express their opinions for or against the project proposed.

Comments on the proposal should be submitted in writing on or before May 11, 2015. All comments should be addressed to the Upland Public Works Department, Upland City Hall, 460 North Euclid Avenue, Upland, CA 91786.

If you challenge SV-15-01, 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.

Stephanie A. Mendenhall, CMC
Upland City Clerk

8th St & Sultana Ave



Legend

- Centerlines
- Street Labels
- Parcels
- Parcel Address
- City Boundary
- County Boundary

<p>1" = 94 ft</p>	<p>Approx Vacation Area Not to Scale</p>	<p>04/09/2015</p>		
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This map represents a visual display of related geographic information. Data provided hereon is not a guarantee of actual field conditions. To be sure of complete accuracy, please contact Upland for the most up-to-date information.

STREET VACATION OF A 17 FOOT STRIP ALONG 8TH STREET (FROM NORTHEAS



STAFF REPORT

ITEM NO. 10.H

DATE: APRIL 13, 2015
TO: MAYOR AND CITY COUNCIL
FROM: ROD BUTLER, CITY MANAGER
PREPARED BY: RICK MAYHEW, FIRE CHIEF
SUBJECT: AFFILIATION AGREEMENT BETWEEN MT. SAN ANTONIO COLLEGE AND UPLAND FIRE DEPARTMENT FOR PARAMEDIC TRAINEES

RECOMMENDED ACTION

It is recommended that the City Council approve the Affiliation Agreement between Upland Fire Department and Mt. San Antonio College's paramedic trainee program.

GOAL STATEMENT

The proposed action supports the City's goal to develop public agency partnerships.

BACKGROUND

The Upland Fire Department (UFD) hires the majority of its paramedics from graduates of the community college system that offer an EMT-Paramedic certification and license program.

The UFD has entered into affiliation agreements with Crafton Hills College and Victor Valley College, both colleges within San Bernardino County, to provide field training and instruction for paramedic students referred to as "Trainees". Approximately 8-weeks ago, Mt. San Antonio College (Mt. SAC) approached UFD regarding the possibility of UFD's paramedic preceptors training and instructing for Mt. SAC's paramedic trainees.

ISSUES/ANALYSIS

Currently, the Upland Fire Department has four certified paramedic preceptors to provide field training and instruction to the Trainees from Crafton Hills and Victor Valley Colleges. These four preceptors have proven to be more than an adequate number for the paramedic trainees we receive.

After the request to UFD from Mt. SAC's representative to provide paramedic preceptor training to Mt. SAC's paramedic trainees, staff began an analysis in four areas:

- Inland Counties Emergency Medical Agency (ICEMA) requirements for allowing a paramedic program agreement to occur with a paramedic program outside of San Bernardino County.
- Program requirements with relations to the current agreements with Crafton Hills and Victor Valley colleges.

- Current workload for UFD's four designated and trained paramedic preceptors.
- Geographic location of Mt. SAC as it relates to the City of Upland.

Inland Counties Emergency Medical Agency (ICEMA) is the San Bernardino County Local Emergency Service Authority. ICEMA allows for fire departments to enter into agreements with community colleges outside of San Bernardino County for EMS training and instruction, as long as staff allows the San Bernardino County Colleges priority when dealing with paramedic trainees.

Staff determined the program requirements were very similar to the current agreements with Crafton Hills and Victor Valley colleges. Staff also determined the four designated and trained paramedic preceptors have proven to be more than a sufficient number to meet the needs of Crafton Hills and Victory Valley Colleges.

Finally, it was discovered Mt. SAC's geographical location in Los Angeles County places it close enough to the City of Upland that the UFD has hired graduates from the Mt. SAC paramedic program.

FISCAL IMPACTS

None

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

[Mt. SAC AFFILIATION AGREEMENT-2015](#)



**AFFILIATION AGREEMENT
BETWEEN
MT. SAN ANTONIO COLLEGE
AND
UPLAND FIRE DEPARTMENT**

THIS AFFILIATION AGREEMENT is made and entered, in duplicate, as of **April 13, 2015** by and between MT. SAN ANTONIO COLLEGE, 1100 N. Grand Ave., Walnut, CA 91789 (“Program”) and **CITY OF UPLAND – UPLAND FIRE DEPARTMENT** a municipal corporation (“Affiliate”), with reference to the following facts:

RECITALS:

WHEREAS, Program conducts training and instruction programs for students leading to certification and licensure as EMT-Paramedics in the State of California (hereinafter collectively referred to as “Trainees”); and

WHEREAS, said training requires a 480-hour internship for Trainees to obtain broader clinical learning experiences in a location providing primary 911 service; and

WHEREAS, Affiliate maintains facilities which can be used to furnish clinical experience to Trainees and is an approved emergency medical services provider, and Affiliate desires to have their facilities so used; and

WHEREAS, it is in the mutual interest and benefit of the parties that Trainees obtain their clinical experience at Affiliate’s facilities.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants set forth below, the parties agree as follows:

- I. **RESPONSIBILITIES OF PROGRAM.** Program agrees that it shall:

- A. Establish the educational goals and objectives of the paramedic education program in a manner consistent with the standards and requirements set forth by Affiliate. Such goals and objectives shall reflect Program's commitment to providing education and training programs to Trainees.
- B. Designate a member of Program's staff to provide coordination, oversight and direction of Trainee's educational activities and assignments during the field internship with Affiliate. Such person shall be the Clinical Coordinator and shall also act as liaison with Affiliate.
- C. Provide each Trainee with a pre-assigned health assessment, which shall include a history of immunizations, proof of Hepatitis B vaccination or immunization, proof of MMR vaccination, proof of negative TB test, and proof of varicella titer.
- D. Educate trainees regarding compliance with all required OSHA regulations including, but not limited to, Blood-borne Pathogen Standards.
- E. Furnish each Trainee with a clinical experience manual or materials that describe the goals, policies, and procedures of the Program. Affiliate shall have the opportunity to review and comment on these materials.
- F. Development and implement a mechanism for determining evaluation of the performance of Trainees to include, where appropriate, input from Affiliate.
- G. Maintain records and reports concerning the education of Trainees, which shall include the Trainee's licensure/certification, pre-assignment health assessment record, and history of immunizations.
- H. Maintain medical malpractice insurance for Trainees during the field internship with Affiliate.
- I. Program recognizes that Trainees are NOT covered by Affiliate's Workers' Compensation Insurance or Self-Insured Program. Program represents and warrants that it will maintain, or ensure that its Trainees are covered under Program's Workers' Compensation Insurance should any Trainee be injured or become ill during the course of their clinical internship. Program will provide Affiliate with a written verification of insurance coverage in the form of a certificate of insurance prior to the commencement of the program.

- J. Require assigned Trainees to:
 - 1. Comply with Affiliate's applicable policies, procedures and guidelines, and applicable state and federal laws and regulations, including those concerning the confidentiality of patient care and patient care records; and
 - 2. Have all required personal protective equipment including, but not limited to, safety goggles and an appropriate uniform.

