



Those persons wishing to speak on any item included on the agenda, or on any matter within the subject matter jurisdiction of the City Council, are invited fill out and submit to the City Clerk a "Request to Speak" form (name and address optional) which is available at the entrance to the City Council Chambers. Additionally, members of the public may submit electronic inquiries or comments by submitting emails to CityClerk@cityofchino.org

If you require a reasonable accommodation to participate in this meeting per your rights under the Americans with Disabilities Act or for any other reason, please contact the City Clerk's Office (909) 334-3306, at least 48 hours prior to the advertised starting time of the meeting.

Any documents produced by the City and distributed to a majority of the City Council regarding any item on this agenda will be made available in the City Clerk's Office during normal business hours at City Hall located at 13220 Central Avenue, Chino. In addition, such documents will be posted on the City's website at www.cityofchino.org

**CHINO CITY COUNCIL
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY
FINAL - CITY HALL COUNCIL CHAMBERS
13220 CENTRAL AVENUE
CHINO, CA 91710**

TUESDAY, NOVEMBER 21, 2023

REGULAR MEETING

AGENDA

OPEN SESSION – 6:00 PM

ROLL CALL

Mayor Eunice M. Ulloa, Mayor Pro Tem Karen C. Comstock, Council Member Curtis Burton, Council Member Christopher Flores, Council Member Marc Lucio.

FLAG SALUTE

CEREMONIALS

Presentations

Mayor's Home Beautification Award - November 2023

Chino Community Theatre 40th Anniversary

Boy's Republic - Della Robbia Wreath Presentation

AGENDA ADDITIONS/REVISIONS

PUBLIC ANNOUNCEMENTS

This is the time and place for the Mayor to inform the public of all upcoming events and past occurrences of communitywide interest and concern.

PUBLIC COMMENTS

This is the time and place for the general public to address the City Council about subjects that do not appear elsewhere on the agenda. Due to Council policy and Brown Act requirements,

action will not be taken on any issues not on the Agenda. Ordinance No. 97-08 (Chino Municipal Code Section 2.04.090) limits speakers to no more than five (5) minutes in which to address Council, except as provided under Government Code 54954.3(b)(2).

CONSENT CALENDAR

At this time, members of the public may present testimony as to why an item should be removed from the Consent Calendar for separate discussion. Unless a member of the public or City Council requests that an item be removed from the Consent Calendar, all items will be acted upon as a whole and by one vote. Items placed on the Consent Calendar represent routine expenditures and/or actions that support ongoing City operations.

1. Warrants. Approve expenses as audited and within budget for warrants 767461 to 767655, and Electronic Fund Transfers 518041E to 518114E, totaling \$5,319,524.07.
2. Minutes. Regular Meeting Minutes for November 7, 2023.
3. Elected City Officials' Report Regarding Travel, Training, and Meetings. Receive and file the Elected City Officials' Report reflecting City Council business related expenses incurred by the City.
4. City Council Regular Meeting Cancellation. Authorize staff to cancel the January 2, 2024 City Council Regular Meeting.
5. Adoption of Ordinance No. 2023-021. Adoption of Ordinance No. 2023-021 amending Chapter 2.38 (Chino Community Services, Parks, and Recreation Commission) of the Chino Municipal Code (Second Reading).

ORDINANCE 2023-021 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHINO, CALIFORNIA, AMENDING CHAPTER 2.38 (CHINO COMMUNITY SERVICES, PARKS, AND RECREATION COMMISSION) OF THE CHINO MUNICIPAL CODE

6. Adoption of Ordinance No. 2023-020. Adoption of Ordinance No. 2023-020 amending Title 12 (Streets, Sidewalks, and Other Public Places) of the Chino Municipal Code (Second Reading).
ORDINANCE 2023-020 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHINO, CALIFORNIA, AMENDING CHAPTERS 12.02 (PROTECTION OF INTERESTS WITHIN THE RIGHT-OF-WAY), 12.04 (STREETS), AND 12.08 (CURBS, GUTTERS, SIDEWALKS, ASPHALT CONCRETE STREET PAVEMENT AND STREET LIGHTS) OF TITLE 12 OF THE CHINO MUNICIPAL CODE
7. Public Improvement Agreement - Kaykel Investment Properties, Inc. Approve the Public Improvement Agreement and securities with Kaykel Investment Properties, Inc. for Site Approval PL18-0047 located on the northeast corner of Central Avenue and El Prado Road.
8. Final Acceptance of Public Improvements - Parcel Map Nos. 19830 & 19831. Approve the Final Acceptance of Public Improvements for Parcel Maps Nos. 19830 & 19831, Euclid/Kimball Partners, LP a California General Partnership, located at 15723-15739 Euclid Avenue.
9. Chino Preserve Development Corporation - Subdivision Improvement Agreement Tract Map No.16420-5 (Block 3). Approve the Subdivision Improvement Agreement and securities with Chino Preserve Development Corporation for Tract Map No. 16420-5 generally located on the north side of Chino Corona Road between Main Street and Legacy Park Street.
10. Memorandum of Understanding with San Bernardino County - Inspection & Permitting of Yorba Villas and other projects pending annexation. Approve a Memorandum of Understanding with County of San Bernardino for plan check, inspection and ministerial permit issuance services for Yorba Villas and other projects pending annexation.

11. Award of Contract - 7th Street Theater HVAC Replacement Project (IB249). Award a construction contract in the amount of \$50,214 to C.E. Mechanical, Inc., Chino, CA, for the 7th Street Theater HVAC Replacement project, including expenditures of up to \$7,532 in construction contingencies for a not-to-exceed construction contract
12. Classification and Compensation Adjustments to Classifications and Salaries for American Federation of State, County and Municipal Employees (AFSCME). Adopt Resolution No. 2023-073 approving Classification and Salary Schedule adjustments and title changes for job classifications represented by AFSCME, including an estimated appropriation of \$382,184, or the actual amount, if not significantly higher.
13. California Department of Resources Recycling and Recovery (CalRecycle) Local Assistance Grant Programs. Approve Resolution No. 2023-069 authorizing applications to CalRecycle for local assistance grant programs.

NEW BUSINESS

14. City of Chino Public Safety, Roads, Essential Services Measure. Adopt Resolution 2023-071 declaring a fiscal emergency and Resolution 2023-072 calling the Special Municipal Election for the City of Chino Public Safety, Roads, Essential Services Measure.

Staff Report By: Linda Reich, City Manager

RECOMMENDATION:

1. Adopt Resolution 2023-071, declaring a fiscal emergency due to the projected severe deficits in future City budgets.
2. Adopt Resolution 2023-072, to approve the following:
 - a. Call and give notice of a Special Municipal Election for the purpose of submitting to the City's qualified voters the "City of Chino Public Safety, Roads, Essential Services Measure," which enacts the "City of Chino Transactions and Use Tax Ordinance" that establishes a general-purpose one percent retail transactions and use tax measure subject to majority voter approval;
 - b. Request the Board of Supervisors of the County of San Bernardino to consolidate the Special Municipal Election with the Statewide Primary Election to be held on Tuesday, March 5, 2024;
 - c. Provide and set the rules for the filing of arguments for and against the measure and rebuttal arguments;
 - d. Direct the City Attorney to prepare the impartial analysis of the ballot measure; and
 - e. Provide for other election matters as required by law.
3. Conduct first reading of Ordinance to be submitted to City's voters entitled, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHINO, CALIFORNIA, ESTABLISHING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION," reading by title only and waiving further reading.
4. Authorize the Mayor, on behalf of the City Council, to prepare and file a written argument in favor of the proposed measure.
5. Authorize the City Manager to execute all the necessary documents on behalf of the City.
6. Approve an appropriation of \$318,000 from General Fund reserves to fund the sales tax measure special election, voter information activities, and the assessment to administer the new local sales tax.

MAYOR AND COUNCIL REPORTS

This is the time and place for the Mayor and Council Members to report on prescheduled Council Committee Assignment Meetings that were held since the last Regular Council Meeting, and any other items of interest. Upon request by an individual Council Member, the City Council may choose to take action on any of the subject matters listed below.

Mayor Ulloa

Mayor Pro Tem Comstock

Council Member Burton

Council Member Flores

15. Community Support Fund - Council Member Flores. Approve community support fund contribution to the Chino High School Sports Boosters (Football Program).

Staff Report By: Council Member Flores

RECOMMENDATION: Approve community support fund contribution of \$500 to the Chino High School Sports Boosters Football Program.

Council Member Lucio

City Manager's Report

City Attorney's Report

Police Chief's Report

Fire Chief's Report

ADJOURN

The next Regular Meeting of the City Council will be held on Tuesday, December 5, 2023 at 6:00 p.m. (Closed Session no earlier than 4:00 p.m. if necessary) in these Council Chambers.

I, Natalie Gonzaga, City Clerk of the City of Chino, hereby declare that on Thursday, November 16, 2023 this agenda was posted on the south window of Chino City Hall and this agenda together with all of the agenda reports and related documents were posted on the City's website at www.cityofchino.org by myself or under my direction.



Natalie Gonzaga, City Clerk.

**MEMORANDUM
CITY OF CHINO
FINANCE DEPARTMENT**

CITY COUNCIL MEETING DATE: NOVEMBER 21, 2023

TO: LINDA REICH, CITY MANAGER

FROM: ROB BURNS, DIRECTOR OF FINANCE

SUBJECT

Warrants.

RECOMMENDATION

Approve expenses as audited and within budget for warrants 768010 to 768176, and Electronic Fund Transfers 518251E to 518311E, totaling \$5,947,552.08.

FISCAL IMPACT

Sufficient funds have been included in the Fiscal Year 23-24 Operating Budget.

CITY OF CHINO MISSION / VISION / VALUES / STRATEGIC ISSUES

The recommendation detailed above further the City's values and strategic issues that serve as key pillars on which identified priorities, goals, and action plans are built, by fostering:

- Financial Stability

Revenue:	Expenditure:
Transfer In:	Transfer Out:

BACKGROUND

As prescribed by Government Code Sections 37202 and 37208, the following demand registers are herewith submitted for Council ratification:

NO.	WARRANTS	DATE	FY	AMOUNT
1.	768010 – 768108	10/26/23	23-24	\$1,603,238.66
2.	768109 – 768176	11/2/23	22-23	\$426,240.07
3.	518251E – 518291E	10/27/23	22-23	\$3,100,139.18
4.	518292E – 518311E	11/3/23	23-24	\$817,934.17

E: Electronic Fund Transfer

TOTAL	\$5,947,552.08
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ISSUES/ANALYSIS

See attached exhibit for detailed information on warrants exceeding \$50,000.

RB:hm

Attachment



CITY OF CHINO

A/P Warrant Register Over \$50,000

Check Number	Check Date	Vendor Name	Description	Amount
768027	10/26/2023	B9 HAUPUAGE OWNER LLC	REFUND OVERPAYMENT	\$60,267.24
768040		CT & T CONCRETE PAVING INC	AS NEEDED CONCRETE MAINTENANCE	\$149,047.66
768054		HAZEN AND SAWYER	WELLS 4 & 6 TREATMENT	\$106,044.31
768073		MNR CONSTRUCTION, INC.	YORBA & EUCALYPTUS SEWER	\$921,155.15
518258	10/27/2023	CHINO VALLEY INDEPENDENT FIRE DISTRICT	FIRE PROTECTION SERVICES- SEPT/OCT	\$2,284,524.00
518270		MYERS & SONS HIWAY SAFETY, INC.	CITYWIDE SIGNAGE MAINTENANCE	\$94,836.41
518274		HUMANE SOCIETY OF POMONA VALLEY	ANIMAL CONTROL SERVICES	\$53,157.50
518288		WATER FACILITIES AUTHORITY	IMPORTED WATER	\$485,157.33
768112	11/02/2023	ALESHIRE & WYNDER LLP	LEGAL SERVICES	\$61,738.99
768119		CHINO PRESERVE DEVELOPMENT CORP	REFUND PRE-PAY CIRCULATION/DIF	\$242,900.40
518304	11/03/2023	INLAND EMPIRE UTILITIES AGENCY	SEWAGE TREATMENT SERVICE	\$775,298.11
11			TOTAL	\$5,234,127.10

**MEMORANDUM
CITY OF CHINO
ADMINISTRATION DEPARTMENT**

CITY COUNCIL MEETING DATE: NOVEMBER 21, 2023

TO: LINDA REICH, CITY MANAGER

FROM: NATALIE GONZAGA, CITY CLERK

SUBJECT

Regular Meeting Minutes for November 7, 2023.

**CHINO CITY COUNCIL
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY
REGULAR MEETING - CITY HALL COUNCIL CHAMBERS
13220 CENTRAL AVENUE
CHINO, CA 91710**

TUESDAY, NOVEMBER 7, 2023

MINUTES

**CLOSED SESSION – 5:00 PM
OPEN SESSION – 6:00 PM**

The November 7, 2023, Regular Meeting of the Chino City Council / Successor Agency to the Redevelopment Agency was called to order at 5:01 pm by Mayor Eunice M. Ulloa in the Council Chambers.

ROLL CALL

PRESENT: Mayor Eunice M. Ulloa, Mayor Pro Tem Karen C. Comstock, Council Member Curtis Burton, Council Member Christopher Flores, and Council Member Marc Lucio

ABSENT: NONE.

CLOSED SESSION PUBLIC COMMENTS

There were no requests to speak.

CLOSED SESSION

City Attorney Fred Galante read into the record the item listed on the Closed Session agenda.

1. CONFERENCE WITH LEGAL COUNSEL EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(d)(1): Harvey Allen II v. Chino Police Department, et al. (San Bernardino County Superior Court Case No. CIVDS2004426)

2. CONFERENCE WITH LABOR NEGOTIATOR(S).

Pursuant to Government Code Section 54957.6:

Agency Negotiator: Geriann Kingslan, Director of Human Resources/Risk Management.

Employee Organizations: Chino City Hall Confidential Employee Association, Chino Police

Professional Employees Association, San Bernardino Public Employees Association

(SBPEA)/Teamsters Local Union No. 1932-Professional, Technical and Clerical, American

Federation of State, County and Municipal Employees (AFSCME District Council 36-Local 3183),

Unrepresented Management, Executive Management.

The City Council recessed to Closed Session at 5:02 p.m.

The City Council concluded Closed Session at 5:44 p.m. and reconvened the regular meeting at 6:02 p.m.

FLAG SALUTE

Council Member Flores led the assembly in reciting the Pledge of Allegiance.

CEREMONIALS

Proclamations

Purple Heart City. Proclamation to reaffirm the City of Chino's proud commitment to be a Purple Heart City along the Purple Heart Trail to honor the service and sacrifice made to preserve our freedom.

Mayor Ulloa read into the record the proclamation to reaffirm the City of Chino's proud commitment to be a Purple Heart City along the Purple Heart Trail to honor the service and sacrifice made to preserve our freedom. Michael Huizar, Commander, American Legion Post 299, Dennis Murillo, Commander, VFW Post 11546, Alex Ortiz, Purple Heart Recipient, American Legion Post 299, and David Metoyer, Purple Heart Recipient, American Legion Post 299 were present to accept the proclamation. The Mayor and Mayra Pratt, CSPR Manager, invited residents to the Veterans Day event on Saturday, November 11, 2023.

Great American Smokeout. Proclaim November 16, 2023, as the American Cancer Society's Great American Smokeout Day.

Mayor Ulloa read into the record the proclamation to recognize November 6, 2023 as the American Cancer Society's Great American Smokeout Day. Jessica Singletary, CSPR Coordinator, City of Chino, and Matthew Solano, Chino Police Officer/DARE program accepted the award.

Law Enforcement Records and Support Personnel Day. Proclaim November 14, 2023 as Law Enforcement Records and Support Personnel Day.

Mayor Ulloa read into the record the proclamation to recognize November 14, 2023, as Law Enforcement Records and Support Personnel Day. Police Chief Mensen and Chris Corbin, Police Professional Services Manager recognized the City of Chino Police Records Technicians Elda Torres, Laura Duenas, and Karla Rubio.

Presentations

Business of the Month - November 2023. Award of Business of the Month for November 2023 to Painted Dough.

Mayor Ulloa presented the Business of the Month November 2023 Award to Painted Dough. Owner Danny Droung and his family accepted the award.

REPORT OUT OF CLOSED SESSION

City Attorney Fred Galante reported on closed session as follows:

1. CONFERENCE WITH LEGAL COUNSEL EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(d)(1): Harvey Allen II v. Chino Police Department, et al. (San Bernardino County Superior Court Case No. CIVDS2004426)

The City Council received an update, provided direction, and no further reportable actions was taken.