II. RESPONSIBILITIES OF AFFILIATE. Affiliate agrees that it shall:

- A. Maintain adequate staff and equipment to meet the educational goals and objectives of the Program in a manner consistent with the standards and requirements established by Program and Affiliate.
- B. Assign each Trainee a preceptor with appropriate training and experience to supervise the Trainee during each clinical assignment. The preceptor shall monitor the Trainee's progress and evaluate the Trainee at the end of each shift on forms provided by the Program.
- C. Designate, after consultation with Program, a person to coordinate Trainees' schedules and activities while working with Affiliate. Such person shall be the Program Coordinator and shall act as liaison with Program. The name of Affiliate's Program Coordinator shall be provided to Program's Clinical Coordinator.
- D. Implement schedules for Trainees in conjunction with the Clinical Coordinator and in accordance with Program's educational goals and objectives. Affiliate shall determine the number of Trainees permitted to rotate through the field internship. Affiliate must ensure that Trainees are provided appropriate supervision. Trainees are not to be used to replace staff of Affiliate and Affiliate is ultimately responsible for patient care.
- E. Protect the health and safety of Trainees on rotation with Affiliate by providing each Trainee with the following:
 - 1. A brief orientation of the clinical area where Trainee will be working, and information about Affiliate's security measures, fire safety and disaster protocols, and any additional recommended personnel safety and security precautions;

2. Instruction in Affiliate's policies and procedures for infection control, including the handling and disposal of needles and other sharp objects, and in Affiliate's protocols for on-the-job injuries, including those resulting from needlestick injuries and other exposures to blood or body fluids or airborne contaminants;
 3. First aid and other emergency treatment on-site, including, but not limited to, immediate evaluation for risk of infection and appropriate follow-up care of Trainee in the event of a needlestick injury to or other exposure of Trainee to blood or body fluids or airborne contaminants. In the case of suspected or confirmed exposure to the human immunodeficiency virus (HIV) or hepatitis, such follow-up care shall be consistent with the current guidelines of the Centers for Disease Control ("CDC") and the community's standard of care. Information regarding the CDC may be obtained by calling (800-342-2437). The initial care and administration of testing and prophylactic therapy shall be paid for by Program.
 4. Access to any of Affiliate's applicable reference materials.
- F. Maintain its approval as an emergency medical service provider and comply with all applicable laws, regulations and Program requirements. Affiliate shall notify Program within five days of receipt of notice that Affiliate is not in compliance with any such laws, regulations, or Program requirements.
- G. Permit inspection of its clinical and related facilities by the Clinical Coordinator or other Program faculty and staff to evaluate Trainee performance.
- H. With respect to any professional services performed by Trainees under this Agreement, Affiliate agrees to inform Program and its Clinical Coordinator as follows:
1. Immediately upon initiation of an investigation into the conduct of a Trainee;
 2. Within five days after receipt of service of a complaint, summons or notice of a claim naming a Trainee; or

3. Prior to making or accepting a settlement offer in any lawsuit or legal claim in which a Trainee has been named or in which a settlement is being proposed on their behalf.

III. DISCRIMINATION – PROHIBITION.

Program and Affiliate agree not to discriminate in the selection or acceptance of any Trainee pursuant to this Agreement because of race, color, national origin, religion, sex, sexual orientation, mental or physical disability, age, veteran's status, medical condition (cancer related) as defined in section 12926 of the California Government Code, ancestry, marital status, or citizenship, within the limits imposed by law or Program policy.

IV. TERM.

This Agreement shall commence on **APRIL 13, 2015** and terminate on **APRIL 13, 2020**.

V. TERMINATION.

Notwithstanding any other provisions to the contrary, this Agreement may be terminated with or without cause at any time by either party upon thirty (30) days' prior written notice to the other party or upon completion of the rotations of all of the currently enrolled trainees.

VI. INSURANCE.

A. As a condition precedent to the effectiveness of this Agreement, Program shall maintain insurance or self-insure its activities in connection with this Agreement by maintaining programs of self-insurance as follows:

1. Professional Medical Liability self-insurance with limits of one million dollars (\$1,000,000) per occurrence, with no annual aggregate limit. If such insurance is written on a claims-made form, it shall continue for five years following termination of this Agreement. The insurance shall have a retroactive date prior to or coinciding with the effective date of this Agreement and a deductible of no more than five hundred thousand dollars (\$500,000). In the event that a claims-made policy is canceled or non-renewed, then the Affiliate shall obtain extended reporting (tail) coverage for the remainder of the five (5) year period.

2. General Liability Self-Insurance Program with a limit of one million dollars (\$1,000,000) per occurrence and no annual aggregate limit. If such insurance is written on a claims-made form, it shall continue for three years following termination of this Agreement. The insurance shall have a retroactive date prior to or coinciding with the effective date of this Agreement.
3. Workers' Compensation Self-Insurance Program covering Program's full liability as required by law under the Workers' Compensation Insurance and Safety Act of the State of California as amended from time to time.
4. Such other insurance in such amounts which from time to time may be reasonably required by the mutual consent of the parties against other insurable risks relating to performance.

It should be expressly understood, however, that the coverage required under this Section VI.A.1 and 2 shall not in any way limit the liability of the Program.

The coverage referred to under paragraph 2 of this Section VI.A. shall include Affiliate as an additional named insured. Such a provision, however, shall only apply in proportion to and to the extent of the negligent acts or omissions of Program, its officers, agents, Trainees, and/or employees. Program, upon the execution of this Agreement, shall furnish Affiliate with Certificates of Self-Insurance evidencing compliance with all requirements. Certificates shall further provide for thirty (30) days' advance written notice to Affiliate of any modification, change or cancellation of any of the above self-insurance coverage.

VII. INDEMNIFICATION.

- A. Affiliate shall defend, indemnify and hold Program, its officers, employees, agents and Trainees harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys fees, or claims for injury or damages are caused by or result from the negligent

or intentional acts or omissions of Affiliate, its officers, employees, or agents.

- B. Program shall defend, indemnify and hold Affiliate, its officers, employees and agents harmless from and against any and all liability, loss expense (including reasonable attorneys' fees), or claims for injury or damages arising out of the performance of this Agreement but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of Program, its officers, employees, agents, or Trainees.

VIII. COOPERATION IN DISPOSITION OF CLAIMS.

Affiliate and Program agree to cooperate with each other in the timely investigation and disposition of audits, peer review matters, disciplinary actions and third-party liability claims arising out of any services provided under this Agreement or in the operation of the Program. The parties shall notify one another as soon as possible of any adverse event which may result in liability to the other party. It is the intention of the parties to fully cooperate in the disposition of all such audits, actions or claims. Such cooperation may include, but is not limited to, timely notice, joint investigation, defense, disposition of claims of third parties arising from services performed under this Agreement, and making witnesses available. Program shall be responsible for discipline of Trainees in accordance with Program's applicable policies and procedures.

To the extent allowed by law, Affiliate and program shall have reasonable and timely access to the medical records, charts, and/or quality assurance data of the other party relating to any claim or investigation related to services provided pursuant to this Agreement; provided, however, that nothing shall require either Affiliate or Program to disclose any peer review documents, records or communications which are privileged under Section 1157 of the California Evidence Code, under the Attorney-Client Privilege or under the Attorney Work-Product Privilege.

IX. PATIENT RECORDS.

Any and all of Affiliate's medical records and charts created at Affiliate's facilities as a result of performance under this Agreement shall be and shall

remain the property of Affiliate. Both during and after the term of this Agreement, Program shall be permitted to inspect and/or duplicate, at Program's expense, any individual charts or records which are: (1) necessary to assist in the defense of any malpractice or similar claim; (2) relevant to any disciplinary action; and/or (3) for educational or research purposes. Notwithstanding the aforementioned such inspection and/or duplication shall be permitted only to the extent permitted by commonly accepted standards of patient confidentiality in accordance with applicable federal, state and local laws.