2. CONFERENCE WITH LABOR NEGOTIATOR(S).

Pursuant to Government Code Section 54957.6:

Agency Negotiator: Geriann Kingslan, Director of Human Resources/Risk Management.

Employee Organizations: Chino City Hall Confidential Employee Association, Chino Police Professional Employees Association, San Bernardino Public Employees Association (SBPEA)/Teamsters Local Union No. 1932-Professional, Technical and Clerical, American Federation of State, County and Municipal Employees (AFSCME District Council 36-Local 3183), Unrepresented Management, Executive Management.

The City Council received a briefing, and no further reportable action was taken.

AGENDA ADDITIONS/REVISIONS

City Manager Linda Reich reported there were no agenda additions or revisions to the agenda.

INFORMATION

Economic Development Report. Receive and File the Quarterly Economic Development Report.

Mayor Ulloa announced the Economic Development Report is available in the agenda packet.

PUBLIC ANNOUNCEMENTS

Mayor Ulloa issued a reminder about the following scheduled community events:

The City of Chino's Annual Veterans Day Ceremony will take place on Saturday, November 11 at the Community Building, 5443 B Street at 11:00 a.m. For information, contact the Carolyn Owens Community Center at 909-334-3258 or visit www.cityofchino.org/veteransday.

City Hall will be closed in observance of Veteran's Day on Friday, November 10 and reopen on Monday, November 13 at 7:30 a.m.

Bark Around Ayala Park, presented by the City of Chino and Chino Valley YMCA, will take place on Saturday, November 18 from 9:00 a.m. to 12:00 p.m. at Ruben S. Ayala Park, 5575 Edison Avenue. For more Information, contact Healthy Chino at 909-334-3478 or visit www.cityofchino.org/bark.

Gobbler Gloves Boxing Showcase will be held at the Neighborhood Activity Center, 5201 D Street, on Sunday, November 19. Doors Open at 12:00 p.m. Tickets will be available for purchase at the door. For more information, call 909-334-3260.

The City's Annual Tree Lighting Ceremony themed "Santa's Workshop," will take place on Saturday, December 2 from 4:00-8:00 p.m. on the City Hall Lawn.

The City's Annual Chino Youth Christmas Parade & Fair, will take place on Saturday, December 9, at 9:00 a.m. starting on the corner of Riverside Drive and Monte Vista Avenue and end at City Hall Lawn where you can enjoy the Holiday Fair and Carnival. For more information, visit www.cityofchino.org/events.

PUBLIC COMMENTS

Pastor Dustin Harrison, Calvary Chapel Chino Valley, provided the invocation.

Melisa Compani, of Curt Hagman Fourth District Supervisor's Office, provided announcements and an update on upcoming events.

Monica Curiel, of Chino Basin Water Conservation District provided information on the Loteria Gallery event, which will take place in their garden on November 16 from 5:30 - 7:30 p.m.

Richard Montijo, UChooz Positive Youth, invited residents to the Fifth Annual Basketball Tournament event which will be held on November 11 at Don Lugo High School, at 5:30 p.m.

Mayor Ulloa acknowledged scouts from Troop 202 for attending the City Council meeting for their Communication Merit Badge requirements.

CONSENT CALENDAR

1. Warrants. Approve expenses as audited and within budget for warrants 767461 to 767655, and Electronic Fund Transfers 518041E to 518114E, totaling \$5,319,524.07.

ITEM 2 WAS PULLED FROM THE CONSENT CALENDAR FOR SEPARATE ACTION.

3. Elected City Officials' Report Regarding Travel, Training, and Meetings. Receive and file the Elected City Officials' Report reflecting City Council business related expenses incurred by the City.
4. Date Modification for the Third Amendment to Operating Covenant and Restrictive Covenants Affecting Interests In Real Property - Creative Bus Sales, Inc. Approve a date correction for the Third Amendment to Operating Covenant and Restrictive Covenants Affecting Interests In Real Property between City of Chino and Creative Bus Sales, Inc.
5. Contract Amendment and Vendor Cap Increase - RTS 85, Inc. Approve a professional services contract amendment with RTS 85 Inc., Chino, CA in the amount of \$27,000 for carnival rides.
6. Award of Contract - Police Department Gun Range Cleaning Services. Award a professional services contract with HCI Environmental & Engineering Service, Corona, CA in the amount of \$63,930 for the Police Department Gun Range Cleaning Services.
7. Vendor Cap Increase - GovernmentJobs.com dba NeoGov. Approve a Vendor Cap Increase to GovernmentJobs.com dba NeoGov for a total vendor cap of \$59,000.
8. Amendment to the Salary Range of Corporal. Adopt Resolution 2023-068 to amend the Corporal position compensation Step D and Step E previously adopted with typographical errors.
9. Measure I 5-Year Capital Improvement Plan and Expenditure Strategy Adopt Resolution No. 2023-067, approving the Measure I Local Street Pass-Through Funds Five-Year Capital Improvement Plan and Expenditure Strategy for Fiscal Year 2023-2024 through Fiscal Year 2027-2028.
10. 2023 Citizens' Option for Public Safety Grant Funds Appropriation. Accept the additional funds of \$122,502.02 received for the identified expenditure areas of the 2023 Citizens' Option for Public Safety (COPS) Program Grant.
11. 2024 Citizens' Option for Public Safety Grant Funds Appropriation. Accept the use of the grant funds for the identified expenditure areas of the 2024 Citizens' Option for Public Safety (COPS) Program Grant.

12. 2024 Motorcycle Safety Education and Training Program Grant. Acceptance of the 2024 Motorcyclist Safety Education and Training Program Grant.
13. Office of Traffic Safety Selective Traffic Enforcement Program (STEP) Grant. Acceptance of the 2022 and 2023 Office of Traffic Safety Federal STEP Grant in the amount of \$198,000.
14. JL Power Investments, LLC - Public Improvement Agreement PL21-0020 (Administrative Approval). Approve the Public Improvement Agreement and securities with JL Power Investments, LLC for Administrative Approval PL21-0020 located at 12938 Monte Vista Avenue.
15. Final Acceptance of Public Improvements - Tract Map No. 20232 (Taylor Morrison Communities). Final Acceptance of Public Improvements for Tract Map No. 20232 (Lot 11), Taylor Morrison Communities, generally located south of Garden Park Street between West Preserve Loop and Main Street, north of Pine Avenue.
16. Lewis - Final Tract Map No. 20380. Approve Final Tract Map No. 20380 generally located north of Legacy Park Street, west of East Preserve Loop, south of Academy Street, and east of Main Street in The Preserve Specific Plan area.
17. Initiate the Annexation to the Lighting District No. 2002-1 (Annexation/Zone No. 88) for Site Approval PL17-0082 located at 14085 Magnolia Avenue and schedule the public hearing for January 16, 2024. Initiate the Annexation to the Lighting District No. 2002-1 (Annexation/Zone No. 88) for Site Approval PL17-0082 located at 14085 Magnolia Avenue and schedule the public hearing for January 16, 2024.

Motion by Council Member Burton, seconded by Mayor Pro Tem Comstock, to approve the Consent Calendar items 1 and 3-17, as presented. The motion carried by the following vote:

AYES: ULLOA, COMSTOCK, BURTON, FLORES, AND LUCIO

NOES: NONE.

ABSENT: NONE.

ITEMS PULLED FROM THE CONSENT CALENDAR

2. Minutes. Regular Meeting Minutes for October 17, 2023. (Mayor Ulloa Absent-Excused)

Motion by Council Member Flores, seconded by Council Member Burton, to approve Item 2. Minutes of the October 17, 2023 City Council regular meeting. The motion carried by the following vote:

AYES: COMSTOCK, BURTON, FLORES, AND LUCIO

NOES: NONE.

ABSENT: NONE.

ABSTAIN: ULLOA

PUBLIC HEARING

18. Introduction of Ordinance No. 2023-020 Amending Title 12 of the Chino Municipal Code.
Conduct a Public Hearing and approve the introduction of Ordinance No. 2023-020 amending Chapters 12.02, 12.04, and 12.08 of the Chino Municipal Code.

Staff Report By: Jesus Plasencia, Assistant City Engineer

RECOMMENDATION: Conduct a Public Hearing and approve the introduction of Ordinance No. 2023-020 Amending Title 12 (Streets, Sidewalks, and Other Public Places) of the Chino Municipal Code, to be read by number and title only, and waive further reading of the Ordinance.

Mayor Ulloa opened the public hearing.

Jesus Plasencia, Assistant City Engineer, provided a report on the item.

Hearing no requests to speak, Mayor Ulloa closed the public hearing.

Council Member Flores inquired regarding a free waiver for Accessory Dwelling Units (ADU) and Mr. Plasencia explained this would need to be incorporated into a future fee schedule.

Mayor Pro Tem Comstock thanked staff for their efforts to make the improvements that were addressed by Council at a past Workshop.

Council Member Lucio requested staff to explain the type of plans available to residents. Development Services Director Warren Morelion explained the City developed multiple ADU building plans for residents free of charge. Council Member Lucio explained the ADUs are available in three size options and three different architectural designs, and noted the designs include electrical and plumbing. He thanked staff for the time and effort spent developing the ADU program for residents.

Mayor Ulloa asked if the plans are on the City's website. Mr. Morelion confirmed they are linked on the City website and encouraged residents to contact the Development Services Department to obtain additional information.

Mayor Ulloa requested City Attorney Galante to read the title of the Ordinance into the record.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHINO, CALIFORNIA, AMENDING CHAPTERS 12.02 (PROTECTION OF INTERESTS WITHIN THE RIGHT-OF-WAY), 12.04 (STREETS), AND 12.08 (CURBS, GUTTERS, SIDEWALKS, ASPHALT CONCRETE STREET PAVEMENT AND STREET LIGHTS) OF TITLE 12 OF THE CHINO MUNICIPAL CODE

Motion by Mayor Pro Tem Comstock, seconded by Council Member Flores, to Conduct a Public Hearing and approve the introduction of Ordinance No. 2023-020 Amending Title 12 (Streets, Sidewalks, and Other Public Places) of the Chino Municipal Code, to be read by number and title only, and waive further reading of the Ordinance. The motion carried by the following vote:

AYES: ULLOA, COMSTOCK, BURTON, FLORES, AND LUCIO

NOES: NONE.

ABSENT: NONE.

NEW BUSINESS

19. Introduction of Ordinance No. 2023-021 - Community Services, Parks & Recreation Commission Member at Large. Approve the introduction of Ordinance No. 2023-021 to revise the Chino Municipal Code to change the Member at Large of the Community Services, Parks & Recreation Commission to Mayor appointed.

Staff Report By: Fred Galante, City Attorney

RECOMMENDATION: 1) Approve the introduction of Ordinance No. 2023-021, amending the Chino Municipal Code to change the Member at Large appointment of the Community Services, Parks & Recreation Commission to a Mayor appointment, to be read by number and title only, and waive further reading of the Ordinance.

City Attorney Fred Galante provided a report on the item, noting the proposed ordinance implements the Council's directive from its October 10, 2023 City Council workshop, where the Council provided direction to remove the Commission Member at Large position and make that position appointed by the Mayor with approval of the City Council, a process consistent with the Planning Commission appointments.

City Attorney Galante stated approval of this Ordinance would not have removed the appointed member serving in this position, who recently resigned. The Member at Large position would have remained on the Commission until the end of their term, and thereafter the next appointee for that seat would have been appointed through this new process, if the Council adopts the proposed ordinance.

Mayor Ulloa requested City Attorney Galante to read the title of the Ordinance into the record.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
CHINO, CALIFORNIA, AMENDING CHAPTER 2.38 (CHINO
COMMUNITY SERVICES, PARKS, AND RECREATION
COMMISSION) OF THE CHINO MUNICIPAL CODE

Motion by Council Member Burton, seconded by Council Member Lucio, to 1) Approve the introduction of Ordinance No. 2023-021, amending the Chino Municipal Code to change the Member at Large appointment of the Community Services, Parks & Recreation Commission to a Mayor appointment, to be read by number and title only, and waive further reading of the Ordinance. The motion carried by the following vote:

AYES: ULLOA, COMSTOCK, BURTON, FLORES, AND LUCIO

NOES: NONE.

ABSENT: NONE.

20. Approve Professional Services Agreement for Engineering and Design Services - Project No. R2401. Award a Professional Services Agreement with Biggs Cardosa Associates, Inc., Orange, CA, for Engineering Design and Bid Support Services for Project No. R2401 – Bridge Along Euclid Avenue Between State Route 71 And Pine Avenue.

Staff Report By: Michele Hindersinn, CIP Principal Engineer

RECOMMENDATION: 1) Award a Professional Services Agreement in the amount of \$3,944,225.34 with Biggs Cardosa Associates, Inc., Orange, CA for Engineering Design and Bid Support Services for Project No. R2401 - Euclid Avenue Bridge Project; 2) approve design contingencies of \$394,423 for a potential agreement amount not-to-exceed \$4,338,648.34; and 3) authorize the City Manager to execute all necessary documents on behalf of the City.

Michele Hindersinn, CIP Principal Engineer provided a report on the item. She indicated the existing bridge located along Euclid Avenue between State Route 71 and Pine Avenue was constructed in 2006, providing an 8-foot shoulder on each side with no dedicated pedestrian or bicycle facilities, and does not have the capacity to accommodate adequate flows during larger storm events. Ms. Hindersinn explained the proposed project will raise the profile of Euclid Avenue at Chino creek to accommodate the free flow of storm water from most storm events and will include pedestrian and bicycle facilities. She reported the City will focus on obtaining funding for the bridge construction through grant opportunities. She acknowledged the Finance Department Staff, Jizelle Sandoval, Purchasing Manager, for negotiating the contract price down in order to meet the City's budget for this project.

Mayor Ulloa inquired regarding the number of lanes in each direction. Ms. Hindersinn confirmed the number of lanes depends on the traffic study, but will include a minimum of two lanes in each direction and accommodate bicyclists and pedestrians.

Council Member Burton inquired how far south the proposed project is projected to go. Ms. Hindersinn responded the goal of the project is to raise the profile of the street in order to address the flooding concerns and it will not go past Pomona Rincon Road, since the bridge elevation will start at that location. Council Member Burton recommended the intersection be improved, including the entrance to the dog park to improve egress to and from this intersection. He noted that it is very difficult to travel South or Westbound on Pomona Rincon Road and believes a traffic signal or another option will address the concern.

Council Member Burton noted the high cost of the design at almost 4 million, which does not include the construction cost. He thanked staff for their hard work on this project.

Mayor Ulloa noted the archery range and dog park is San Bernardino County land and requested staff to seek out County assistance and participation in the funding for the proposed improvements.

Mayor Pro Tem Comstock explained it is acceptable for the City to spend this amount of money prior to the potential relinquishment of Euclid Avenue and requested staff to explain why the process is appropriate. Hye Jin Lee, Director of Public Works, explained as long as the City does not start the construction before it potentially takes possession of Euclid Avenue, the City can begin the design phase of the project. Mayor Pro Tem Comstock noted that if the City has a shelf ready project, it will help make us more competitive in seeking grant funds in the future and thanked City staff for the work done for this project. Ms. Lee stated consultants were present this evening and are prepared to address the Council should they have any technical questions.

Amer Jakher, Special Projects Administrator, reported it is fairly common for cities to invest in

highways and bridges owned by Caltrans since City residents will benefit from the improvements. He stated this request is not unique and explained that whether or not Euclid was relinquished to the City, improvements are a good investment to be considered for grant funding.

Motion by Council Member Burton, seconded by Council Member Flores, to 1) Award a Professional Services Agreement in the amount of \$3,944,225.34 with Biggs Cardosa Associates, Inc., Orange, CA for Engineering Design and Bid Support Services for Project No. R2401 - Euclid Avenue Bridge Project; 2) approve design contingencies of \$394,423 for a potential agreement amount not-to-exceed \$4,338,648.34; and 3) authorize the City Manager to execute all necessary documents on behalf of the City. The motion carried by the following vote:

AYES: ULLOA, COMSTOCK, BURTON, FLORES, AND LUCIO

NOES: NONE.

ABSENT: NONE.

21. Approve a Professional Services Agreement for Section 408 permit acquisition and other related regulatory permitting services associated with the Pine Ave Stage 3 Project ST203.

Approve a Professional Services Agreement for Section 408 permit acquisition and other related regulatory permitting services associated with the Pine Ave Stage 3 Project ST203.

Staff Report By: Jesus Plasencia, Assistant City Engineer

RECOMMENDATION: 1) Appropriate \$187,797 to the Transportation Fund with a corresponding year-end transfer amount from The Preserve Circulation (Streets, Signals, & Bridges) Development Impact Fee Fund 260; 2) increase the project budget for Pine Avenue Improvements (Hellman to Euclid Avenues) ST203 by \$187,797 for a new project budget of \$6,568,113.00; 3) approve a Professional Services Agreement to Ruth Villalobos & Associates, Inc., Ontario, CA for Section 408 permit acquisition and other related regulatory permitting services associated with the Pine Avenue Stage 3 project for an amount not to exceed \$187,797; and 4) authorize the City Manager to execute the necessary documents on behalf of the City, and to approve up to two (2) one-year contract extensions.

Jesus Plasencia, Assistant City Engineer, provided a report on the item.

Motion by Mayor Pro Tem Comstock, seconded by Council Member Lucio, to 1) Appropriate \$187,797 to the Transportation Fund with a corresponding year-end transfer amount from The Preserve Circulation (Streets, Signals, & Bridges) Development Impact Fee Fund 260; 2) increase the project budget for Pine Avenue Improvements (Hellman to Euclid Avenues) ST203 by \$187,797 for a new project budget of \$6,568,113.00; 3) approve a Professional Services Agreement to Ruth Villalobos & Associates, Inc., Ontario, CA for Section 408 permit acquisition and other related regulatory permitting services associated with the Pine Avenue Stage 3 project for an amount not to exceed \$187,797; and 4) authorize the City Manager to execute the necessary documents on behalf of the City, and to approve up to two (2) one-year contract extensions. The motion carried by the following vote:

AYES: ULLOA, COMSTOCK, BURTON, FLORES, AND LUCIO

NOES: NONE.

ABSENT: NONE.

22. Approve the award of contract, purchase order, and appropriation for Roof Restoration Project NC242 and IB249. Award of Contract, Purchase Order Approval, and Appropriation - Roof Restoration and Replacement.

Staff Report By: Silvia Avalos, Director of Community Services, Parks & Recreation

RECOMMENDATION: 1) Establish a non-capital project number for tracking purposes for the City Hall South Roof Restoration project NC242; 2) appropriate \$181,370.04 to the Building Management Fund with a year-end transfer from the General Fund reserves for the new project NC242; 3) award a construction contract in the amount of \$149,590 to R&R Roofing & Waterproofing, Inc., Lake Elsinore, CA for the City Hall South (NC242) Roof Restoration project and the 7th Street Theater (IB249) Roof Replacement project; 4) authorize expenditures of up to \$22,438.50 for construction project contingencies, for a not-to-exceed potential contract amount of \$172,028.50; 5) approve a purchase order in the amount of \$87,199.04 to The Garland Company, Inc., Cleveland, OH for the purchase of roofing materials for the City Hall South Roof Restoration Project; and 6) authorize the City Manager to execute all necessary documents on behalf of the City.

Silvia Avalos, Director of Community Services, Parks & Recreation provided a report on the item.

Motion by Council Member Lucio, seconded by Council Member Burton, to 1) Establish a non-capital project number for tracking purposes for the City Hall South Roof Restoration project NC242; 2) appropriate \$181,370.04 to the Building Management Fund with a year-end transfer from the General Fund reserves for the new project NC242; 3) award a construction contract in the amount of \$149,590 to R&R Roofing & Waterproofing, Inc., Lake Elsinore, CA for the City Hall South (NC242) Roof Restoration project and the 7th Street Theater (IB249) Roof Replacement project; 4) authorize expenditures of up to \$22,438.50 for construction project contingencies, for a not-to-exceed potential contract amount of \$172,028.50; 5) approve a purchase order in the amount of \$87,199.04 to The Garland Company, Inc., Cleveland, OH for the purchase of roofing materials for the City Hall South Roof Restoration Project; and 6) authorize the City Manager to execute all necessary documents on behalf of the City. The motion carried by the following vote:

AYES: ULLOA, COMSTOCK, BURTON, FLORES, AND LUCIO

NOES: NONE.

ABSENT: NONE.

MAYOR AND COUNCIL REPORTS

Mayor Ulloa

Mayor Ulloa reported on the following meetings and events attended since the last meeting that included the Omnitrans meeting; Chino Valley Fire Department open house; Chino Valley Fire District State of the District; Chino Desalter Authority Board of Director Finance Authority meeting; Southern California Water Coalition Executive Committee Zoom meeting; Chino Police Department open house; Chaplain Sheldon Boyd's retirement celebration; Halloween Spooktacular event; Omnitrans Board of Director's meeting; San Bernardino County Transportation Authority Board meeting; Southern California Water Coalition Board of Directors meeting and Annual Awards dinner; Senior Center November Birthday celebration; Financial Consultant meeting to discuss the City's budgetary condition; Meeting with a Construction company regarding the building of local hotel; and tonight's Closed Session.

Mayor Pro Tem Comstock

Mayor Pro Tem Comstock reported on the following meetings and events attended since the last meeting that included City Manager meeting; Community Services, Parks, and Recreation Commission meeting; Chino Valley Fire District State of the District; City Manager meeting; Chaplain Sheldon Boyd's retirement celebration; Halloween Spooktacular; Inland Empire Economic Partnership Turning Red Tape into Red Carpet award ceremony; City Manager meeting; and tonight's Closed Session.

Mayor Pro Tem Comstock encouraged residents to participation in the Uchooz basketball game event and congratulated the Painted Dough for being honored the Business of the Month for November.

Council Member Burton

Council Member Burton reported on meetings and events attended since the last meeting that included the Planning Commission meeting; Chino Valley Fire District open house; City Manager meeting; Meeting with a citizen regarding a community issue; Community Services, Parks & Recreation Commission meeting; State of the Fire District; Chino Valley Business Expo; Chino Police Department open house; Meeting with a citizen regarding a community concern; Chino Valley Chamber of Commerce meeting; Chaplain Sheldon Boyd retirement celebration; Halloween Spooktacular; Chino Valley Chamber of Commerce Leadership Collaborative meeting; City Manager Weekly meeting; Veterans Day celebration at Howard Cattle Elementary; and tonight's Closed Session.

23. Community Support Fund - Council Member Burton. Approve community support fund contribution to the Kiwanis.

Staff Report By: Council Member Burton

RECOMMENDATION: Approve community support fund contribution of \$125 to Chino Kiwanis Club.

Council Member Burton presented a report on the item.

Motion by Mayor Ulloa, seconded by Mayor Pro Tem Comstock, to Approve community support fund contribution of \$125 to Chino Kiwanis Club. The motion carried by the following vote:

AYES: ULLOA, COMSTOCK, BURTON, FLORES, AND LUCIO

NOES: NONE.

ABSENT: NONE.

Council Member Flores

Council Member Flores reported on the following meetings and events attended since the last meeting that included the Softball Tournament with Chino Police Department for the annual Special Olympics fundraiser event; served as a Science Fair judge at Sycamore Academy; State of the Fire District; Boxing Foundation Board meeting, attended a boxing event that featured Daniel Cruz in professional fight match and that he won; Chaplain Sheldon Boyd retirement celebration; Halloween Spooktacular; Southern California Water Coalition annual awards dinner and recognized Steve Elie for being awarded the Kathy Cole Award; and attended the Oasis Optometry one year anniversary.

Council Member Lucio

Council Member Lucio reported on the following meetings and events attended since the last meeting that included a City Manager meeting; Chino Valley Fire District State of the District; City Manager meeting; Halloween Spooktacular; Turning Red Tape into Red Carpet Awards, and encouraged staff to apply for more of these awards to help showcase the City of Chino; Inland Empire Economic Partnership Regional Leadership Academy where he visited The Gas Company located in Downey and saw technology they have in place, discussed electric and natural gas vehicles; thanked all Veterans for their service; reported the LA County Sheriff lost four employees to suicide within a 24 hour period and cautioned all to keep an eye on coworkers and family members; he congratulated his son who committed to attend Cal Poly San Luis Obispo.

City Manager's Report

City Manager Reich thanked the Community Services, Parks and Recreation Department for their dedicated work on the Halloween Spooktacular event and extended a special thanks to the Chino Police Department, Chino Valley Fire District, and the Chino Public Works Department for their support of the event; thanked all employees who are Veterans; announced the Prado Park Country Camp Out concert is this weekend; and thanked the Public Works crew for doing a fantastic work in helping maintain the road condition in Chino.

City Attorney's Report

City Attorney Galante concurred with the Council Member's comments regarding the Chino Valley Fire District State of the District was exceptional; and reported he will facilitate the Planning 101 training session on Tuesday, November 14, 2023.

Police Chief's Report

Police Chief Mensen discussed the recently approved grants that will assist with public outreach and education; reported that crime continues to increase in California and the Chino Police Department continues to be proactive to address the increased local retail business theft; noted that he will provide an overview in January on crime statistics; and thanked all Veterans for their service.

Council Member Burton commented on retail business theft and asked if the City of Chino has a dedicated team to help address this specific type of crime. Chief Mensen confirmed the Police Department does not currently have the resources to dedicate a team. Council Member Burton asked Chief Mensen to report back information on the cost to make this task force possible.

Mayor Ulloa shared concerns about scam calls and asked for suggestions to address these types of scams. Police Chief Mensen advised residents not to send money, but instead to call and report such calls to the Chino Police Department.

Council Member Burton and Mayor Ulloa commented on the Country Campout event at El Prado Regional Park and asked Chief Mensen to describe the Chino Police Department role in this event. Chief Mensen responded with information on staffing the event and traffic plans.

Council Member Lucio commented on the recent retail theft crime increase and noted the Chino Police Department always takes reports on retail theft crimes and show businesses the City of Chino cares.

Fire Chief's Report

Fire Chief Dave Williams reported the Country Campout at Prado Regional Park will also have additional Emergency Medical Services (EMS) Division personnel to help provide emergency services if needed; reported the Chino Valley Fire District open house was well attended and approximately over 2,000 participants were present; thanked all who attended the Chino Valley Fire District State of the District and thanked Fire District Staff Member Rita Pro for her dedication to make this event a success; encouraged attendance at the San Bernardino County Board of Supervisor's meeting regarding the ambulance program; announced the upcoming Make a Child Smile annual event; honored all Veterans; and announced the Chino Valley Fire District's efforts to create a program for Veterans who want to be in the fire service.

ADJOURN

The meeting adjourned at 8:05 p.m. The next Regular Meeting of the City Council will be held on Tuesday, November 21, 2023 at 6:00 p.m. (Closed Session no earlier than 4:00 p.m., if necessary) in these Council Chambers.

APPROVED AND ADOPTED THIS 21ST DAY OF NOVEMBER 2023.

EUNICE M. ULLOA, MAYOR

NATALIE GONZAGA, CITY CLERK

(These minutes are not official until signed.)

**MEMORANDUM
CITY OF CHINO
ADMINISTRATION DEPARTMENT**

CITY COUNCIL MEETING DATE: NOVEMBER 21, 2023

TO: LINDA REICH, CITY MANAGER

FROM: NATALIE GONZAGA, CITY CLERK

SUBJECT

Elected City Officials' Report Regarding Travel, Training, and Meetings.

RECOMMENDATION

Receive and file the Elected City Officials' Report reflecting City Council business related expenses incurred by the City.

FISCAL IMPACT

Sufficient funding is available in the adopted Fiscal Year 2023-24 Operating Budget.

CITY OF CHINO MISSION / VISION / VALUES / STRATEGIC ISSUES

The recommendation detailed above furthers the City's values and strategic issues that serve as key pillars on which identified priorities, goals, and action plans are built, by fostering:

- Superior Customer Service
- Responsible Long-Range Planning
- Exemplary Leadership
- Public Service Excellence through Internal and External Partnerships

Revenue:	Expenditure: 1002000-43320
Transfer In:	Transfer Out:

CITY COUNCIL MEETING DATE: NOVEMBER 21, 2023

TITLE: ELECTED CITY OFFICIALS' REPORT REGARDING TRAVEL, TRAINING, AND MEETINGS.

PAGE: 2

BACKGROUND

In accordance with Government Code Sections 53232.2 and 53232.3, implementing Assembly Bill (AB) 1234 on January 1, 2006, the City adopted Resolution No. 2005-093 establishing a Business-Related Expense Policy. On December 6, 2016, the City approved Resolution No. 2016-075 adopting the latest revisions to this policy. In addition to requiring local agencies to adopt a business-related expense policy, AB 1234 requires that Elected Officials provide a brief report on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.

ISSUES/ANALYSIS

In response to AB 1234, a report regarding Elected City Officials' Travel, Training, and Meetings (Exhibit A) was created and is placed on the City Council Agenda Consent Calendar, as needed. The documents that pertain to the items listed on Exhibit A are available for public inspection at the City Clerk's office located in City Hall at 13220 Central Avenue, Chino, CA.

Attachment – Exhibit A

Event Date	Meeting Purpose and Subject Matter	Location	City Official Attendees
None.			

**MEMORANDUM
CITY OF CHINO
ADMINISTRATION DEPARTMENT**

CITY COUNCIL MEETING DATE: NOVEMBER 21, 2023

TO: MAYOR AND CITY COUNCIL MEMBERS, CITY OF CHINO
FROM: LINDA REICH, CITY MANAGER

SUBJECT

City Council Regular Meeting Cancellation.

RECOMMENDATION

Authorize staff to cancel the January 2, 2024 City Council Regular Meeting.

FISCAL IMPACT

No fiscal impact.

CITY OF CHINO MISSION / VISION / VALUES / STRATEGIC ISSUES

The recommendation detailed above further the City's values and strategic issues that serve as key pillars on which identified priorities, goals, and action plans are built, by fostering:

- Responsible Long-Range Planning

Revenue: Click or tap here to enter text.	Expenditure:
Transfer In: Click or tap here to enter text.	Transfer Out: Click or tap here to enter text.

BACKGROUND

From time to time, the City Council has voted to cancel regularly scheduled meetings due to conflicts with events or holidays. The Tuesday, January 2, 2024 regular City Council meeting falls on the day following the January 1, 2024 New Years Day holiday.

ISSUES/ANALYSIS

City staff is recommending cancellation of this meeting due to the proximity to the New Years Day holiday. With the December 19, 2023 and January 16, 2024 regular meetings scheduled, there is no significant gap in meetings, allowing for the continuation of City business.

Should the City Council approve the cancellation of the Tuesday, January 2, 2024 meeting, the next regular meeting of the City Council would be held on January 16, 2024.

**MEMORANDUM
CITY OF CHINO
ADMINISTRATION DEPARTMENT**

CITY COUNCIL MEETING DATE: NOVEMBER 21, 2023

TO: LINDA REICH, CITY MANAGER
FROM: SILVIA AVALOS, COMMUNITY SERVICES DIRECTOR

SUBJECT

Adoption of Ordinance No. 2023-021.

RECOMMENDATION

Approve the adoption of Ordinance No. 2023-021 on second reading, amending Chapters 2.38 of the Chino Municipal Code.

FISCAL IMPACT

There is no fiscal impact.

CITY OF CHINO MISSION / VISION / VALUES / STRATEGIC ISSUES

The recommendation detailed above will further the City's values and strategic issues that serve as key pillars on which identified priorities, goals, and action plans are built, by fostering:

- Superior Customer Service
- Responsible Long-Range Planning

Revenue:	Expenditure:
Transfer In:	Transfer Out:

BACKGROUND

This matter was introduced on first reading by the Council at their November 7, 2023 meeting.

The ordinance revises Chapter 2.38 of the Chino Municipal Code to remove the member at large member of the Community Services, Parks, and Recreation Commission; making all seven members of the Commission mayor appointed with the approval of the City Council.

Once adopted on second reading, the ordinance will go into effect thirty (30) days thereafter.

ISSUES/ANALYSIS

ORDINANCE NO. 2023-021:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHINO, CALIFORNIA, AMENDING CHAPTER 2.38 (CHINO COMMUNITY SERVICES, PARKS, AND RECREATION COMMISSION) OF THE CHINO MUNICIPAL CODE

Attachment – Ordinance 2023-021

ORDINANCE NO. 2023-021

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHINO, CALIFORNIA, AMENDING CHAPTER 2.38 (CHINO COMMUNITY SERVICES, PARKS, AND RECREATION COMMISSION) OF THE CHINO MUNICIPAL CODE

WHEREAS, the City of Chino has adopted an ordinance establishing and regulating the duties and responsibilities of the Chino Community Services, Parks, and Recreation Commission and the members' terms, codified in Chapter 2.38 of the Chino Municipal Code;

WHEREAS, the City desires to revise Chapter 2.38 of the Chino Municipal Code to remove the member at large member of the Community Services, Parks, and Recreation Commission; and

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

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

SECTION 1. The City Council finds that the above recitals are true and correct and are incorporated herein by this reference.