X. INTERRUPTION OF SERVICE.

Either party shall be excused from any delay or failure in performance hereunder caused by reason of any occurrence or contingency beyond its reasonable control, including, but not limited to, acts of God, acts of war, fire, insurrection, labor disputes, riots, earthquakes, or other acts of nature. The obligations and rights of the party so excused shall be extended on a day-to-day basis for the time period equal to the period of such excusable interruption. In the event the interruption of a party's services continues for a period in excess of thirty (30) days, the other party shall have the right to terminate this Agreement upon ten (10) days' prior written notice to the other party.

XI. ATTORNEYS' FEES.

Except as expressly provided for in this Agreement, or as authorized by law, neither the Program nor the Affiliate shall recover from the other any attorneys fees or other costs associated with or arising out of any legal, administrative or other proceedings filed or instituted in connection with or arising out of this Agreement or the performance of either the Program or the Affiliate thereunder.

XII. ASSIGNMENT.

Neither Affiliate nor Program shall assign their rights, duties, or obligations under this Agreement, either in whole or in part, without the prior written consent of the other.

XIII. SEVERABILITY.

If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws effective during the term hereof, such provision shall be fully severable. This Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never been a part of the Agreement, and the remaining provisions shall remain in full force and effective unaffected by such severance, provided that the severed provision(s) are not material to the overall purpose and operation of this Agreement.

XIV. WAIVER.

Waiver by either party of any breach of any provision of this Agreement or warranty of representation herein set forth shall not be construed as a waiver of any subsequent breach of the same or any other provision. The failure to exercise any right hereunder shall not operate as a waiver of such right. All rights and remedies provided for herein are cumulative.

XV. EXHIBITS.

Any and all exhibits attached hereto are incorporated herein by reference and made a part of this Agreement.

XVI. MODIFICATIONS AND AMENDMENTS.

This agreement may be amended or modified at any time by mutual written consent of the authorized representatives of both parties. Affiliate and Program agree to amend this Agreement to the extent amendment is required by an applicable regulatory authority and the amendment does not materially affect the provisions of this Agreement.

XVII. USE OF NAME.

Neither party shall use the name of the other, including the name of Mt. San Antonio College, without the prior written consent of an authorized representative of the party.

XVIII. ENTIRE AGREEMENT.

This Agreement contains all the terms and conditions agreed upon by the parties regarding the subject matter of this Agreement and supersedes any prior agreements, oral or written, and all other communications between the parties relating to such subject matter.

XIX. GOVERNING LAW.

This Agreement shall be governed in all respects by the laws of the State of California.

XX. NOTICES.

All notices required under this Agreement shall be deemed to have been fully given when made in writing and deposited in the United States mail, postage paid, certified mail, return receipt requested, and addressed as follows:

TO PROGRAM: Mt. San Antonio College
1100 N. Grand Avenue
Walnut, CA 91789
Attn: Jemma Judd, Interim Dean, Technology & Health

Division

TO AFFILIATE: City of Upland
460 N. Euclid Avenue
Upland, CA 91785

Upland Fire Department
475 N. Second Avenue
PO Box 460
Upland, CA 91785
Attn: Chief Richard Mayhew

The parties have executed this Agreement as set forth below.

MT. SAN ANTONIO COLLEGE

By: _____
Name: Jemma Judd, Interim Dean
Title: Dean, Technology & Health Division

Date: _____

By: _____
Name: Irene Malmgren
Title: Vice President, Instruction

Date: _____

CITY OF UPLAND – (UPLAND FIRE DEPARTMENT)

By: _____
Name: Rod Butler
Title: City Manager

Date: _____

By: _____
Name: Rick Mayhew
Title: Fire Chief

Date: _____

(paramedic agreement.docx 3/13/15)



STAFF REPORT

ITEM NO. 10.I

DATE: APRIL 13, 2015
TO: MAYOR AND CITY COUNCIL
FROM: ROD BUTLER
PREPARED BY: ROD BUTLER
SUBJECT: AMENDMENT TO RETAINER AGREEMENT WITH THE LAW FIRM OF JONES AND MAYER TO DESIGNATE RICHARD L. ADAMS II AS CITY ATTORNEY AND YOLANDA SUMMERHILL AS ASSISTANT CITY ATTORNEY

RECOMMENDED ACTION

It is recommended that the City Council approve the attached amendment to the retainer agreement with Jones & Mayer.

GOAL STATEMENT

The proposed action supports the City's goal of continuing to retain reliable legal services to ensure the City is lawfully governed and the community is effectively served.

BACKGROUND

In November of 2014, Richard L. Adams II commenced serving as the Interim City Attorney, providing the City Council and City Staff with primary legal services. For the past 24 years, Mr. Adams has focused on the practice of Municipal Law, Land Use and Redevelopment Law (now Successor Agency). Mr. Adams has represented numerous cities and/or redevelopment agencies throughout his career in practicing Public Agency Law. He is currently serving as City Attorney for the cities of Grand Terrace and Maywood, and Assistant City Attorney for the City of Whittier. In addition, he serves as the Deputy City Attorney for the cities of Fullerton, Costa Mesa, La Habra, Blythe and West Covina. In addition to the aforementioned cities, Mr. Adams has also served as City Attorney for the City of Pico Rivera, Interim City Attorney for the City of Montebello, Assistant City Attorney for the cities of Pomona, Bell Gardens and South Gate, as well as Deputy City Attorney for the cities of La Puente and Baldwin Park.

Initially, Ivy Tsai was designated the Assistant City Attorney for the City of Upland. However, due to scheduling changes and availability, for the last year or so Yolanda Summerhill has transitioned into attending planning commission meetings and providing land use advice and other legal services for the City. Yolanda Summerhill also currently serves as Assistant City Attorney for the City of Costa Mesa and legal advisor to its planning commission. Ms. Summerhill has been with the firm since 2000. During that time she has practiced in all areas of municipal law including conflicts of interest under the Political Reform Act & Government Code Section 1090, Ralph M. Brown Act, Public Records Act, competitive bidding, public contracts, election law, adopting the General Plan, negotiating and drafting development agreements, California Environmental Quality Act ("CEQA")

compliance, annexation of county islands, modification of Master and Specific Plans, complying with Federal and State affordable housing obligations and drafting zoning ordinances. Among those zoning ordinances she has drafted regulations that streamlined the development of small lots in multi-family residential zones along with restrictions on massage parlors and motels.

ISSUES/ANALYSIS

The City Manager received a request to place this matter on the City Council agenda pursuant to Resolution 6137. The request was to consider changing Mr. Adams' position from "Interim" City Attorney to City Attorney. Mr. Adams prepared the attached amendment to the retainer agreement, which was his recommendation as the appropriate method to effectuate the requested change in status. In preparing the retainer agreement amendment, Mr. Adams noticed that the retainer agreement designated Ms. Tsai as the Assistant City Attorney. Though Ms. Tsai continues to provide legal services for the City of Upland in the area of public records requests, the attorney that is providing legal advice to the Planning Commission and is in the best position to provide support and back-up to the City Attorney is Yolanda Summerhill. Therefore, Mr. Adams requested that the City Council consider designating Ms. Summerhill as the Assistant City Attorney.