SECTION 2. Section 2.38.030 (Membership – Appointment and term of office) of the Chino Municipal Code is hereby revised as follows (deletions in ~~strikethrough~~):

- A. The membership of the Community Services, Parks, and Recreation commission, as appointed by the mayor of the City of Chino, shall consist of seven members representing a broad interest in recreation, human services, park planning, cultural arts, youth, and senior citizens. ~~Six~~ Seven members shall be appointed by the mayor of the City of Chino with the approval of the city council. ~~and one member shall be appointed by the six other commissioners (member at large). The appointment of the member at large is to be ratified by the city council.~~
- B. In the event that a member appointed by the mayor of the City of Chino is required to take a temporary leave of absence, the mayor may appoint a temporary replacement with the approval of the city council. In the event that a member resigns or dies before the end of his or her term, or for any reason is unable to complete the term, the mayor may appoint a member to fill the vacant position with the approval of the city council.
- C. ~~In the event that a member appointed by the six other commissioners (member at large) is required to take a temporary leave of absence, the other six members may appoint a temporary replacement. In the event that the member at large resigns or dies before the end of his or her term, or for any reason is unable to complete the term, the other six members may appoint a member to fill the vacant position. The appointment of the member at large is to be ratified by the city council.~~
- D. All members of the Community Services, Parks, and Recreation commission appointed by the mayor of the City of Chino, ~~as well as the at-large member,~~ shall be residents of the City of Chino at the time of their appointment and throughout their terms of office.

SECTION 3. Section 2.38.040 (Terms of office) of the Chino Municipal Code is hereby revised as follows (deletions in ~~strikethrough~~):

There shall be seven Community Services, Parks, and Recreation commissioners who shall be appointed for four-year, staggered terms. Effective July 1, 2023, the terms shall be staggered as follows:

Three terms ending June 30, 2027, (three city appointees)

One term ending June 30, 2024, (one city appointee)

Three terms ending June 30, 2025 (~~three two~~ city appointees, ~~one member at large appointed by majority vote of the six other commissioners~~).

SECTION 4. Section 2.38.050 (Continuation in office) of the Chino Municipal Code is hereby revised as follows (deletions in ~~strikethrough~~):

Members of the commission shall continue in office until their successors are appointed. Commissioners can be replaced if a member misses three meetings in one year, with the year being defined as July 1st to June 30th, without adequate excuse. Any commissioner can be removed, without cause, by the city council. ~~City council can remove at large appointee, without cause.~~

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or circumstances, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or application, and to this end the provisions of this ordinance are declared to be severable. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portions thereof be declared invalid or unconstitutional.

SECTION 6. Effective Date. This Ordinance shall be in full force and effect thirty (30) days after its second reading and adoption.

SECTION 7. Certification. The City Clerk of the City of Chino shall certify to the passage and adoption of this Ordinance and shall cause the same to be published in the Chino Champion, a newspaper of general circulation, within said City in accordance with the provisions of the Government Code.

PASSED, APPROVED, AND ADOPTED THIS 21ST DAY OF NOVEMBER 2023.

By: _____
EUNICE M. ULLOA, MAYOR

ATTEST:

By: _____
NATALIE GONZAGA, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) §
CITY OF CHINO)

I, Natalie Gonzaga, City Clerk of the City of Chino do hereby certify that the foregoing Ordinance of the City of Chino was duly adopted by said City Council at a regular meeting held on the 21st day of November 2023 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

By: _____
 NATALIE GONZAGA, CITY CLERK

**MEMORANDUM
CITY OF CHINO
DEVELOPMENT SERVICES DEPARTMENT**

CITY COUNCIL MEETING DATE: NOVEMBER 21, 2023

TO: LINDA REICH, CITY MANAGER

FROM: WARREN MORELION, AICP, DIRECTOR OF DEVELOPMENT SERVICES

SUBJECT

Adoption of Ordinance No. 2023-020.

RECOMMENDATION

Approve the adoption of Ordinance No. 2023-020 on second reading, amending Chapters 12.02, 12.04, and 12.08 of Title 12 of the Chino Municipal Code.

FISCAL IMPACT

There is no fiscal impact.

CITY OF CHINO MISSION / VISION / VALUES / STRATEGIC ISSUES

The recommendation detailed above will further the City's values and strategic issues that serve as key pillars on which identified priorities, goals, and action plans are built, by fostering:

- Superior Customer Service
- Responsible Long-Range Planning

Revenue:	Expenditure:
Transfer In:	Transfer Out:

BACKGROUND

This matter was introduced on first reading by the Council at their November 7, 2023 meeting. The ordinance clarifies the City's current practices and procedures, as well as addresses issues staff has encountered in the past with the implementation of these chapters. The updates provide superior customer service by implementing more efficient and effective requirements pertaining to the City right-of-way, as well as promote responsible long-range planning through the implementation of requirements that help ensure orderly development continues throughout the City in accordance with the General Plan.

Once adopted on second reading, the ordinance will go into effect thirty (30) days thereafter.

ISSUES/ANALYSIS

ORDINANCE NO. 2023-020:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHINO, CALIFORNIA, AMENDING CHAPTERS 12.02 (PROTECTION OF INTERESTS WITHIN THE RIGHT-OF-WAY), 12.04 (STREETS), AND 12.08 (CURBS, GUTTERS, SIDEWALKS, ASPHALT CONCRETE STREET PAVEMENT AND STREET LIGHTS) OF TITLE 12 OF THE CHINO MUNICIPAL CODE.

Attachment – Ordinance 2023-020

ORDINANCE NO. 2023-020

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHINO, CALIFORNIA, AMENDING CHAPTERS 12.02 (PROTECTION OF INTERESTS WITHIN THE RIGHT-OF-WAY), 12.04 (STREETS), AND 12.08 (CURBS, GUTTERS, SIDEWALKS, ASPHALT CONCRETE STREET PAVEMENT AND STREET LIGHTS) OF TITLE 12 OF THE CHINO MUNICIPAL CODE

WHEREAS, the City reviews and updates the provisions of Title 12, Streets, Sidewalks and Other Public Places, from time to time to ensure the regulations therein are consistent with current standards and suited to current conditions and circumstances in the City of Chino.

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

Section 1. Chapter 12.02 of the Chino Municipal Code is hereby replaced in its entirety with the following:

Chapter 12.02 - PROTECTION OF INTERESTS WITHIN THE PUBLIC RIGHT-OF-WAY

Sections:

• **12.02.010 - Legislative purposes.**

- A. The primary purpose of this chapter is to protect the life and property of the public, as well as the interests, rights and property of the city, from the impacts of encroachments within the public right-of-way. The secondary purpose of this chapter is to ensure that encroachments are conducted in accordance with the provisions of this chapter, the code and all other applicable laws and regulations, and to ensure that those who encroach in the public right-of-way are required to mitigate all adverse impacts of their activities on life, interests, rights and property, including those belonging to the city.
- B. In order to effectuate the purposes of this chapter, the director is vested with the authority and discretion to implement the provisions of this chapter, the code and all other applicable laws and regulations.

• **12.02.020 - Definitions.**

The following words or terms shall have the meanings described below:

- A. "City" means the city of Chino and its employees, officers, officials, and contractors.
- B. "Code" means the Chino Municipal Code.
- C. "Director" means the director of public works or development services or their designee.
- D. "Emergency repairs" means those repairs that are necessary when a vital infrastructure service has been damaged, compromised, or has failed resulting in a loss of service or constituting a hazard to public safety.

- E. "Encroach" means to engage in or cause an encroachment.
- F. "Encroachment" means any of the following activities conducted within the public right-of-way or on private property in a way that impacts the right-of-way:
 1. Construction, demolition, alteration, excavation, grading, resurfacing, repair, or other related work.
 2. Installation, removal, or modification of any structure or improvement.
 3. The placement of any obstruction or traffic control device, whether permanent or temporary.

"Encroachment" does not include routine maintenance activities along property frontage, such as the maintenance of private landscaping.

- G. "Encroachment permit" means a permit to encroach issued by the director pursuant to this chapter.
- H. "Person" means any person or entity.
- I. "Public right-of-way" means any and all property, or any other right or interest in property, that the city owns, possesses, controls or regulates, which is used or maintained, or can be used or maintained, to carry, convey, transmit or transport any commodity, electricity, gas, information, oil, signal, storm water, wastewater, water or any other thing, service or substance. The term "public right-of-way" also means any condition, grade, facility, improvement or structure of any kind including, without limitation, any cable, camera, culvert, curb, drain, gutter, light, median, planting, pole, pipe, pump, sewer line, sidewalk, sign, signal, street, storm drain, valve, water line, well, or wire located within any land owned, possessed, controlled or regulated by the city.
- J. "Stop work order" means an order issued by the director demanding immediate cessation of an encroachment.
- K. "Within" means above, from, in, of, on, over, through, to and under.

- **12.02.030 - Encroachment permit.**

- A. No person shall encroach within the public right-of-way without first obtaining an encroachment permit or another permit allowing the encroachment under this Code.
- B. The director is authorized and instructed to impose any and all conditions on each encroachment permit necessary to effectuate the purposes of this chapter, as stated in Section 12.02.010, and to assure compliance with the provisions of the code and all other applicable laws and regulations. The director may promulgate guidelines as necessary to effectuate and interpret this chapter.
- C. Any person who fails to obtain an encroachment permit when required, or to comply with the terms and conditions of such permit, shall immediately cease any encroachment activity regardless of whether a stop work order has been issued by the city.

- **12.02.040 - Application for encroachment permit.**

- A. All persons seeking an encroachment permit shall submit an application for an encroachment permit to the director.
- B. The application required for an encroachment permit shall require submittal of all information reasonably necessary for the issuance of an encroachment permit as determined by the director, including, without limitation, the following:
 1. The name, address and telephone number of the applicant;

2. A description of the nature, location and duration of the proposed encroachment;
 3. The plans and specifications for the proposed encroachment, which shall require the director's approval prior to the issuance of an encroachment permit;
 4. The name, address and phone number of the on-site representative of applicant who is authorized to act on behalf of the applicant to accept a "demand for compliance" and "stop work order;" and
 5. A letter of authorization from the applicant if the permit is being obtained on behalf of another person.
- C. The director may also require an applicant to provide the following as part of the application if the director determines that such information is necessary in order to properly assess the risks of a proposed encroachment or to adequately mitigate the impacts and effects of a proposed encroachment:
1. Studies, paid for by the applicant, demonstrating the effects, damages, and risks to life and property of the proposed encroachment; and
 2. Proposals, including agreements, to mitigate the effects, damages, and risks to life and property of the proposed encroachment.
- D. The application shall contain the following statement that shall be read and signed by the person requesting an encroachment permit:

"I _____, hereby apply for an Encroachment permit pursuant to the provisions of Chapter 12.02 of the Chino Municipal Code. I have received and read Chapter 12.02 of the Chino Municipal Code and I understand the requirements imposed upon me or my company and my agents, employees, contractors and suppliers. I understand that any violation of Chapter 12.02 may result in the issuance of a "Demand For Compliance" requiring me to comply with Chapter 12.02 and the directives of the Director of Public Works or Development Services within 24 hours unless I am able to satisfy said Director that such compliance is not required. I further understand that any violation of Chapter 12.02 may result in the issuance of a "Stop Work Order" requiring my project to be halted for an unspecified period of time and the suspension or revocation of any other permit issued to me by the City of Chino for this project. I further understand that any violation of Chapter 12.02 or the terms or conditions of the encroachment permit constitutes a misdemeanor and a public nuisance subject to all penalties and remedies under Chapters 1.12 and 1.15 of the Chino Municipal Code, in addition to potential suspension or revocation of the encroachment permit. Finally, I understand and agree to compensate the City of Chino and any other party for all costs to restore any and all damage to the public right-of-way, other city property, and other life or property, and for all remediation costs of all environmental damage caused, directly or indirectly, by my acts or omissions as required by Chapter 12.02 of the Chino Municipal Code. DATED: _____ By: _____"

• **12.02.050 - Fees, insurance and security.**

- A. Each applicant for an encroachment permit shall pay a fee, as determined by resolution of the city council, to reimburse the city for the cost of all staff time and administrative expenses necessary to process the application for an encroachment permit, including such costs and administrative expenses for plan checking, engineering, inspection and any costs of necessary construction by city forces or contractors.

- B. Each applicant seeking an encroachment permit shall furnish evidence of insurance in an amount determined by the director to be sufficient to protect life and property and city property including the public right-of-way from any damage or risk of harm potentially resulting from the encroachment.
 - C. Each person or entity shall deposit security with the city, as a condition of issuance of an encroachment permit, in an amount determined by the director to be sufficient to afford security for life and property, to repair or restore any property including the public right-of-way, and to assure compliance with all applicable laws and regulations, except that the director may exempt any public utility company regulated by the public utilities commission or municipal corporation. Any such security may be in the form of a cash deposit, bond or letter of credit. Such security may be utilized by the city to repair or restore any damage to property including the public right-of-way to a like or a better condition than existed prior to the issuance of such encroachment permit, or conform to the requirements of any condition of the encroachment permit.
 - D. The director may require an applicant to pay damages to the city or other person or entity who sustains or will sustain damage due to the applicant's encroachment as a condition of the issuance of an encroachment permit.
- **12.02.060 - Action of director.**
 - A. After submission of a completed application for an encroachment permit, the director shall take one of the following actions:
 1. Deny the encroachment permit, in whole or in part; or
 2. Issue the encroachment permit with conditions necessary to protect life and property, and to guarantee compliance with this chapter, the code and all other applicable laws and regulations for the duration of the encroachment.
 - B. Each encroachment permit issued to an applicant by the director shall define and limit the nature, scope and duration of the encroachment.
 - C. Unless otherwise specified, encroachment permits are valid for 90 days from the date the permit is issued. Every permittee shall complete the work within the time required by the permit. The director may grant a time extension at his or her discretion. The permittee shall submit an application for an extension and pay an administrative fee prior to the expiration of the encroachment permit.
 - **12.02.070 - Duty to protect life and property.**
 - A. All persons encroaching within the public right-of-way shall protect all life and property from any damage or any risk of harm that may be caused by such encroachment. This duty shall continue for the full duration of the encroachment.
 - B. All persons encroaching within the public right-of-way who, directly or indirectly, cause any damage, interference, or obstruction to city or private property shall restore such property to a like or better condition that existed prior to the damage, interference or obstruction, to the satisfaction of the director.
 - C. Any person who fails to restore the public right-of-way, or such interests, rights or property belonging to the city or private property to the satisfaction of the director shall be liable for all costs to restore same and for reasonable attorney's fees and expert witness fees in the event litigation or other legal action is required to collect such costs.

- D. All persons shall comply with the requirements of this code and all applicable state and federal laws and regulations prior to and following the issuance of an encroachment permit.

- **12.02.080 – Pavement cutting.**

Pavement cutting and excavation within the city shall be prohibited as follows:

- A. After any street has been constructed, reconstructed, or paved by the city, under a city contract, or under a permit, no pavement cutting or excavation will be permitted for a period of five years after the city determines the construction has been completed. This will include asphalt overlays, pavement reconstruction/rehabilitation, and new pavement construction. After any street has been slurry sealed by the city, under a city contract, or under a permit, no pavement cutting or excavation will be permitted for a period of three years after the city determines the construction has been completed.
- B. The director or city engineer may grant exemptions to this prohibition in order to facilitate new development on adjacent properties, provide for emergency repairs to subsurface facilities, provide for underground service connections to adjacent properties, or allow the upgrading of underground utility facilities.
- C. When an encroachment permit for pavement cutting is granted by the director or city engineer, all restoration and repair work shall be completed in accordance with the city's Street/Alley Resurfacing Policy for streets/alleys under moratorium. This policy may be adopted and updated by the director from time to time as deemed necessary by the director.

- **12.02.090 – Road closures.**

As a condition of each encroachment permit, the permittee shall comply with and be bound by the city's Road Closure Permit Policy.

- **12.02.100 - Inquiry identification number.**

Prior to the start of the work authorized by the encroachment permit, each applicant shall obtain an Inquiry Identification Number from the Regional Notification Center for Underground Center Alert of Southern California, pursuant to the Government Code sections 4216 through 4217.

- **12.02.110 - Demand for compliance.**

Upon any violation of the provisions of this chapter or the terms and conditions of an encroachment permit, the director may serve a "demand for compliance" upon the applicant to whom an encroachment permit has been issued, or its on-site representative, demanding compliance with such requirements within twenty-four hours after personal service of such demand for compliance or seventy-two hours after the date of mailing by the city. The demand for compliance shall include the following information:

- A. The name of the applicant;

- B. The encroachment permit number;
 - C. The nature and location of each violation;
 - D. The time and place for applicant to meet and confer with the director prior to the time and date set for compliance, for the purpose of determining whether such compliance is necessary.
- **12.02.120 - Stop work order.**
 - A. In the event that the applicant to whom the encroachment permit has been issued fails to comply with the "demand for compliance" or to meet and confer with the director to secure a determination that such compliance is not necessary prior to the time set for compliance in the demand for compliance, the director may issue a "stop work order" to the applicant prohibiting any further encroachment activity that fails to comply with the provisions of this chapter or the terms and conditions of the encroachment permit, or reasonably appears to have caused any damage or obstruction within the public right-of-way or private property, or has imperiled or is reasonably likely to imperil life, safety or property, or imperils compliance with any other applicable law or regulation, including this code. Further, the director may suspend or revoke the encroachment permit pursuant to the provisions of this chapter, and the city building official may suspend or revoke any building permit for the same activity for which an encroachment permit has been issued. In such event, the city building official shall follow the procedures provided by the City adopted California Building Code.
 - B. The director may also issue a stop work order to any other person for any violation of this chapter with or without a "demand for compliance" having been issued.
 - C. Stop work orders will be posted at the work site and, if reasonably possible, will be personally served on the applicant for the encroachment permit or another person who appears to be in charge of the work; provided, that failure to personally serve the stop work order will not invalidate the stop work order.
 - D. Upon posting of a stop work order, all activity related to the encroachment that is subject to the stop work order shall immediately cease. The effective date of the stop work order shall be the date it is posted by the city.
 - E. Causing, allowing or permitting activity in violation of a stop work order shall constitute a violation of this code.
 - F. No person shall remove or deface a stop work order, or allow or cause such to occur.
 - G. A stop work order shall be a cumulative remedy, and may be used in lieu of, in conjunction with, or in addition to any other remedy provided by this code, including permit suspension or revocation proceedings pursuant to this chapter.
 - **12.02.130 – Construction of improvements within the right-of-way or city easements.**
 - A. Permanent structures shall not be constructed within a city utility easement, or in a manner that otherwise interferes with city access to a city utility easement, unless approved in writing by the director or city engineer. Any structure constructed in violation of this section shall constitute a nuisance and may be abated in accordance with the provisions of chapter 8.50 of this code or as otherwise provided by law.

- B. The director, in his or her sole discretion, may permit the owner of any property to construct a fence or wall or other improvement within portions of the right-of-way adjacent to the property where future street widening or other frontage improvements are anticipated but are not yet required by the city. Prior to the construction of such private improvements in the right-of-way, the owner of the adjacent property shall enter into an agreement with the city, in a form approved by the city attorney, which shall be recorded against the private property and run with the land and be binding on future owners, and which shall state the conditions under which the improvement shall be removed, who is responsible for the removal and the cost of removal, and the required timing of the removal. If the property owner is required to remove the improvement but does not do so, the city may remove the improvement and assess the costs of such removal as a lien against the property.
- **12.02.140 – Permit suspension and revocation.**
 - A. *Determination by the director to suspend or revoke a permit.* Whenever the director determines that work performed under a permit issued pursuant to this chapter has been undertaken or is being carried out in a manner that violates the terms or conditions of the permit, violates any term of an agreement with the city, violates this chapter or this code, is in violation of a stop work order issued by the city, or that the permit was issued based on an application or plans and specifications that contained a material misrepresentation of fact, the director may suspend or revoke the permit pursuant to this section.
 - B. *Notice of order suspending or revoking a permit.* Upon determining to order the suspension or revocation of a permit issued under this chapter, the director shall cause written notice of such order to be served on the permittee in the manner provided in this section. In addition to setting forth the order of the director suspending or revoking the permit, such notice shall contain a brief description of the reasons why the permit is being suspended or revoked, if applicable, the duration of the suspension and conditions to reinstatement, and shall contain a statement that the permittee has the right to appeal the order in the manner provided by this chapter.
 - C. *Method of service on a permittee.* Any notice required by this chapter to be served on a person applying for or issued a permit under this chapter, including but not limited to a stop work order, shall be served by personal delivery or first class mail sent to the address set forth on the permit application, unless the person has provided the director with written notice of a change of address. Service shall be deemed completed on the date it is properly addressed and deposited in the mail, or personally delivered.
 - D. *Method of service on other persons.* Any notice required by this chapter to be served on a person who has not applied for or obtained a permit under this chapter, including but not limited to a stop work order, shall be served by personal delivery or first class mail sent to the person's last known address. Service shall be deemed completed on the date it is properly addressed and deposited in the mail, or personally delivered.
 - E. *Effect of order suspending or revoking a permit.* A permittee served with a notice of the order of the director suspending or revoking a permit issued under this

chapter shall promptly terminate the encroachment or other work authorized by the permit, and restore the public right-of-way or other city property or easement in which such encroachment or other work was undertaken or carried out to the same condition as it was in prior to commencement of the encroachment or other work, or such modified condition as may be approved by the director.

- **12.02.150 – Appeals**

Any recipient of a stop work order, or suspension or revocation of an encroachment permit, may appeal the order, suspension, or revocation by filing a written appeal with the city clerk within ten calendar days of the date the order, or notice of suspension or revocation, is served. The appeal must show cause why the stop work order should not have been issued, or why the permit should not have been suspended or revoked. The city manager, or designee, shall set a hearing date on the appeal not more than ten calendar days from receipt of the written appeal and shall give the appellant notice of the hearing date through the method of service provided in Section 12.02.140. The decision of the city manager, or designee, on the appeal shall be final. The failure to file a timely and complete appeal as required herein shall constitute a waiver of all rights to appeal and a failure to exhaust administrative remedies. The submittal of an appeal shall not stay the stop work order, or suspension or revocation of an encroachment permit.

- **12.02.160 – Violation of encroachment permit, stop work order, agreement, or other violation of this chapter.**

- A. A violation of this chapter constitutes a misdemeanor, punishable pursuant to chapter 1.12 (General Penalty), at the discretion of the city prosecutor, as well as by administrative citation and fine, at the discretion of the city, pursuant to chapter 1.15 (Administrative Fines).
- B. A violation of this chapter constitutes a public nuisance that may be abated, restrained or prevented by any means authorized by law, including injunctive relief.
- C. Violation of any term of an agreement entered into with the city pursuant to this chapter shall also constitute a violation of this chapter, and shall be subject to the provisions of this section.
- D. Each day a violation of this chapter continues constitutes a separate and distinct violation.
- E. The remedies provided in this chapter are intended to be cumulative. Nothing in this chapter shall be deemed to prevent the city from utilizing any remedy in addition to, or in lieu of, any other remedy.

Section 2. Chapter 12.04 of the Chino Municipal Code is hereby replaced in its entirety with the following:

Chapter 12.04 - STREETS

Sections:

- **12.04.010 - Street dedication requirement**

No building permit shall be issued for any lot unless one-half of the street, which is located on the same side of the centerline of the street as such lot, has dedicated right-of-way for the full width of the lot along all street frontages so as to meet the City's General Plan and other city standards for such street.

- **12.04.020 – Waivers to requirement**

- A. Street dedication may be waived by the city engineer under any one of the following conditions:
 1. When a building permit is issued for an addition which does not increase the floor area of an existing structure by more than five percent, and such addition is not constructed within the existing right-of-way or future right-of-way as identified in the City's General Plan;
 2. When a building permit is issued for the remodeling or reconstruction of a building in any zone, and the value of such remodeling or reconstruction as determined by the building official does not exceed 10 percent of the assessed value of such building as shown on the latest adopted county assessor's tax roll;
 3. When a building permit is issued in any zone for the purpose of demolition of a structure;
 4. When a building permit is issued in any zone for the construction of a wall or fence as long as such wall or fence is not constructed within the existing right-of-way or future right-of-way as identified in the City's General Plan.
 5. When a building permit is issued for the construction of accessory dwelling units, garages, carports, storage buildings, patio covers, swimming pools, and similar structures accessory to a single-family residence; and
 6. Where dedication of the standard right-of-way is impractical as determined by the city engineer.
- B. Notwithstanding any applicable exception in subsection (A), the city engineer may require dedication if the city engineer finds the change to the lot will cause sufficient increase in traffic flow to warrant widening the street.

Section 3. Chapter 12.08 of the Chino Municipal Code is hereby replaced in its entirety with the following:

Chapter 12.08 – CONSTRUCTION OF PUBLIC IMPROVEMENTS

Sections:

- **12.08.010 - Absence dangerous to public health and safety.**

The absence of curbs, gutters, sidewalks, asphalt concrete pavement and street lights in the streets adjoining dwellings, buildings, private, public or semipublic parking lots, and residential, commercial, or industrial lots within the city is found and declared to be dangerous to the public health and safety of the inhabitants of the city.

- **12.08.020 - Required frontage improvements.**

Any person or entity constructing, altering or enlarging any building, dwelling, or private, public or semipublic parking lot, or developing any residential, commercial, institutional or industrial lots in the city shall provide, at their own cost, for the construction and installation of concrete curbs, gutters, asphalt concrete street pavement, sidewalks, street lights, parkway landscaping, and street trees, including, as needed, the relocation and/or reconstruction of any existing frontage improvements, in order to provide a fully improved frontage for such property that complies with all requirements, standards and specifications of the city, including the city's General Plan.

- **12.08.030 - Location of improvements.**

The improvements referred to in section 12.08.020 shall be constructed along all public street frontage adjoining the lot, which is located on the same side of the centerline of the street of such lot, upon which the building, dwelling, private, public or semipublic parking lot, or residential, commercial, institutional or industrial development is to be constructed, unless adequate curbs, gutters, sidewalks, asphalt concrete street pavement and street lights already exist in accordance with the requirements referred to in such section 12.08.020 along such street frontage.

- **12.08.040 – Requirements prior to building permit issuance.**

The Building Official shall not issue a Building Permit for any dwelling, building, private, public or semipublic parking lot, or for the development of any residential, commercial or industrial lot until the city engineer receives a notice of compliance verifying that the improvements required by this chapter exist or that the applicant has entered into a construction agreement with the City, in a form approved by the city attorney, and provided acceptable security in an amount equal to the estimated cost of the construction of such improvements to guarantee the construction of such improvements, as provided in section 12.08.080. The agreement shall establish a timeline for completion of the improvements.

- **12.08.050 - Exceptions to provisions.**

The provisions of this chapter shall not apply to the following:

1. Reconstruction of a building or structure, provided the total cost of the improvements to the building or structure does not exceed 50 percent of the value of the existing building or structure as shown on the latest adopted assessor's tax roll;
2. Any addition to an existing single-family residence;

3. Construction of accessory dwelling units, garages, carports, storage buildings, patio covers, swimming pools, walls, fences and similar structures accessory to a single-family residence;
 4. Any addition or cumulative additions, within a 5-year period, to an existing commercial, office or multi-family residential building totaling less than 2,500 square feet. The provision will not apply if such addition(s) constitute more than 50 percent of the gross floor area of the existing building;
 5. Any addition or cumulative additions, within a 5-year period, to an existing industrial and/or institutional building total less than 10,000 square feet. The provision will not apply if such addition(s) constitute more than 50 percent of the gross floor area of the existing building;
 6. Construction of accessory structures to a commercial/industrial/institutional building such as walls, fences, signs, billboards, structural covers on existing outdoor storage, fuel pump buildings, and carport structures over existing parking stalls; or
 7. Notwithstanding the foregoing, alterations which do not intensify the use of the building or structure or generate a greater hazard to public health and safety as determined by the City Engineer.
- **12.08.060 - Modification of provisions.**

In unusual conditions or when compliance with the provisions of this chapter would constitute an extreme hardship or would be impractical, the city council may, upon written request of the property owner and payment of applicable review fees, waive or defer the requirements contained in this chapter as it may deem fit. The city council may impose any reasonable condition on a grant of a waiver or deferral under this chapter. The city council's action shall be final.

- **12.08.070 - Fees in-lieu of construction.**

Notwithstanding the provisions of this chapter, the construction of curbs, gutters, sidewalks, asphalt concrete pavement and street lighting, either one or all, will not be required if determined to be infeasible or impractical at the discretion of the City Engineer, provided the property owner pays to the city a fee equal to the total estimated cost of the improvements, to be calculated using standard unit prices on file in the office of the city engineer, and inclusive of applicable escalation and administrative costs, to secure the future construction of curbs, gutters, sidewalks, asphalt concrete street pavement and street lights, either one or all.

- **12.08.080 – Performance security.**

Any person or entity subject to the requirements of 12.08.020, who does not pay a fee in-lieu of construction pursuant to section 12.08.070, shall deposit security with the city, as a condition of issuance of a building permit and prior to initiation of any work, in an amount determined by the City Engineer to be sufficient to complete the requirements of section 12.08.020 and this chapter, and to assure compliance with all applicable laws and regulations. The city may require such person to submit construction plans for completion of the work required in section 12.08.020 and cost estimates if necessary to determine the amount of the required security. Any such security may be in the form of a cash deposit, bond or letter of credit. Such security may be utilized by the city to

complete the construction and other work required by this chapter and other applicable laws.

• **12.08.090 – Violations**

- A. A violation of this chapter constitutes a misdemeanor, punishable pursuant to chapter 1.12 (General Penalty), at the discretion of the city prosecutor, as well as by administrative citation and fine, at the discretion of the city, pursuant to chapter 1.15 (Administrative Fines).
- B. A violation of this chapter constitutes a public nuisance that may be abated, restrained or prevented by any means authorized by law, including injunctive relief.
- C. Violation of any term of an agreement entered into with the city pursuant to this chapter shall also constitute a violation of this chapter, and shall be subject to the provisions of this section.
- D. It shall constitute a violation of this chapter for a person or entity to fail to properly and/or timely complete the requirements of this chapter, including sections 12.08.020 and 12.08.030.
- E. Any permit issued for work required or authorized by this chapter, including a building permit, shall be subject to suspension or revocation in the event of a violation of this chapter. Such suspension or revocation shall follow the procedures set forth in sections 12.02.140 and 12.02.150 of this code.
- F. Each day a violation of this chapter continues constitutes a separate and distinct violation.
- G. The remedies provided in this chapter are intended to be cumulative. Nothing in this chapter shall be deemed to prevent the city from utilizing any remedy in addition to, or in lieu of, any other remedy.

Section 4. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or circumstances, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or application, and to this end the provisions of this ordinance are declared to be severable. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portions thereof be declared invalid or unconstitutional.

Section 5. Effective Date. This Ordinance shall be in full force and effect thirty (30) days after its second reading and adoption.

Section 6. Certification. The City Clerk of the City of Chino shall certify to the passage and adoption of this Ordinance and shall cause the same to be published in the *Chino Champion*, a newspaper of general circulation, within said City in accordance with the provisions of the Government Code.

ADOPTED THIS 21ST DAY OF NOVEMBER 2023.

By: _____
EUNICE M. ULLOA, MAYOR

ATTEST:

By: _____
NATALIE GONZAGA, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) §
CITY OF CHINO)

I, Natalia Gonzaga, City Clerk of the City of Chino do hereby certify that the foregoing Ordinance of the City of Chino was duly adopted by said City Council at a regular meeting held on the 21st day of November 2023 by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

By: _____
NATALIE GONZAGA, CITY CLERK

**MEMORANDUM
CITY OF CHINO
DEVELOPMENT SERVICES DEPARTMENT**

CITY COUNCIL MEETING DATE: NOVEMBER 21, 2023

TO: LINDA REICH, CITY MANAGER

FROM: WARREN MORELION, AICP, DIRECTOR OF DEVELOPMENT SERVICES

SUBJECT

Public Improvement Agreement - Kaykel Investment Properties, Inc.

RECOMMENDATION

Approve Public Improvement Agreement and securities with Kaykel Investment Properties, Inc. for Site Approval PL18-0047 and authorize the City Manager to execute the necessary documents on behalf of the City.

FISCAL IMPACT

There is no direct fiscal impact.