FISCAL IMPACTS

There are no fiscal impacts associated with this change in designation.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

[Amendment to Retainer Agreement](#)

AMENDMENT TO
RETAINER AGREEMENT FOR CITY ATTORNEY SERVICES

This Amendment (“Amendment”) to the Retainer Agreement is made as of this ___ day of April, 2010 by and between the LAW OFFICES OF JONES & MAYER (“Jones & Mayer”) and the CITY OF UPLAND (“City”), a municipal corporation of the State of California.

RECITALS

WHEREAS, on or about September 4, 2012, Jones & Mayer and City entered into an Retainer Agreement For City Attorney Services City of Upland (“Agreement”) for Jones & Mayer to provide legal to the City;

WHEREAS, City and Jones & Mayer wish to amend the Agreement to effectuate a change in the named personnel to provide City Attorney and Assistant City Attorney services to City.

NOW THEREFORE, in consideration of the mutual terms and conditions set forth in this Amendment and in the Agreement, City and Jones & Mayer agree as follows:

a) APPOINTMENT OF CONTRACT CITY ATTORNEY. Section 1. Subsections A and B of the Agreement are hereby replaced in their entirety with the following:

A Richard L. Adams II is hereby designated and appointed as Contract City Attorney ("City Attorney") of the City and shall serve and be compensated as provided by this Agreement. The City Attorney shall process, coordinate, and direct, as necessary, all legal services provided under this Agreement in order to maximize the timeliness and usefulness of the delivery of such services. The City Attorney shall attend all City Council meetings and other meetings, as required, and be available at all reasonable times to the Mayor and City Council, the City Manager, and persons designated by the City Manager, in relationship to all legal services to be furnished by Jones & Mayer under this Agreement. The City Attorney shall also direct and coordinate all internal activities so that all services provided by Jones & Mayer under this Agreement to the City shall be fully competent, professional, consistent, timely, and in accordance with the standards prevalent in the industry. It is expressly understood that the experience, knowledge, capability, and reputation of the designated and appointed City Attorney are a substantial inducement for the City to enter into this Agreement. The City Attorney shall be responsible during the term of this Agreement for directing all activities of Jones & Mayer on behalf of the City and devoting such time as necessary to personally supervise such services. The primary assignment of the City Attorney shall not be changed by Jones & Mayer without the express approval of the City.

B. Yolanda Summerhill, also of Jones & Mayer, is designated and appointed as Contract Assistant City Attorney and shall serve in Richard L. Adams II's absence.

b) REMAINING PROVISIONS OF AGREEMENT. All other terms, conditions, and provisions of the Agreement, to the extent not modified with this Amendment, shall remain in full force and effect.

IN WITNESS WHEREOF the duly authorized representatives of the parties have executed this Amendment in duplicate on the _____ day of April, 2015.

CITY OF UPLAND
Municipal Corporation of the State of California

Ray Musser, Mayor

ATTEST:

Stephanie Mendenhall, City Clerk

LAW OFFICES OF JONES & MAYER

Richard D. Jones, Owner

Richard L. Adams II

**POLICE AND FIRE COMMITTEE MEETING
MARCH 23, 2015**

CONCLUSION/ACTION SUMMARY

In attendance: Committee Members Filippi and Bozar, Councilmember Timm, Acting Police Chief Bonson, Fire Chief Mayhew, Police Officer Kabayan and Detective Teague

1) **ORAL COMMUNICATIONS**

Eric Gavin, Bill Gardner, Hydee Hall, and Ari Borland spoke regarding the homeless situation in Upland, their need for a place to congregate and that the City should not take their property.

2) **HOMELESS UPDATE**, Staff provided a verbal report to the Committee, along with a handout on homeless issues which is on file in the City Clerk's office.



Police and Fire Committee Meeting

March 23, 2015

5:00 pm

Pinky Alder Room

-
- 1) ORAL COMMUNICATIONS
 - 2) HOMELESS UPDATE

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

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at 909.931.4120. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADA Title II]

POSTING STATEMENT: On February 19, 2015 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).

TO: POLICE & FIRE COMMITTEE
FROM: KEN BONSON, ACTING POLICE CHIEF
DATE: MARCH 18, 2015
RE: HOMELESS ISSUES

At the previous Police & Fire Committee meeting, the committee asked for information regarding police enforcement issues relating to the homeless.

I researched our CAD database to determine how many calls the police have responded to regarding homeless individuals so far this fiscal year (July, 2014 to present). While the CAD report shows 904 calls, the actual number which cannot be accurately determined, is much higher. The 904 listed are only those calls where the caller reported a "transient problem" and the dispatcher coded it that way. If the call was coded as a disturbance or a "man down" call based on the facts presented, there is no way to query the database to distinguish only those types of calls that involved the homeless. From listening to the police radio every day, many of these calls come in as disturbance calls.

Regarding enforcement for illegal lodging, during the current fiscal year we have made 81 arrests of Penal Code section 647 (e). I have attached the language of that section to this report. The dates of each incident are reflected in an attached document. This number may also not be accurate and should be considered a minimum. If the person contacted is arrested on other charges (warrants, public intoxication, drugs, etc.), and many are, the officer would likely title the case by the most serious charges which would not show up in the search, and/or the officer may decide to not add the additional misdemeanor charge on top of the more serious one.

I also researched how many businesses have a "no trespass" letter which allows us to take enforcement action when we find someone on their property. By rough count, we have about 100 which are in hard copy and have to be manually searched.

PC 647

Except as provided in subdivision (1), every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

- (a) Who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.**
- (b) Who solicits or who agrees to engage in or who engages in any act of prostitution. A person agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in prostitution. No agreement to engage in an act of prostitution shall constitute a violation of this subdivision unless some act, in addition to the agreement, is done within this state in furtherance of the commission of an act of prostitution by the person agreeing to engage in that act. As used in this subdivision, "prostitution" includes any lewd act between persons for money or other consideration.**
- (c) Who accosts other persons in any public place or in any place open to the public for the purpose of begging or soliciting alms.**
- (d) Who loiters in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act.**
- (e) Who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it.**

ACTIVITY CODES

10851	GTA	415M	MUSIC	ANIMAL	ANIMAL CALL
10851R	GTA REPORT	415N	NOISE	AOJ	ASSIST OTHER JR
10852R	VEH TAMPERING	415P	415 PARTY	AOJ SD	AOJ SBSB AREA
166	CT ORDER VIO IP	415R	DISTURB REPT	APB	APB
166R	CRT ORDER REPT	415S	415 SUBJECT	APS	APS REFERRAL
187	HOMICIDE	415UNK	415 UNKNOWN	ATT459R	ATTEMPT BURG
20001	HIT/RUN FELONY	417	DISPLAY WEAPON	ATT459	ATT BURGLARY
20001R	HIT/RUN FEL RPT	417R	DISPLAY WEAP RT	ATT484	ATT THEFT
20002	HIT/RUN MISD	422	TERRORIST THRET	ATTGTA	ATT GTA
20002R	HIT/RUN MIS RPT	422R	TERRORIST REPT	ATTSUI	ATT SUICIDE
207	KIDNAPPING	451	ARSON	BARCK	BAR CHECK
207R	KIDNAPPING REPT	451R	ARSON REPT	BOMB	BOMB THREAT
211	ROBBERY	459	BURGLARY	BOSIG	BO SIGNAL
211A	ROBBERY ARMED	459A	BURGLARY AUDIBL	BOVEH	BO VEHICLE
211R	ROBBERY REPT	459R	BURGLARY REPT	BUSCK	BUSINESS CHECK
211S	ROBBERY SILENT	459S	BURGLARY SILENT	BUSLIC	BUSINESS LIC CK
211SA	STRONG ARM	470	FORGERY	CARALM	CAR ALARM
220	ATT RAPE	470R	FORGERY REPT	CART	SHOPPING CART
220R	ATT RAPE REPORT	476R	NSF	CDBG	COMM DEV BLO GR
23103	RECK DRIVING	484	THEFT	CHINEG	CHILD NEGLECT
23110	THROW VEH	484R	THEFT RPT	CITAST	CITIZEN ASST
23110R	THROW VEH REPT	496	POSS STOLEN PRO	CITCON	CITIZEN CONT
23152	DRUNK DRIVER	496R	POSS STOL PRO RT	CITY	CALL OUT
242	BATTERY	503	EMBEZZLEMENT	CIVIL	CIVIL PROB
242R	BATTERY REPT	503R	EMBEZZLEMT REPT	CK	CHECK POINT
245	ADW	5150	MENTAL THREAT	CODE32	WANTED PERSON
245R	ADW REPT	530 5R	IDENTITY THEFT	CODE5	STAKE OUT
246	SHOOT DWELLING	537	DEFRAUDING	CODEEN	CODE ENFORCEMEN
246R	SHOOT DWELL REPT	537R	DEFRAUDING REPT	COP	COMM ORIENT POL
261	RAPE	594	MAL MISC	CPS	CPS REFERRAL
261R	RAPE REPT	594R	MAL MISC REPT	CRITIC	CRITICAL MISSING
273 5	SPOUSAL ABUSE	601	TRUANT	DB	DEAD BODY
273 5R	SPOUSAL ABUSE	602L	TRESPASSING	DROWN	DROWNING
273A	CHILD ABUSE	602LR	TRESPASSING REP	EMERG	EMERGENCY
273AR	CHLD ABUSE REP	647 6	ANNOY/MOL CHILD	FD	FLAG DOWN
288	LEWD ACT W/MINOR	647B	PROSTITUTION	FDPROP	FOUND PROPERTY
288R	LEWD ACT W/MINOR	647F	DRUNK	FIRE	FIRE OTHER
311.11R	CHILD PORNOGRAP	647H	PROWLER	FIRSTR	FIRE-STRUCTURE
314	INDECENT EXP	647HR	PROWLER REPT	FIREW	ILLGAL FIREWORKS
314R	INDECENT EXP RT	647I	PEEPER	FLOOD	FLOOD RESCUE
415	DISTURBANCE	647IR	PEEPING RPT	FNDSUB	FOUND SUBJECT
415A	415 AUTOMOBILE	653MR	ANNOY PHONE	FOLLOW	FOLLOWUP
415D	415 DOMESTIC	72	72 HOUR PARKER	FP	FOOT PURSUIT
415DOG	415 DOG	911	9-1-1 SAFETY CK	HANDBILL	HANDBILL VIOLAT
415F	FIGHT	999	HELP OFFICER	HAZARD	HAZARD
415J	JUVENILE	AMBER	AMBER ALERT	HAZMAT	HAZARD MATERIAL

3/4/15

NO POLICE RESPONSE UNLESS HAZARD, EXCBN:

ACTIVITY CODES

ILLDMP	ILLEGAL DUMP	RECOV	RECOVERY	UNKTRE	UNK TROUBLE
ILLPKG	ILLEGAL PARK	REG	REGISTRANT	VEHCK	VEHICLE CHECK
INCUST	IN CUSTODY	REPO	REPOSSESSION	W911	WIRELESS 911
INFO	INFORMATION	RETPER	RETURNED PERSON	WARANT	WARRANT SERV
JUVPRB	JUVENILE PROB	SAFCK	SAFETY CHECK	XPAT	EXTRA PATROL
KIDCAR	CHILD LOCKED VEH	SCAVEN	RECYCLABLE/THEFT		
KTP	KEEP THE PEACE	SEARCH	SEARCH WARRANT		
LOITER	LOITERING	SHOTS	SHOTS FIRED		
LOJACK	LOJACK HIT	SHOTSH	SHOTS HEARD		
LOSPRO	LOST PROPERTY	SIGN	ILLEGAL SIGNS		
MA	MEDICAL ASSIST	SILVER	SILVER ALERT		
MAILIN	MAIL-IN REPORT	SOLICIT	SOLICITORS		
MANDWN	MAN DOWN	STORM	STORM RELATED		
MANGUN	MAN WIGUN	SUBCK	SUBJECT CHECK		
MISJUV	MISSING JUV 13-17	SUPP	SUPPLEMENT		
MISPER	MISSING ADULT	SUSCR	SUSP CIRCS		
MUNI	MUNI CODE VIOL	SUSCON	SUSPECT CONTACT		
NARC	NARCOTICS	SUSPSJ	SUSP SUBJ		
NOTIF	NOTIFICATION	SUSPVH	SUSP VEH		
OD	OVERDOSE	TCINJ	TC INJURY		
ONSTAR	ONSTAR ALERT	TCINJR	TC INJURY REPT		
OPEN	OPEN DOOR	TCMINOR	TC MINOR INJURY		
OTHER	OTHER	TCNON	TC NON INJURY		
PANIC	PANIC ALARM	TCPP	TC PRIV PROP		
PATREQ	PATROL REQUEST	TCUNK	TC UNK INJURY		
PCK	PROBATION CHECK	TEST	TEST INCIDENT		
PLANE	PLANE CRASH	TP	TRAFFIC PURSUIT		
POP	POP PROJECT	TRACKER	TRACKER ALERT		
PPI	PVTPROPIMPOUND	TRAFIC	TRAFFIC STOP		
PRKVIO	PARKING VIOLATE	TRAN	TRANSIENT PROBLM		
PURSUT	PURSUIT	UFDAST	FIRE DEPT ASST		

CODES TO CLOSE OUT CALL

ADV	ADVISED
ARR	ARREST
AST	ASSIST
CANCEL	CANCEL
CCALL	CITY CALLOUT
CITED	CITED
CKS104	CHECKS 10-4
DPL	DISTURB PRTY LEFT
DUPCALL	DUPLICATE CALL
FALARM	FALSE ALARM CALL
FALSE	FALSE 911 CALL
GALARM	GOOD ALARM CALL
INFO	INFO ONLY
MAILIN	MAIL-IN REPORT
NUA	NO UNITS AVAILABL
OTHER	OTHER
REPT	REPORT
SUPP	SUPPLEMENTAL
TEST	TEST INCIDENT
UTL	UNABLE TO LOCATE



STAFF REPORT

ITEM NO. 13.A

DATE: APRIL 13, 2015
TO: MAYOR AND CITY COUNCIL
FROM: ROD BUTLER, CITY MANAGER
PREPARED BY: ROSEMARY HOERNING, PUBLIC WORKS DIRECTOR
SUBJECT: GOVERNOR'S EXECUTIVE ORDER B-29-15 – MANDATORY WATER CONSERVATION

RECOMMENDED ACTION

It is recommended that the City Council receive and file the report.

GOAL STATEMENT

The proposed action supports the City's goal of monitoring new water conservation regulations and conserving its precious water supplies.

BACKGROUND

On February 24, 2014, the City Council adopted Resolution No. 6210, requesting the community conserve its precious water supplies in response to an extended and unprecedented historically low rainfall period both locally and within the State. This action came shortly after California Governor Jerry Brown's declaration of a State drought emergency on January 17, 2014.