CITY OF CHINO MISSION / VISION / VALUES / STRATEGIC ISSUES

The recommendation detailed above will further the City's values and strategic issues that serve as key pillars on which identified priorities, goals, and action plans are built, by fostering:

- Responsible Long-Range Planning

Revenue: Click or tap here to enter text.	Expenditure:
Transfer In: Click or tap here to enter text.	Transfer Out: Click or tap here to enter text.

BACKGROUND

On October 21, 2019, the City’s Planning Commission conditionally approved Site Approval PL18-0047 for the construction of a 3,200-square foot convenience store, 1,600-square foot attached quick service restaurant, 3,000-square foot gas station, and a 1,563-square foot detached express car wash on a 1.53-acre site (“Project”). The Project is located on the northeast corner of Central Avenue and El Prado Road in the City’s Commercial Office zoning district (Exhibit A).

Over the last few years, the City has granted one-year time extensions to the applicant, Kaykel Investment Properties, Inc. Project delays have occurred due to the COVID-19 pandemic, funding uncertainties, and difficulties obtaining contract services to complete the final engineering. Project delays were also the result of significant gaps occurring between each plan check submittal during the final engineering phase. The applicant was required to go through several rounds of plan check to address all the City comments. The Project is now currently under construction.

The Engineering Conditions of Approval (COA) for the Project require public improvements including, but not limited to curb, gutter, sidewalk, streetlights, traffic signal, signal interconnect, asphalt concrete pavement, signing & striping, landscape, domestic water, recycled water, and drainage improvements on the northeast corner of Central Avenue and El Prado Road. To guarantee the completion of these public improvements, the developer is required to enter into a Public Improvement Agreement and obtain the necessary securities for the improvements.

ISSUES/ANALYSIS

The COA requirements of the Project have been met with the execution of the Public Improvement Agreement and by posting the necessary securities to guarantee the construction of the required public improvements. The City Attorney reviewed and approved the Public Improvement Agreement and respective securities, which is attached as Exhibit B.

Attachments: Exhibit A - Location Map Master Site Approval PL21-0045
Exhibit B - Public Improvement Agreement

Exhibit A

LOCATION MAP



PUBLIC IMPROVEMENT AGREEMENT

by and between

CITY OF CHINO

and

KAYKEL INVESTMENT PROPERTIES, INC.

PUBLIC IMPROVEMENT AGREEMENT BETWEEN
THE CITY OF CHINO
AND
KAYKEL INVESTMENT PROPERTIES, INC.

Agreement Date: November 21, 2023

Developer Name: Kaykel Investment Properties, Inc

Project Description: On October 21, 2019, the City's Planning Commission conditionally approved Site Approval PL18-0047 for the construction of a 3,200-square foot convenience store, 1,600-square foot attached quick service restaurant, 3,000-square foot gas station, and a 1,563-square foot detached express car wash on a 1.53-acre site ("Project"). The Project is located on the northeast corner of Central and El Prado Avenues in the City's Commercial Office zoning district.

Project No.: PL18-0047

Estimated Total Cost of Improvements: \$746,700.00

Security:

Bond No.: _____

Surety: _____

Designees for the Service of Written Notice:

CITY:	DEVELOPER
Jesus Plasencia Assistant City Engineer 13220 Central Avenue Chino, CA 91710 (909) 334-3417 jplasencia@cityofchino.org	Ron Reger rreger@fuelup.store 714-231-5922 Kaykel Investment Properties Fueling Convenience 4350 Green River Rd Corona, CA 92878
CITY PROJECT INSPECTOR	SURETY
Isaac Ortega Permit & Inspection Supervisor 13220 Central Avenue Chino, CA 91710 (909) 334-3501 iortega@cityofchino.org	

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PUBLIC IMPROVEMENT AGREEMENT

THIS PUBLIC IMPROVEMENT AGREEMENT (this “Agreement”) is entered into this 21st day of November, 2023, by and between the CITY OF CHINO, a municipal corporation, organized and existing in the County of San Bernardino, under and by virtue of the laws of the State of California, (“CITY”), and KAYKEL INVESTMENT PROPERTIES, INC. (“DEVELOPER”).

RECITALS

A. Developer is the owner of certain real property located in the City of Chino, County of San Bernardino, State of California (the “Property”), as described on Exhibit “A”, which Developer proposes to develop and construct certain works of improvement thereon, as hereafter set forth.

B. Developer has applied for and received conditional approval from the City to construct a 3,200-square foot convenience store, 1,600-square foot attached quick service restaurant, 3,000-square foot gas station, and a 1,563-square foot detached express car wash on a 1.53-acre site (the “Project”).

C. The City desires to assure that said improvements proposed for the Project will be constructed in a good workmanlike manner and in accordance with all applicable laws, statues, ordinances, resolutions, and regulations now in force and effect in the City of Chino and the State of California, all of which are incorporated herein.

D. The Developer acknowledges familiarity with the various requirements for public improvements contained in the Chino Municipal Code and agrees to comply therewith.

COVENANTS

Based upon the foregoing Recitals which are incorporated herein by reference and in consideration of City’s site plan or other entitlements for the Property and permitting development of the Property to proceed, Developer agrees to timely perform all of its obligations as set forth herein.

1. Construction Obligations.

1.1. Works of Improvement. Developer agrees, at its sole cost and expense, to construct or install, or cause to be constructed or installed the street, drainage, domestic water, sanitary sewer, street lighting, landscaping, utility, and other improvements more fully described as Exhibit “B” attached hereto (the “Works of Improvement”), as the same may be supplemented and revised from time to time as set forth in this Agreement (said plans and specifications, together with all related documents, the “Plans”). The estimated construction cost for the Works of Improvement is \$746,700.00.

1.2. Other Obligations Referenced in Conditions of Tentative Map Approval. In addition to the foregoing, Developer shall satisfy all of the other Conditions associated with the

Project and the Property. The Conditions associated with the Map are included in Exhibit “B” attached hereto.

1.3. Intent of Plans. The intent of the Plans referenced in Section 1.1 is to prescribe a complete work of improvement which Developer shall perform or cause to be performed in a manner acceptable to the City Engineer, (or designee), and in full compliance with all codes and the terms of this Agreement. Developer shall complete a functional or operable improvement or facility, even though the Plans may not specifically call out all items of work required for Developer’s contractor to complete its tasks, incidental appurtenances, materials, and the like. If any omissions are made or information necessary to carry out the full intent and meaning of the Plans, Developer or its contractor shall immediately notify its design engineer who will seek approval of the City Engineer for furnishing of detailed instructions. In the event of any doubt or question arising regarding the true meaning of any of the Plans, reference shall be made to the City Engineer whose decision thereon shall be final.

Developer recognizes that the Plans consist of general drawings. All authorized alterations affecting the requirements and information given on the Plans shall be in writing and approved by the City Engineer. The Plans shall be supplemented by such working or shop drawings as are necessary to adequately control the work. Without the City Engineer’s prior written approval, no change shall be made by Developer or its contractor to any plan, specification, or working or shop drawing after it has been stamped as approved.

1.4. Survey Monuments. Before final approval of street improvements, Developer shall place survey monuments in accordance with the provisions of the State Subdivision Map Act, the Subdivision Ordinance of the City of Chino, and any other applicable law. Developer shall provide security for such obligation as provided in Section 4.1(a)(iii) and, after setting the monuments, Developer shall furnish the City Engineer written notice of the setting of said monuments and written proof of having paid the engineer or surveyor for the setting of said monuments.

1.5. Performance of Work. Developer shall furnish or cause to be furnished all materials, labor, tools, equipment, utilities, transportation, and incidentals required to perform Developer’s obligations under this Agreement.

1.6. Changes in the Work. The City Engineer, without invalidating this Agreement and without notification to any of the sureties or financial institutions referenced in Paragraph 4, may order extra work or may make changes by altering or deleting any portion of the Works of Improvement as specified herein or as deemed necessary or desirable by the City Engineer as determined necessary to accomplish the purposes of this Agreement and to protect the public health, safety, or welfare. The City Engineer shall notify Developer or its contractor in writing (by Correction Notice) at the time a determination has been made to require changes in the work. No field changes performed or proposed by Developer or its contractor shall be binding on City unless approved in writing by the City Engineer. The City and Developer may mutually agree upon changes to the Works of Improvement, subject to the security requirements in Section 4.

1.7. Defective Work. Developer shall cause its contractor to repair, reconstruct, replace, or otherwise make acceptable any work found by the City Engineer to be defective.

1.8. No Warranty by City. The Plans for the Works of Improvement have been prepared by or on behalf of Developer or its consultants or contractors, and City makes no representation or warranty, express or implied, to Developer or to any other person regarding the adequacy of the Plans or related documents.

1.9. Authority of the City Engineer. In addition to the authority granted to the City Engineer elsewhere in this Agreement, the City Engineer shall have the authority to decide all questions which may arise as to the quality and acceptability of materials furnished and work performed, and all questions as to the satisfactory and acceptable fulfillment of the terms of this Agreement by Developer and its contractor.

1.10. Documents Available at the Site. Developer shall cause its contractor to keep a copy of all approved Plans at the job site and shall give access thereto to the City's inspectors and engineers at all times.

1.11. Inspection. Developer shall have an authorized representative on the job site at all times during which work is being done who has full authority to act for Developer, or its design engineer, and Developer's contractor(s) regarding the Works of Improvement. Developer shall cause its contractor to furnish the City with every reasonable facility for ascertaining whether or not the Works of Improvement as performed are in accordance with the requirements and intent of this Agreement, including the Plans. If the City inspector requests it, the Developer's contractor, at any time before acceptance of the Works of Improvement, shall remove or uncover such portions of the finished work as may be directed which have not previously been inspected. After examination, the Developer's contractor shall restore said portions of the work to the standards required hereunder. Inspection or supervision by the City Engineer (or designee) shall not be considered as direct control of the individual workmen on the job site. City's inspectors shall have the authority to stop any and all work not in accordance with the requirements contained or referenced in this Agreement.

The inspection of the work by City shall not relieve Developer or its contractor of any obligations to fulfill this Agreement as herein provided, and unsuitable materials or work may be rejected notwithstanding that such materials or work may have been previously overlooked or accepted.

1.12. Compliance With Law; Applicable Standards for Improvements. In addition to the express provisions of this Agreement and the Plans, Developer shall cause construction of the Works of Improvement to be completed in accordance with all other applicable federal, state, and local laws, ordinances, rules and regulations. In addition, without limiting the foregoing, the Developer shall, at its expense, obtain and comply with the conditions of all necessary permits and licenses for the construction of the Works of Improvement. The Developer shall also give all necessary notices and pay all fees and taxes as required by law.

Developer shall construct the improvements in accordance with the City standards in effect at the time of the adoption of this Agreement. City reserves the right to protect the public safety or welfare or comply with applicable Federal or State law or City zoning ordinances.

1.13. Suspension of Work. The City Engineer shall have authority to order suspension of the work for failure of the Developer's contractor to comply with law pursuant to Section 1.12. In case of suspension of work for any cause whatsoever, Developer and its contractor shall be responsible for all materials and shall store them properly if necessary, and shall provide suitable interim drainage and/or dust control measures, and erect temporary structures where necessary.

1.14. Erosion and Dust Control and Environmental Mitigation. All grading, landscaping, and construction activities shall be performed in a manner to control erosion and prevent flooding problems. The City Engineer shall have the authority to require erosion plans to prescribe reasonable controls on the method, manner, and time of grading, landscaping, and construction activities to prevent nuisances to surrounding properties. Plans shall include without limitation temporary drainage and erosion control requirements, dust control procedures, restrictions on truck and other construction traffic routes, noise abatement procedures, storage of materials and equipment, removal of garbage, trash, and refuse, securing the job site to prevent injury, and similar matters.

1.15. Final Acceptance of Works of Improvement. After Developer's contractor has completed all of the Works of Improvement, Developer shall then request a final inspection of the work. If items are found by the City's inspectors to be incomplete or not in compliance with this Agreement or any of the requirements contained or referenced herein, City will inform the Developer or its contractor of such items. After the Developer's contractor has completed these items, the procedure shall then be the same as specified above for the Developer's contractor's initial request for final inspection. If items are found by City's inspectors to be incomplete or not in compliance after two (2) "final" inspections, the City may require the Developer or its contractor, as a condition to performing further field inspections, to submit in writing a detailed statement of the work performed subsequent to the date of the previous inspection which was found to be incomplete or not in compliance at that time. Developer shall be responsible for payment to City Engineer of re-inspection fees in the amount necessary to cover the City's costs for additional final inspections, as determined by the City Engineer.

No inspection or acceptance pertaining to specific parts of the Works of Improvement shall be construed as final acceptance of any part until the overall final acceptance by the City Engineer is made. The City Engineer shall make a certification of completion and acceptance on the Works of Improvement by recordation of a Notice of Acceptance on behalf of the City. Final acceptance shall not constitute a waiver by the City Engineer of defective work subsequently discovered.

The date on which the Works of Improvement will be considered as complete shall be the date of the Notice of Acceptance.

1.16. Vesting of Ownership. Upon recordation of the Notice of Acceptance, ownership of the Works of Improvement shall vest in the City.

1.17. Developer's Obligation to Warn Public During Construction. Until recordation of the Notice of Acceptance, Developer shall give good and adequate warning to the public of any dangerous condition of the Works of Improvements, and shall take reasonable actions to

protect the public from such dangerous condition. Until recordation of the Notice of Acceptance, Developer shall provide forty-eight (48) hours' advance written notice to all neighboring property owners and tenants affected by Developer's operations or construction of the hours, dates and duration of any planned construction activities.

1.18. Injury to Public Improvements, Public Property or Public Utility. Until recordation of the Notice of Acceptance of the Works of Improvement, Developer assumes responsibility for the care and maintenance of, and any damage to, the Works of Improvements. Developer shall replace or repair all Works of Improvements, public property, public utility facilities, and surveying or subdivision monuments and benchmarks which are destroyed or damaged for any reason, regardless whether resulting from the acts of the Developer, prior to the recordation of the Notice of Acceptance. Developer shall bear the entire cost of such replacement or repairs regardless of what entity owns the underlying property. Any repair or replacement shall be to the satisfaction, and subject to the approval, of the City Engineer.

Neither the City, nor any officer or employee thereof, shall be liable or responsible for any accident, loss or damage, regardless of cause, occurring to the work or Works of Improvements prior to recordation of the Notice of Acceptance of the work or improvements.

2. Time for Performance.

2.1. Commencement and Completion Dates. Subject to Sections 2.2 and 2.3 below, Developer shall (i) commence with construction and installation of the Works of Improvement thirty (30) days following City's approval of the Plans ("Commencement Date"); and (ii) complete or cause to be completed all of the Works of Improvement within two (2) years after the Commencement Date. In the event good cause exists as determined by the City Engineer, the time for commencement of construction or completion of the Works of Improvement hereunder may be extended by up to three (3) additional one-year periods. Extensions shall be executed in writing by the City Engineer. The City Engineer in his or her sole discretion determines whether or not the Developer has established good cause for an extension. As a condition of such extension, the City Engineer may require Developer to furnish new security guaranteeing performance of this Agreement, as extended, in an increased amount to compensate for any increase in construction costs as determined by the City Engineer. If Developer requests and is granted an extension of time for completion of the improvements, City may apply the standards in effect at the time of the extension.

2.2. Phasing Requirements. Notwithstanding the provisions of Section 2.1, the City reserves the right to control and regulate the phasing of completion of specific Works of Improvement as required to comply with applicable City ordinances, regulations, and rules relating to the timely provision of public services and facilities. In addition to whatever other remedies the City may have for Developer's failure to satisfy such phasing requirements, as the same now exist or may be amended from time to time, Developer acknowledges City's right to withhold the issuance of further building permits on the Property until such phasing requirements are satisfied. Prior to issuance of building permits, Developer shall provide satisfactory evidence that all applicable requirements that are a condition to issuance of building permits have been satisfied. Such requirements may include the payment of fees, construction of improvements, or both. Final inspections or issuance of Certificates of

Occupancy may be withheld from the Developer by the City, if, upon a determination by the City Engineer, completion of specific Works of Improvements or other requirements associated with the development of the Property have not been completed to the City Engineer's satisfaction.

2.3. Force Majeure. Notwithstanding the provisions of Section 2.1, Developer's time for commencement and completion of the Works of Improvement shall be extended for the period of any enforced delay caused due to circumstances beyond the control and without the fault of Developer, including to the extent applicable adverse weather conditions, flood, earthquakes, strikes, lockouts, pandemics, acts or failures to act of a public agency (including City), required changes to the scope of work required by City, and similar causes; provided, however, that the period of any enforced delay hereunder shall not include any period longer than five (5) days prior to City's receipt of a written notice from Developer or its contractor detailing the grounds for Developer's claim to a right to extend its time for performance hereunder. The City Engineer shall evaluate all claims to Force Majeure and make a reasonable determination regarding the length of any extension of time for commencement and/or completion of the Works of Improvement and the City Engineer's decision shall be final.