On March 9, 2015, the City Council adopted Resolution No. 6266 increasing its water conservation Measures to the Moderate Shortage Stage pursuant to Upland Municipal Code provisions.

Generally, the Moderate Shortage Stage enhances the conservation requirements by implementing watering restrictions for landscape irrigation to an every other day watering schedule and no irrigation between the hours of 10:00 a.m. and 6:00 p.m.

On April 1, 2015, the Governor issued Executive Order B-29-15 (Order) in response to the severe ongoing drought conditions in California. This Order requires that the State Resources Control Board (Water Board) impose restrictions to achieve a statewide 25% reduction in potable water usage through February 28, 2016. These restrictions would require water suppliers to reduce usage as compared to the amount of water used in 2013. These restrictions will consider the relative per capita water usage of each water suppliers' service area. The Water Board is in the process of developing and providing information on the new restrictions.

ISSUES/ANALYSIS

In 2013, the City of Upland per capita (person) water use was an average of 188 gallons per day (gpcd). In 2014 the community reduced it water us to 183 gpcd. In order to achieve the

Governor's 25% reduction, the community would need to reduce their average daily water use to 141 gallons per day. This is a significant reduction in water use.

In addition to the 25% water use reduction, the Executive Order outlines the following elements related to water suppliers and the communities they serve:

- A Statewide initiative to replace 50 million square feet of lawns and ornamental turf with drought tolerant landscapes;
- A time limited statewide appliance rebate program to provide incentives for the replacement of inefficient household devices;
- Restrictions that commercial, industrial and institutional properties implement water efficiency measures similarly;
- Prohibit irrigation with potable water of ornamental turf and limited-time on public medians
- New development irrigation by drip or microspray systems
- Require urban water suppliers to develop rate structures and other pricing mechanisms, including but not limited to, surcharges, fee, and penalties, to maximize water conservation consistent with state wide water restrictions;
- Require urban water suppliers to provide monthly information on water use, conservation and enforcement;
- Update the State Model Water Efficient Landscape Ordinance;

Given the Governor's Executive Order to reduce urban water use by 25%, it may be necessary to increase local water conservation measures from our current level of Moderate Shortage to the High Shortage Stage in the near future.

The primary differences between the Moderate and the High Shortage Stage is a reduction in the number of permissible irrigation days of the week to two days. For an address ending in an even digit, outdoor landscaping will be restricted to Wednesday and Sunday. For addresses ending in an odd digit, outdoor irrigations will be restricted to Tuesday and Saturday. Additionally, no outdoor irrigation shall take place between 6:00 a.m. and one hour before sundown. Water with a hose and nozzle, hand held bucket or drip irrigation is not restricted.

In May 2015 it is expected that a turf removal rebate will be available to customers for both residential and commercial customers. The program guidance documents are currently being developed. A significant amount of water usage occurs through exterior landscape irrigation. It is anticipated that the program will provide a rebate for each square foot of lawn removed that is replaced with climate appropriate plants, mulch and drip irrigation. It is expected the rebate will be \$2.00 and \$3.00 per square foot for eligible residential and commercial lawn removed respectively. For information and to apply for the turf removal rebate, visit the website: socialwaters.com. The program is subject to funding availability and these funds are limited. For landscape and irrigation design assistance, the Chino Basin Water Conservation District located in Montclair, offers free consultation to interested area property owners.

Other water conserving rebates can be found on the City Upland website. These include free efficient sprinkler irrigation nozzles, efficient washing machine rebates, etc.

Additional work to evaluate water conservation measures to achieve the Governor's statewide water conservation reduction of 25% will need to be further studied. Depending on the Water Board water use restrictions, the existing adopted Water Shortage Contingency Plan outlined in the Upland Municipal Code may need to be amended to meet these emerging requirements.

FISCAL IMPACTS

The Governor has indicated that if cities do not reduce their water usage by about 25%, they could face a penalty of up to \$10,000 per day.

The City water rate schedule has been developed to generate sufficient revenue to fund operations and maintenance, annual debt service, bond coverage, policy requirements and reserve, and capital expenditures. The cost of service is divided into two components: a monthly stand-by charge and the consumption or commodity component. The City's water rate schedule included generally accepted industry management assumptions for conservation to meet the 20% by 2020 water conservation targets. The adopted rate structure did not anticipate the accelerated conservation reduction schedule as provided by the Governor's Executive Order. It is anticipated that the reduction in water sales associated with this type of commodity reduction will greatly impact the revenue generated and a modification to the existing and proposed rate structure will be required to meet cost service recovery.

Staff is evaluating and consulting with Carollo Engineers regarding the potential adjustments to the rate structure to recover the cost of imported water supply in excess of the level 4 allocation amount.

ALTERNATIVES

Provide alternative direction to staff.

ATTACHMENTS:

[Governor's Executive Order B-29-15](#)

[CBSLA News Article](#)

Executive Department
State of California

EXECUTIVE ORDER B-29-15

WHEREAS on January 17, 2014, I proclaimed a State of Emergency to exist throughout the State of California due to severe drought conditions; and

WHEREAS on April 25, 2014, I proclaimed a Continued State of Emergency to exist throughout the State of California due to the ongoing drought; and

WHEREAS California's water supplies continue to be severely depleted despite a limited amount of rain and snowfall this winter, with record low snowpack in the Sierra Nevada mountains, decreased water levels in most of California's reservoirs, reduced flows in the state's rivers and shrinking supplies in underground water basins; and

WHEREAS the severe drought conditions continue to present urgent challenges including: drinking water shortages in communities across the state, diminished water for agricultural production, degraded habitat for many fish and wildlife species, increased wildfire risk, and the threat of saltwater contamination to fresh water supplies in the Sacramento-San Joaquin Bay Delta; and

WHEREAS a distinct possibility exists that the current drought will stretch into a fifth straight year in 2016 and beyond; and

WHEREAS new expedited actions are needed to reduce the harmful impacts from water shortages and other impacts of the drought; and

WHEREAS the magnitude of the severe drought conditions continues to present threats beyond the control of the services, personnel, equipment, and facilities of any single local government and require the combined forces of a mutual aid region or regions to combat; and

WHEREAS under the provisions of section 8558(b) of the Government Code, I find that conditions of extreme peril to the safety of persons and property continue to exist in California due to water shortage and drought conditions with which local authority is unable to cope; and

WHEREAS under the provisions of section 8571 of the California Government Code, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay the mitigation of the effects of the drought.

NOW, THEREFORE, I, EDMUND G. BROWN JR., Governor of the State of California, in accordance with the authority vested in me by the Constitution and statutes of the State of California, in particular Government Code sections 8567 and 8571 of the California Government Code, do hereby issue this Executive Order, effective immediately.



IT IS HEREBY ORDERED THAT:

1. The orders and provisions contained in my January 17, 2014 Proclamation, my April 25, 2014 Proclamation, and Executive Orders B-26-14 and B-28-14 remain in full force and effect except as modified herein.

SAVE WATER

2. The State Water Resources Control Board (Water Board) shall impose restrictions to achieve a statewide 25% reduction in potable urban water usage through February 28, 2016. These restrictions will require water suppliers to California's cities and towns to reduce usage as compared to the amount used in 2013. These restrictions should consider the relative per capita water usage of each water suppliers' service area, and require that those areas with high per capita use achieve proportionally greater reductions than those with low use. The California Public Utilities Commission is requested to take similar action with respect to investor-owned utilities providing water services.
3. The Department of Water Resources (the Department) shall lead a statewide initiative, in partnership with local agencies, to collectively replace 50 million square feet of lawns and ornamental turf with drought tolerant landscapes. The Department shall provide funding to allow for lawn replacement programs in underserved communities, which will complement local programs already underway across the state.
4. The California Energy Commission, jointly with the Department and the Water Board, shall implement a time-limited statewide appliance rebate program to provide monetary incentives for the replacement of inefficient household devices.
5. The Water Board shall impose restrictions to require that commercial, industrial, and institutional properties, such as campuses, golf courses, and cemeteries, immediately implement water efficiency measures to reduce potable water usage in an amount consistent with the reduction targets mandated by Directive 2 of this Executive Order.
6. The Water Board shall prohibit irrigation with potable water of ornamental turf on public street medians.
7. The Water Board shall prohibit irrigation with potable water outside of newly constructed homes and buildings that is not delivered by drip or microspray systems.



8. The Water Board shall direct urban water suppliers to develop rate structures and other pricing mechanisms, including but not limited to surcharges, fees, and penalties, to maximize water conservation consistent with statewide water restrictions. The Water Board is directed to adopt emergency regulations, as it deems necessary, pursuant to Water Code section 1058.5 to implement this directive. The Water Board is further directed to work with state agencies and water suppliers to identify mechanisms that would encourage and facilitate the adoption of rate structures and other pricing mechanisms that promote water conservation. The California Public Utilities Commission is requested to take similar action with respect to investor-owned utilities providing water services.

INCREASE ENFORCEMENT AGAINST WATER WASTE

9. The Water Board shall require urban water suppliers to provide monthly information on water usage, conservation, and enforcement on a permanent basis.
10. The Water Board shall require frequent reporting of water diversion and use by water right holders, conduct inspections to determine whether illegal diversions or wasteful and unreasonable use of water are occurring, and bring enforcement actions against illegal diverters and those engaging in the wasteful and unreasonable use of water. Pursuant to Government Code sections 8570 and 8627, the Water Board is granted authority to inspect property or diversion facilities to ascertain compliance with water rights laws and regulations where there is cause to believe such laws and regulations have been violated. When access is not granted by a property owner, the Water Board may obtain an inspection warrant pursuant to the procedures set forth in Title 13 (commencing with section 1822.50) of Part 3 of the Code of Civil Procedure for the purposes of conducting an inspection pursuant to this directive.
11. The Department shall update the State Model Water Efficient Landscape Ordinance through expedited regulation. This updated Ordinance shall increase water efficiency standards for new and existing landscapes through more efficient irrigation systems, greywater usage, onsite storm water capture, and by limiting the portion of landscapes that can be covered in turf. It will also require reporting on the implementation and enforcement of local ordinances, with required reports due by December 31, 2015. The Department shall provide information on local compliance to the Water Board, which shall consider adopting regulations or taking appropriate enforcement actions to promote compliance. The Department shall provide technical assistance and give priority in grant funding to public agencies for actions necessary to comply with local ordinances.
12. Agricultural water suppliers that supply water to more than 25,000 acres shall include in their required 2015 Agricultural Water Management Plans a detailed drought management plan that describes the actions and measures the supplier will take to manage water demand during drought. The Department shall require those plans to include quantification of water supplies and demands for 2013, 2014, and 2015 to the extent data is available. The Department will provide technical assistance to water suppliers in preparing the plans.

13. Agricultural water suppliers that supply water to 10,000 to 25,000 acres of irrigated lands shall develop Agricultural Water Management Plans and submit the plans to the Department by July 1, 2016. These plans shall include a detailed drought management plan and quantification of water supplies and demands in 2013, 2014, and 2015, to the extent that data is available. The Department shall give priority in grant funding to agricultural water suppliers that supply water to 10,000 to 25,000 acres of land for development and implementation of Agricultural Water Management Plans.
14. The Department shall report to Water Board on the status of the Agricultural Water Management Plan submittals within one month of receipt of those reports.
15. Local water agencies in high and medium priority groundwater basins shall immediately implement all requirements of the California Statewide Groundwater Elevation Monitoring Program pursuant to Water Code section 10933. The Department shall refer noncompliant local water agencies within high and medium priority groundwater basins to the Water Board by December 31, 2015, which shall consider adopting regulations or taking appropriate enforcement to promote compliance.
16. The California Energy Commission shall adopt emergency regulations establishing standards that improve the efficiency of water appliances, including toilets, urinals, and faucets available for sale and installation in new and existing buildings.

INVEST IN NEW TECHNOLOGIES

17. The California Energy Commission, jointly with the Department and the Water Board, shall implement a Water Energy Technology (WET) program to deploy innovative water management technologies for businesses, residents, industries, and agriculture. This program will achieve water and energy savings and greenhouse gas reductions by accelerating use of cutting-edge technologies such as renewable energy-powered desalination, integrated on-site reuse systems, water-use monitoring software, irrigation system timing and precision technology, and on-farm precision technology.

STREAMLINE GOVERNMENT RESPONSE

18. The Office of Emergency Services and the Department of Housing and Community Development shall work jointly with counties to provide temporary assistance for persons moving from housing units due to a lack of potable water who are served by a private well or water utility with less than 15 connections, and where all reasonable attempts to find a potable water source have been exhausted.
19. State permitting agencies shall prioritize review and approval of water infrastructure projects and programs that increase local water supplies, including water recycling facilities, reservoir improvement projects, surface water treatment plants, desalination plants, stormwater capture, and greywater systems. Agencies shall report to the Governor's Office on applications that have been pending for longer than 90 days.



20. The Department shall take actions required to plan and, if necessary, implement Emergency Drought Salinity Barriers in coordination and consultation with the Water Board and the Department of Fish and Wildlife at locations within the Sacramento - San Joaquin delta estuary. These barriers will be designed to conserve water for use later in the year to meet state and federal Endangered Species Act requirements, preserve to the extent possible water quality in the Delta, and retain water supply for essential human health and safety uses in 2015 and in the future.
21. The Water Board and the Department of Fish and Wildlife shall immediately consider any necessary regulatory approvals for the purpose of installation of the Emergency Drought Salinity Barriers.
22. The Department shall immediately consider voluntary crop idling water transfer and water exchange proposals of one year or less in duration that are initiated by local public agencies and approved in 2015 by the Department subject to the criteria set forth in Water Code section 1810.
23. The Water Board will prioritize new and amended safe drinking water permits that enhance water supply and reliability for community water systems facing water shortages or that expand service connections to include existing residences facing water shortages. As the Department of Public Health's drinking water program was transferred to the Water Board, any reference to the Department of Public Health in any prior Proclamation or Executive Order listed in Paragraph 1 is deemed to refer to the Water Board.
24. The California Department of Forestry and Fire Protection shall launch a public information campaign to educate the public on actions they can take to help to prevent wildfires including the proper treatment of dead and dying trees. Pursuant to Government Code section 8645, \$1.2 million from the State Responsibility Area Fire Prevention Fund (Fund 3063) shall be allocated to the California Department of Forestry and Fire Protection to carry out this directive.
25. The Energy Commission shall expedite the processing of all applications or petitions for amendments to power plant certifications issued by the Energy Commission for the purpose of securing alternate water supply necessary for continued power plant operation. Title 20, section 1769 of the California Code of Regulations is hereby waived for any such petition, and the Energy Commission is authorized to create and implement an alternative process to consider such petitions. This process may delegate amendment approval authority, as appropriate, to the Energy Commission Executive Director. The Energy Commission shall give timely notice to all relevant local, regional, and state agencies of any petition subject to this directive, and shall post on its website any such petition.