2.4. Continuous Work. After commencement of construction of the Works of Improvement (or separate portion thereof), Developer shall cause such work to be diligently pursued to completion and shall not abandon the work for a consecutive period or more than thirty (30) days, events of Force Majeure excepted.

3. Labor.

3.1. Labor Standards. This Agreement is subject to, and Developer agrees to comply with, all of the applicable provisions of the Labor Code including, but not limited to, the wage and hour, prevailing wage, worker compensation, and various other labor requirements in Division 2, Part 7, Chapter 1, including section 1720 to 1740, 1770 to 1780, 1810 to 1815, 1860 to 1861, which provisions are specifically incorporated herein by reference as set forth herein in their entirety. Developer shall expressly require compliance with the provisions of this Section in all agreements with contractors and subcontractors for the performance of the Works of Improvement.

3.2. Nondiscrimination. In accordance with the California Fair Employment and Housing Act ("FEHA"), California Government Code Section 12940 *et seq.*, Developer agrees that Developer, its agents, employees, contractors, and subcontractor performing any of the Works of Improvement shall not discriminate, in any way, against any person on the basis of race, ethnicity, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Developer shall expressly require compliance with the provisions of this Section in all agreements with contractors and subcontractors for the performance of this Agreement.

3.3. Licensed Contractors. Developer shall cause all of the Works of Improvement to be constructed by contractors and subcontractors with valid California Contractors' licenses for the type of work being performed. All of Developer's contractors and subcontractors shall

obtain a valid City of Chino business license prior to performing any work pursuant to this Agreement. Developer shall provide the City Engineer with a list of all of its contractors and subcontractors prior to initiating any work, and all valid Contractor's licenses and business licenses issued thereto as a condition of constructing the Works of Improvements.

3.4. Worker's Compensation. Developer shall cause every contractor and subcontractor performing any of the Works of Improvement to carry Workers' Compensation Insurance as required by the Labor Code of the State of California and shall cause each such contractor and subcontractor to submit to City a Certificate of Insurance verifying such coverage prior to such contractor or subcontractor entering onto the job site.

4. Security.

4.1. Required Security.

(a) At the time Developer executes this Agreement, Developer shall furnish to City the following bonds, letters of credit, instruments of credit (assignment of deposit account) or other security acceptable to City in its sole and absolute discretion and satisfying the requirements of the applicable provisions of this Section 4 below (hereinafter "Security Instruments"):

- (i) A Security Instrument securing Developer's faithful performance of all of the Works of Improvement ("Faithful Performance Security Instrument"), in the amount of \$746,700.00 equal to 100% of the estimated construction cost referenced in Section 1.1.
- (ii) A Security Instrument guaranteeing the payment to contractors, subcontractors, and other persons furnishing labor, materials, and/or equipment ("Labor and Materials Security Instrument") with respect to the Works of Improvement in an amount equal to \$373,300.00 equal to 50% of the estimated construction cost referenced in Section 1.1.

This Agreement shall not be effective for any purpose until such Security Instruments are supplied to and approved by City in accordance herewith.

(b) Required Security Instrument for Maintenance and Warranty. Prior to the City Council's acceptance of the Works of Improvement and recordation of a Notice of Completion, Developer shall deliver a Security Instrument warranting the work accepted for a period of one (1) year following said acceptance ("Maintenance and Warranty Security Instrument"), in the amount of \$74,700.00 equal to 10% of the estimated construction cost set forth in Section 1.1 or a suitable amount determined by the City Engineer.

4.2. Form of Security Instruments. All Security Instruments shall be in the amounts required under Section 4.1 (a) or 4.1(b), as applicable, shall meet the following minimum requirements and otherwise shall be in a form provided by City or otherwise approved by the City Attorney:

(a) Bonds. For Security Instruments provided in the form of bonds, any such bond must be issued and executed by an insurance company or bank authorized to transact surety business in the State of California. Any insurance company acting as surety shall have a minimum rating of A-IX, as rated by the current edition of Best's Key Rating Guide published by A.M. Best's Company, Oldwick, New Jersey, 08858. Any bank acting as surety shall have a minimum rating of AA, as rated by Moody's or Standard & Poor's.

(b) Letters of Credit. For Security Instruments which are letters of credit, any letter of credit shall be an original separate unconditional, irrevocable, negotiable and transferable commercial letter of credit issued by a financial institution with offices in the State of California acceptable to City. Any such letter of credit shall specifically permit City to draw on same by unilateral certification of the City Engineer of the City that Developer is in default under its payment or performance obligations hereunder or in the event Developer fails to deliver a replacement letter of credit not less than thirty (30) days prior to the date of expiration of any such letter of credit and shall further be subject to the provisions of Section 4.4.

(c) Instrument of Credit. For Security Instruments which are Instruments of Credit, any Instrument of Credit shall be an assignment of deposit account assigning as security to City all of Developer's interest in funds on deposit in one or more bank accounts with financial institutions acceptable to City.

(d) General Requirements for all Security Instruments.

- (i) Payments under any Security Instruments shall be required to be made (and, with respect to bonds, litigation shall be required to be instituted and maintained) in the City of Chino, State of California (and the Security Instrument shall so provide).
- (ii) Each Security Instrument shall have a minimum term of one (1) year after the deadline for Developer's completing the Works of Improvement, in accordance with Section 2.1 (other than Instruments of Credit, which shall have no defined term or expiration date).
- (iii) Each Security Instrument shall provide that changes may be made in the Works of Improvement pursuant to the terms of this Agreement without notice to any issuer or surety and without affecting the obligations under such Security Instrument.
- (iv) If the Developer seeks to replace any security with another security, the replacement shall: (1) comply with all the requirements for security in this Agreement; (2) be provided by the Developer to the City Engineer; and (3) upon its written acceptance by the City Engineer, be deemed a part of this Agreement. Upon the City

Engineer's acceptance of a replacement security, the former security shall be released by the City.

4.3. Developer's Liability. While no action of Developer shall be required in order for City to realize on its security under any Security Instrument, Developer agrees to cooperate with City to facilitate City's realization under any Security Instrument, and to take no action to prevent City from such realization of any Security Instrument. Notwithstanding the giving of any Security Instrument or the subsequent expiration of any Security Instrument or any failure by any surety or financial institution to perform its obligations with respect thereto, Developer shall be personally liable for performance under this Agreement and for payment of the cost of the labor and materials for the improvements required to be constructed or installed hereby and shall, within ten (10) days after written demand therefor, deliver to City such substitute security as City shall require satisfying the requirements in this Section 4.

4.4. Letters of Credit.

(a) In the event a letter of credit is given pursuant to Section 4.2(b), City shall be entitled to draw on any such letter of credit if a replacement letter of credit (expiring in not less than one (1) year, unless City agrees to a lesser term in City's sole and absolute discretion) is not delivered not less than thirty (30) days prior to the expiration of the original letter of credit, such substitute letter of credit being in the same amount and having the terms and conditions as the initial letter of credit delivered hereunder, issued by a financial institution acceptable to City as of the date of delivery of the replacement letter of credit.

(b) In the event of draw by the City on a letter of credit, the City may elect, in its sole and absolute discretion, to apply any such funds drawn to the obligations secured by such letter of credit or to hold such funds in an account under the control of the City, with no interest accruing thereon for the benefit of the Developer. If the City elects to hold the funds in an account pursuant to the foregoing, City may thereafter at any time elect instead to apply such funds as provided in the foregoing. Developer agrees and hereby grants City a security interest in such account to the extent required for City to realize on its interests therein and agrees to execute and deliver to City any other documents requested by City in order to evidence the creation and perfection of City's security interest in such account.

4.5. Release of Security Instruments. The City shall release all Security Instruments consistent with Government Code Sections 66499.7 and 66499.8, Section 19.09.010 of the Chino Municipal Code, and as follows:

(a) City shall release the Faithful Performance Security Instrument and Labor and Materials Security Instrument when all of the following have occurred:

(i) Developer has made written request for release and provided evidence of satisfaction of all other requirements in this Section 4.5;

(ii) the Works of Improvement have been accepted;

(iii) Developer has delivered the Maintenance and Warranty Security Instrument; and

(iv) after passage of the time within which lien claims are required to be made pursuant to Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code of the State of California. If lien claims have been timely filed, City shall hold the Labor and Materials Security Instrument until such claims have been resolved, Developer has provided a statutory bond, or otherwise as required by applicable law.

(b) City shall release the Maintenance and Warranty Security Instrument upon Developer's written request upon the expiration of the warranty period, and settlement of any claims filed during the warranty period.

(c) The City may retain from any security released, an amount sufficient to cover costs and reasonable expenses and fees, including reasonable attorney's fees.

5. Cost of Construction and Provision of Inspection Service.

5.1. Developer Responsible for All Costs of Construction. Developer shall be responsible for payment of all costs incurred for construction and installation of the Works of Improvement. In the event Developer is entitled to reimbursement from City for any of the Works of Improvement, such reimbursement shall be subject to a separate Reimbursement Agreement to be entered into between Developer and City prior to construction of the Works of Improvement.

5.2. Payment to City for Cost of Related Inspection and Engineering Services. Developer shall compensate City for all of City's costs reasonably incurred in having its authorized representative make the usual and customary inspections of the Works of Improvement. In addition, Developer shall compensate City for all design, plan check, evaluating any proposed or agreed-upon changes in the work. The procedures for deposit and payment of such fees shall be as established by the City. In no event shall Developer be entitled to additional inspections or a final inspection and acceptance of any of the Works of Improvement until all City fees and charges have been fully paid, including without limitation, charges for applicable penalties and additional required inspections.

5.3. Payment of Development Impact Fees. Developer shall pay Development Impact Fees pursuant to and in accordance with Chino Municipal Code Chapter 3.40 and Chapter 3.45, as applicable.

6. Acceptance of Offers of Dedication. The City Council shall pass as appropriate resolution or resolutions accepting all offers of dedication shown on the approvals for the Project, with acceptance to become effective upon completion and acceptance by City of the Works of Improvement.

7. Warranty of Work. Developer shall guarantee all Works of Improvement against defective materials and workmanship for a period of one (1) year from the date of final acceptance. If any of the Works of Improvement should fail or prove defective within said one (1) year period due to any reason other than improper maintenance, or if any settlement of fill or backfill occurs, or should any portion of the Works of Improvement fail to fulfill any requirements of the Plans, Developer, within fifteen (15) days after written notice of such defects, or within such shorter time as may reasonably be determined by the City in the event of emergency, shall commence to repair or replace the same together with any other work which may be damaged or displaced in so doing. Should Developer fail to remedy defective material and/or workmanship or make replacements or repairs within the period of time set forth above, City may make such repairs and replacements and the actual cost of the required labor and materials shall be chargeable to and payable by Developer. The warranty provided herein shall not be in lieu of, but shall be in addition to, any warranties or other obligations otherwise imposed by law.

8. Default.

8.1. Default by Developer. Default by Developer shall include, but not be limited to:

- (a) Developer's failure to timely commence construction of Works of Improvement under this Agreement;
- (b) Developer's failure to timely complete construction of the Works of Improvement;
- (c) Developer's failure to perform substantial construction work for a period for 20 consecutive calendar days after commencement of the work;
- (d) Developer's insolvency, appointment of a receiver, or the filing of any petition in bankruptcy, either voluntary or involuntary, which Developer fails to discharge within 30 days;
- (e) The commencement of a foreclosure action against the Property or a portion thereof, or any conveyance in lieu or in avoidance of foreclosure; or
- (f) Developer's failure to perform any other obligation under this Agreement.

8.2. Remedies. The City reserves all remedies available to it at law or in equity for a default or breach of Developer's obligations under this Agreement. The City shall have the right, subject to this Section, to draw upon or use the appropriate security to mitigate the City's damages in the event of default by Developer. The City's right to draw upon or use the security is in addition to any other remedy available to City. The parties acknowledge that the estimated costs and security amounts may not reflect the actual cost of construction of the improvements and, therefore, City's damages for Developer's default shall be measured by the cost of completing the required improvements. The City may use the sums provided by the securities for the completion of the Works of Improvement in accordance with the plans. In the event the Developer fails to cure any default under this Agreement within 20 days after the City mails a notice of such default to the Developer and the Developer's surety, Developer authorizes the

City to perform the obligation for which Developer is in default and agrees to pay the entire cost of such performance by the City. The City may take over the work and complete the Works of Improvement, by contract or by any other method City deems appropriate, at the expense of the Developer. In such event, City, without liability for doing so, may complete the Works of Improvement using any of Developer's materials, appliances, plans and other property that are at the work site and that are necessary to complete the Works of Improvement.

8.3. Remedies Not Exclusive. In any case where this Agreement provides a specific remedy to City for a default by Developer hereunder, the Developer agrees that the choice of remedy or remedies for Developer's breach shall be in the discretion of the City. Additionally, any remedy specifically provided in this Agreement shall be in addition to, and not exclusive of, City's right to pursue any other administrative, legal, or equitable remedy to which it may be entitled.

8.4. Attorney's Fees and Costs. In the event that Developer fails to perform any obligation under this Agreement, Developer agrees to pay all costs and expenses incurred by City in securing performance of such obligations, including costs of suit and reasonable attorney's fees. In the event of any dispute arising out of Developer's performance of its obligations under this Agreement or under any of the Security Instruments referenced herein, the prevailing party in such action, in addition to any other relief which may be granted, shall be entitled to recover its reasonable attorney's fees and costs. Such attorney's fees and cost shall include fees and costs on any appeal, and in addition a party entitled to attorney's fees and costs shall be entitled to all other reasonable costs incurred in investigating such action, taking depositions and discovery, retaining expert witnesses, and all other necessary and related costs with respect to the litigation. All such fees and costs shall be deemed to have accrued on commencement of the action and shall be enforceable whether or not the action is prosecuted to judgment.

8.5. Waiver. No waiver by the City of any breach or default by the Developer shall be considered valid unless in writing, and no such waiver by the City shall be deemed a waiver of any subsequent breach or default by the Developer.

9. Indemnity/Hold Harmless. City or any officer, employee or agent thereof shall not be liable for any injury to persons or property occasioned by reason of the acts or omissions of Developer, its agents, employees, contractors and subcontractors in the performance of this Agreement. Developer further agrees to protect, defend, indemnify and hold harmless City, its officials, boards and commissions, and members thereof, agents, and employees from any and all claims, demands, causes of action, liability or loss of any sort, because of, or arising out of, acts or omissions of Developer, its agents, employees, contractors and subcontractors in the performance of this Agreement, except for such claims, demands, causes of action, liability or loss arising out of the sole active negligence of the City, its officials, boards, commissions, the members thereof, agents and employees, including all claims, demands, causes of action, liability or loss because of or arising out of, in whole or in part, the design or construction of the improvements. This indemnification and agreement to hold harmless shall extend to injuries to persons and damages or taking of property resulting from the design or construction of said Project, and the public improvements as provided herein, and in addition,

to adjacent property owners as a consequence of the diversion of waters from the design and construction of public drainage systems, streets and other improvements. Recordation of the Notice of Acceptance by the City of the Works of Improvements shall not constitute an assumption by the City of any responsibility for any damage or taking covered by this Section. City shall not be responsible for the design or construction of the property to be dedicated or the improvements pursuant to the approved improvement plans or map, regardless of any negligent action or inaction taken by the City in approving the plans or map, unless the particular improvement design was specifically required by City over written objection by Developer submitted to the City Engineer before approval of the particular improvement design, which objection indicated that the particular improvement design was dangerous or defective and suggested an alternative safe and feasible design.

After recordation of the Notice of Acceptance, the Developer shall remain obligated to eliminate any latent defect in design or dangerous condition caused by the design or construction defect for a period of one (1) year; however, Developer shall not be responsible for routine maintenance. It is the intent of this section that Developer shall be responsible for all liability for design and construction of the improvements installed or work done pursuant to this Agreement and that City shall not be liable for any negligence, nonfeasance, misfeasance or malfeasance in approving or reviewing any work or construction. The improvement security shall not be required to cover the provisions of this Paragraph.

Developer shall reimburse the City for all costs and expenses, including but not limited to fees and charges of architects, engineers, attorneys, and other professionals, and court costs, incurred by City in enforcing this Section.