26. For purposes of carrying out directives 2–9, 11, 16–17, 20–23, and 25, Division 13 (commencing with section 21000) of the Public Resources Code and regulations adopted pursuant to that Division are hereby suspended. This suspension applies to any actions taken by state agencies, and for actions taken by local agencies where the state agency with primary responsibility for implementing the directive concurs that local action is required, as well as for any necessary permits or approvals required to complete these actions. This suspension, and those specified in paragraph 9 of the January 17, 2014 Proclamation, paragraph 19 of the April 25, 2014 proclamation, and paragraph 4 of Executive Order B-26-14, shall remain in effect until May 31, 2016. Drought relief actions taken pursuant to these paragraphs that are started prior to May 31, 2016, but not completed, shall not be subject to Division 13 (commencing with section 21000) of the Public Resources Code for the time required to complete them.
27. For purposes of carrying out directives 20 and 21, section 13247 and Chapter 3 of Part 3 (commencing with section 85225) of the Water Code are suspended.
28. For actions called for in this proclamation in directive 20, the Department shall exercise any authority vested in the Central Valley Flood Protection Board, as codified in Water Code section 8521, et seq., that is necessary to enable these urgent actions to be taken more quickly than otherwise possible. The Director of the Department of Water Resources is specifically authorized, on behalf of the State of California, to request that the Secretary of the Army, on the recommendation of the Chief of Engineers of the Army Corps of Engineers, grant any permission required pursuant to section 14 of the Rivers and Harbors Act of 1899 and codified in section 48 of title 33 of the United States Code.
29. The Department is directed to enter into agreements with landowners for the purposes of planning and installation of the Emergency Drought Barriers in 2015 to the extent necessary to accommodate access to barrier locations, land-side and water-side construction, and materials staging in proximity to barrier locations. Where the Department is unable to reach an agreement with landowners, the Department may exercise the full authority of Government Code section 8572.
30. For purposes of this Executive Order, chapter 3.5 (commencing with section 11340) of part 1 of division 3 of the Government Code and chapter 5 (commencing with section 25400) of division 15 of the Public Resources Code are suspended for the development and adoption of regulations or guidelines needed to carry out the provisions in this Order. Any entity issuing regulations or guidelines pursuant to this directive shall conduct a public meeting on the regulations and guidelines prior to adopting them.



31. In order to ensure that equipment and services necessary for drought response can be procured quickly, the provisions of the Government Code and the Public Contract Code applicable to state contracts, including, but not limited to, advertising and competitive bidding requirements, are hereby suspended for directives 17, 20, and 24. Approval by the Department of Finance is required prior to the execution of any contract entered into pursuant to these directives.

This Executive Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

I FURTHER DIRECT that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given to this Order.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 1st day of April 2015.

EDMUND G. BROWN JR.
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State



59°



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Facing Lowest Snowpack Levels Ever, Brown Orders Statewide Mandatory Water Cuts

April 1, 2015 2:04 PM

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LOS ANGELES (CBSLA.com) — California Gov. Jerry Brown has announced statewide mandatory water reductions for the first time ever as the state saw the lowest snowpack levels ever recorded.

Meeting with reporters in Sacramento, Brown announced Wednesday he has directed the State Water Resources Control Board to implement mandatory cuts in cities and towns across the state to reduce water usage by 25 percent.

Water officials measure the snowpack in the Sierra Nevadas every year in the same spot, usually finding an average of about 66.5 inches of snow.

But this year, there was only dry grass on the ground as Brown met with reporters.



Links & Numbers

- Information & Resources On Dangers Of Marijuana Use
- Covered California
- Enrollment Methods Hire LA
- Youth Hospital Ratings
- Stradivarius Fest Tell Us
- Who's Hiring!

This Week's Circulars

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<p>HOVER FOR CIRCULAR</p>	<p>HOVER FOR CIRCULAR</p>

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LATEST GALLERIES



Ana Inspiration, April 5, 2015



Ana Inspiration, April 2015



Warriors v. Clippers,



Sweet 16: UCLA vs.



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This photo from March 2013 shows Calif. Department of Water Resources officials Keith Swanson and Frank Gehrke conduct the annual snow survey at Phillips Station. This year, the location had no visible snow covering the ground. (Photo courtesy Gov. Jerry Brown's Office)



The move is aimed at saving approximately 1.5 million acre-feet of water – nearly as much as is currently in Lake Oroville – through the rest of the year, Brown said.

"Today we are standing on dry grass and we should be standing in five feet of snow. This historic drought demands unprecedented action," said Brown. "Therefore, I'm issuing an executive order mandating substantial water reductions across our state. As Californians, we must pull together and save water in every way possible."

California may only have about one year of water remaining in the state's reservoirs, according to Brown.

Brown's plan requires all 400 of California's local water agencies to come up with plans to monitor and cut water usage, under penalty of possible fines.

David Nahai, former general manager of the Los Angeles Department of Water and Power, told KNX 1070 NEWSRADIO that Gov. Brown's executive order is unprecedented.

"It's very sweeping," said Nahai. "There are 31 different measures that are contained in this executive order, and each one can be viewed as historic."

Governor brown says that if some cities don't reduce their water usage by about 25%, they could face a penalty of up to \$10,000 per day in fines.

Still, some experts say the governor's plan doesn't go far enough.

"There are, of course, much bigger uses of water in the state, like agriculture, like fracking, where a lot of water is going," USC Earth Sciences Professor Sarah Feakins said. "And so it's not really addressing those big issues."

In addition to reductions, Executive Order B-29-15 (PDF) also calls for Los Angeles and other local governments to replace up to 50 million square feet of lawns throughout the state with drought tolerant landscaping, as well as requiring campuses, golf courses, cemeteries and other large landscapes to make "significant cuts" in water use.

"I drive around, and I see everybody with these really green lawns, and I don't understand how they can have that," Van Nuys resident Susan Goodrich said.

The use of potable water for irrigation at new homes and developments was also banned under the new order.

Local water agencies were also ordered to implement "conservation pricing," aimed at penalizing customers who overuse water.

A local landscaping company called Turf Terminators is utilizing the city's new lawn-removal rebate program, and is helping to make yards more drought resistant. The company estimates that for every squared foot of removed lawn, you save some 40 gallons of water per year.

"For every customer that we actually perform services for, we see this sort of social phenomenon where two to three more come by and ask questions," Turf Terminators' Andrew Farrell said.

The company also estimates customers will save about \$2,000 every year on their water bill.

An impending decision by the Metropolitan Water District, which sells its water to LA's Department of Water and Power may majorly impact how much residents will have to cut back on water usage, as well as how much they will be fined if they fail to do so.

"On the thirteenth of April, the Metropolitan Water District is going to do what it's threatened to do in the past, which is pass mandatory allocations, potential cutbacks to all their agencies," Environmental Water Caucus' Conner Everts said. "They'll sit up and listen to that."

Some organizations in the state, meanwhile, continue to push that the measures seem to focus more on metropolitan or suburban residents, and not on large companies in the Central Valley.

"If we really want to talk about conserving water, we have to address the biggest water-users and polluters in our state, which is big corporate agro-business and big oil, mainly in the Central Valley,"

Food and Water Watch's Alexandra Nagy said. "Instead of continuing to push urban users to cut down, we'd like to see ground water be put in the public trust."

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