10. Developer's Indemnity of Project Approval. Developer shall defend, indemnify, and hold harmless the City and its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul, an approval of the City, advisory agency, appeal board, or legislative body concerning the Project. The City shall promptly notify the Developer of any claim, action, or proceeding and cooperate fully in the defense of any such claim, action, or proceeding. In the event City fails to promptly notify the Developer of any claim, action, or proceeding, or if the City fails to cooperate in the defense, the Developer shall not thereafter be responsible to defend, indemnify, or hold harmless the City. Nothing in this Section prohibits the City from participating in the defense of any claim, action, or proceeding if City bears its own attorney's fees and costs and defends the action in good faith. Developer shall not be required to pay or perform any settlement unless the settlement is approved by the Developer.

11. Insurance Requirements. Developer, at Developer's sole cost and expense and for the full term of this Agreement and any extensions thereto, shall obtain and maintain all of the following minimum insurance requirements in a form approved by the City's authorized designee for Risk Management prior to commencing any work:

- (a) Commercial General Liability policy with a minimum \$1 million combined single limit for bodily injury and property damage providing all of the following minimum coverage without deductibles:

- (i) Premises operations; including X, C, and U coverage;
 - (ii) Owners' and contractors' protection;
 - (iii) Blanket contractual;
 - (iv) Completed operations; and
 - (v) Products.
- (b) Commercial Business Auto policy with a minimum \$1 million combined single limit for bodily injury and property damage, providing all of the following minimum coverage without deductibles:
- (i) Coverage shall apply to any and all leased, owned, hired, or non-owned vehicles used in pursuit of any of the activities associated with this Agreement; and
 - (ii) Any and all mobile equipment including cranes which are not covered under the above Commercial Business Auto policy shall have said coverage provided under the Commercial General Liability policy.
- (c) Workers Compensation and Employers' Liability policy in accordance with the laws of the State of California and providing coverage for any and all employees of the Developer:
- (i) This policy shall provide coverage for Workers' Compensation (Coverage A); and
 - (i) This policy shall provide coverage for \$1,000,000 Employers' Liability (Coverage B).
 - (ii) Pursuant to Labor Code section 1861, Developer by executing this Agreement certifies: *"I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this contract."*
 - (iii) Prior to commencement of work, the Developer shall file with the City's Risk Manager a Certificate of Insurance or certification of permission to self-insure workers' compensation conforming to the requirements of the Labor Code.
- (d) Endorsements. All of the following endorsements are required to be made a part of each of the above-required policies as stipulated below:

- (i) "The City of Chino, its officers, employees and agents are hereby added as additional insureds."
 - (ii) "This policy shall be considered primary insurance with respect to any other valid and collectible insurance the City may possess, including any self- insured retention the City may have and any other insurance the City does possess shall be considered excess insurance only."
 - (iii) "This insurance shall act for each insured and additional insured as though a separate policy has been written for each. This, however, will not act to increase the limit of the insuring company."
 - (iv) "Thirty (30) days prior written notice of cancellation shall be given to the City of Chino in the event of cancellation and/or reduction in coverage, except that ten (10) days prior written notice shall apply in the event of cancellation for non-payment of premium." Such notice shall be sent to the Risk Manager at the address indicated in Subsection f below.
 - (v) Subsection d(iv) hereinabove "Cancellation Notice" is the only endorsement required of the Workers' Compensation and Employers' Liability policy.
- (e) Admitted Insurers. All insurance companies providing insurance to the Developer under this Agreement shall be admitted to transact the business of insurance by the California Insurance Commissioner.
- (f) Proof of Coverage. Copies of all required endorsements shall be attached to the Certificate of Insurance which shall be provided by the Developer's insurance company as evidence of the coverage required herein and shall be mailed to:

City of Chino
Risk Management
13220 Central Avenue
Chino, CA 91710

12. Environmental Warranty.

12.1. Prior to the acceptance of any dedications or Works of Improvement by City, Developer shall provide City with a written warranty in a form substantially similar to Exhibit "C" attached hereto and incorporated herein by reference, that:

- (a) Neither the property to be dedicated nor Developer are in violation of any environmental law, and neither the property to be dedicated nor the Developer are subject to any existing, pending or threatened investigation by any federal,

state or local governmental authority under or in connection with the environmental laws relating to the property to be dedicated.

(b) Neither Developer nor any other person with Developer's permission to be upon the property to be dedicated shall use, generate, manufacture, produce, or release, on, under, or about the property to be dedicated, any Hazardous Substance except in compliance with all applicable environmental laws. For the purposes of this Agreement, the term "Hazardous Substances" shall mean any substance or material which is capable of posing a risk of injury to health, safety or property, including all those materials and substances designated as hazardous or toxic by any federal, state or local law, ordinance, rule, regulation or policy, including but not limited to, all of those materials and substances defined as "Toxic Materials" in Sections 66680 through 66685 of Title 22 of the California Code of Regulations, Division 4, Chapter 30, as the same shall be amended from time to time, or any other materials requiring remediation under federal, state or local laws, ordinances, rules, regulations or policies.

(c) Developer has not caused or permitted the release of, and has no knowledge of the release or presence of, any Hazardous Substance on the property to be dedicated or the migration of any hazardous substance from or to any other property adjacent to, or in the vicinity of, the property to be dedicated.

(d) Developer's prior and present use of the property to be dedicated has not resulted in the release of any hazardous substance on the property to be dedicated.

12.2. Developer shall give prompt written notice to City of:

(a) Any proceeding or investigation by any federal, state or local governmental

(b) authority with respect to the presence of any hazardous substance on the property to be dedicated or the migration thereof from or to any other property adjacent to, or in the vicinity of, the property to be dedicated.

(c) Any claims made or threatened by any third party against City or the property to be dedicated relating to any loss or injury resulting from any hazardous substance; and

(d) Developer's discovery of any occurrence or condition on any property adjoining or in the vicinity of the property to be dedicated that could cause the property to be dedicated or any part thereof to be subject to any restrictions on its ownership, occupancy, use for the purpose for which it is intended, transferability or suit under any environmental law.

13. General Provisions.

13.1. Successors and Assigns. This Agreement shall be binding upon all successors and assigns to Developer's right, title, and interest in and to the Property and any portion

thereof. Developer hereby consents to City recording this Agreement as official records of San Bernardino County, affecting fee title interest to the Property to provide constructive notice of the rights and obligations incurred by Developer in the City's approval of this Agreement. In the event the Property is subsequently conveyed by Developer to a third party prior to completion of the Works of Improvement, whereby the third party is intended to assume Developer's responsibilities with regard to this Agreement, (the "Replacement Developer"), the rights and obligations of this Agreement shall transfer to the Replacement Developer; however, the Security Instruments required pursuant to Section 4 of this Agreement, and furnished by Developer as a condition of the City's approval of this Agreement, shall remain Developer's responsibility to maintain until such time as Developer and its Replacement Developer enter into a Transfer and Assignment of Public Improvement Agreement, (the "Transfer Agreement"), to acknowledge the transfer of fee title to the Property from the Developer to its Replacement Developer, and to acknowledge the rights and obligations associated with this Agreement upon the Replacement Developer, including Replacement Developer's responsibility to furnish replacement Security Instruments meeting the City's approval pursuant to Section 4 of this Agreement. Until such time as a Transfer Agreement, meeting the City's approval, is executed by Developer and its Replacement Developer, and replacement Security Instruments meeting City's approval are furnished by the Replacement Developer, Developer retains sole responsibility for maintaining all Security Instruments required pursuant to Section 4 of this Agreement.

13.2. No Third Party Beneficiaries. This Agreement is intended to benefit only the parties hereto and their respective successors and assigns. Neither City nor Developer intend to create any third party beneficiary rights in this Agreement in any contractor, subcontractor, member of the general public, or other person or entity.

13.3. No Vesting Rights. Performance by the Developer of this Agreement shall not be construed to vest Developer's rights with respect to any change in any zoning or building law or ordinance.

13.4. Developer is Not Agent of City. Neither Developer nor Developer's agents, contractors, or subcontractors are agents or contractors of the City in connection with the performance of Developer's obligations under this Agreement.

13.5. Time of the Essence. Time is of the essence of Developer's performance of all of its obligations under this Agreement.

13.6. Notices. Unless otherwise specified in this Agreement, all notices required or provided for under this Agreement shall be in writing and delivered in person or sent by mail, postage prepaid and addressed as provided in this Section. Notice shall be effective on the date is delivered in person, or, if mailed, on the date of deposit in the United States Mail. Notice shall be provided to the persons listed on Pages 1 and 2 of this Agreement by the parties for this purpose.

Either party may provide a new designated representative and/or address by written notice as provided in this Section.

13.7. No Apportionment. Nothing contained in this Agreement shall preclude City from expending monies pursuant to agreements concurrently or previously executed between the parties, or from entering into agreements with other Developers for the apportionment of costs of water and sewer mains, or other improvements pursuant to the provisions of the City ordinances providing therefore. Nor shall anything in the Agreement commit City to any such apportionment.

13.8. Severability. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect unless amended or modified by mutual written consent of the parties.

13.9. Captions. The captions of this Agreement are for convenience and reference only and shall not be used in the interpretation of any provision of this Agreement.

13.10. Incorporation of Recitals. The recitals to this Agreement are hereby incorporated into the terms of this Agreement.

13.11. Interpretation. This Agreement shall be interpreted in accordance with the laws of the State of California.

13.12. Entire Agreement; Waivers and Amendments. This Agreement integrates all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations and previous agreements between the parties with respect to all or part of the subject matter hereof, except as may be expressly provided herein. All waivers of the provisions of this Agreement must be in writing and signed by an authorized representative of the party to be charged, and all amendments hereto must be in writing and signed by the appropriate representatives of both parties.

13.13. Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall be deemed one original.

14. Authority. The persons executing this Agreement on behalf of the parties warrant the (i) party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into of this Agreement does not violate any provisions of any other agreement to which said party is bound.

[SIGNATURES ON NEXT PAGE]

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

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Fred Galante, City Attorney

Warren Morelion, AICP
Development Services Director

KAYKEL INVESTMENT PROPERTIES, INC.

By: RG 10/6/23
(Signature and Date)

Name: Ronald R Reger
(Please type or print name)

Title: CEO
(Please type or print title)

CITY OF CHINO

Dr. Linda Reich, City Manager

Dated: _____

ATTEST:

By _____
Natalie Gonzaga, City Clerk

Dated: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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

State of California)
County of Riverside)

On 11/06/2023 before me, Evelin Tario (Notary)
Date Here Insert Name and Title of the Officer

personally appeared Ronald Richard Reger
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



Signature [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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

Description of Attached Document

Title or Type of Document: Public Improvement Agt. Document Date: 10/6/23
Number of Pages: 46 Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

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

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

EXHIBIT "A"

[attached]

Exhibit A

LOCATION MAP



EXHIBIT "B"

WORKS OF IMPROVEMENT

- A. Removal of undesirable, dangerous and dead plant materials and roots.
- B. All onsite and offsite grading as specified on the approved grading plan.
- C. Relocation of all public utility structures as necessary to properly construct the required improvements.
- D. Storm drain facilities as required and shown on the approved construction plans and in accordance with City Standards.
- E. Sanitary sewers constructed as shown on the approved, engineered plans and in accordance with City Standards.
- F. Water mains, valves, hydrants, services, meters and appurtenances to serve each lot as shown on the approved construction plans and in accordance with City Standards.
- G. Underground installation of all electrical, telephone, cable television and any other energy or communication lines that abut or are within the project site.
- H. A street lighting system (City-owned) in accordance with City Standards.
- I. Disposal of all rocks and debris located within any public right-of-way within said development or on the boundary streets thereof.
- J. Installation of concrete curbs, gutters, sidewalks, cross gutters, driveways and intersections as shown on approved construction plans and in accordance with City Standards.
- K. Installation of asphalt concrete or Portland Cement Concrete street pavement on base material as shown on approved construction plans and in accordance with City Standards.
- L. Street signs at intersections per the City Standards.
- M. Installation of approved landscaping (plants and materials).
- N. Setting monuments as required by the State Code.

The Developer shall also perform all work and furnish all materials necessary, in the opinion of the Director of Development Services or his designee and on his order, to complete the improvements in accordance with the plans and specifications on file as hereinbefore specified, or any changes required or ordered by said Engineer which, in his opinion, are necessary or required to complete this work.

NL	_____	CM	_____	DSH	_____
MB	_____	IA	<u> X </u>	MK	_____
GP	_____				_____

E-Mail Sent: 10/10/19
 To: Rosa Olguin

DEVELOPMENT ENGINEERING DIVISION CONDITIONS OF APPROVAL SA 18-0047 & SCUP 18-0048

DATE: October 10, 2019 PC MEETING DATE: October 21, 2019
 PROJECT DESCRIPTION: Gas Station, Convenience Store, Car Wash & Quick Serve Restaurant
 PROJECT LOCATION: NEC Central Ave & El Prado Rd
 APPLICANT: Karaki Western States PROJECT ENGINEER: Isidro Abreo

PRIOR TO THE TWO MAJOR DEVELOPMENT EVENTS, THE APPLICANT SHALL SATISFY AND FULFILL ALL CONDITIONS OUTLINED BELOW. FAILURE TO COMPLY WITH ANY CONDITIONS OF APPROVAL SHALL BE DEEMED JUST CAUSE FOR REVOCATION OF PROJECT APPROVAL BY THE PLANNING COMMISSION. HOWEVER, THE DIRECTOR OF DEVELOPMENT SERVICES SHALL HAVE THE AUTHORITY TO APPROVE MINOR DEVIATIONS IN THE CONDITIONS OF APPROVAL, AND ALL PLANS INCLUDING THE CONSTRUCTION DRAWINGS.

1.0 PRIOR TO ISSUANCE OF BUILDING/CONSTRUCTION PERMITS:

1.1 All required plans and studies shall be prepared by a Registered Professional Engineer and submitted to the Project Engineer for review and approval. All project plans must be approved by the City Engineer's office before a Building Permit will be issued. All maps, studies, calculation sheets, reports, etc. must be on and/or folded in an 11-inch by 8½-inch standard format.

1.2 Make the following dedications:

<u>Street Name</u>	<u>Distance</u>	<u>Direction From C/L</u>
<u>Central Avenue</u>	<u>64-ft</u>	<u>East</u>
<u>El Prado Road</u>	<u>53-ft</u>	<u>North</u>

(1) Include a corner cutoff at the northeast corner of Central Avenue & El Prado Road.

1.3 Dedicate to the City the following easements:

- For public sidewalk and/or other pedestrian facilities, as required by the City Engineer, along the project frontage, wherever necessary.
- For existing and/or proposed utilities within the project site for City access and maintenance, wherever required.

1.4 Prepare and submit a drainage study, including supporting hydraulic and hydrological data to the project engineer for approval. The study shall confirm or recommend changes to the City's adopted Master Drainage Plan by identifying off-site and on-site storm water runoff impact resulting from build-out of permitted General Plan land uses. In addition, the study shall identify the project's contribution and shall provide locations and sizes of catchments and system connection points and all downstream drainage mitigation measures.

1.5 Prepare and record necessary drainage easements to implement the project in accordance with drainage law.

- 1.6 Prepare and submit a final grading plan showing building footprints, pad elevations, finished grades, drainage routes, retaining walls, erosion control, slope easements and other pertinent information in accordance with Appendix J of the California Building Code, latest edition.
- 1.7 Provide a certificate, from a Registered Civil Engineer, certifying that the finished grading has been completed in accordance with the City approved grading plan.
- 1.8 Comply with all requirements of the Traffic Impact Analysis once approved by the Engineering Division; including participation in fair share contributions and construction of required improvements to the City of Chino.
Subsequently, based on the information provided by this study, a Geometrics Study may be required for the Central Ave & El Prado Rd intersection to be approved by the City of Chino. The study shall provide details on the geometry of the intersection for both the interim and ultimate conditions; which will dictate the extent of the improvements for this Project.
- 1.9 Submit a soils/geology report in accordance with Appendix J of the California Building Code, latest edition to the project engineer for review and approval.
- 1.10 Design per City Standards and construct full public improvements for all impacted and interior streets/facilities in accordance with City Code, Standards and Specifications. Such public improvements shall include, but not be limited to, the following: (Please coordinate and verify all requirements with the project engineer).

	<u>Street Names</u>	
	Central Avenue ⁽¹⁾⁽⁷⁾	El Prado Road ⁽¹⁾⁽⁷⁾⁽⁸⁾
Curb & Gutter (Offset from Centerline) ⁽²⁾	X(54')	X(41')
Sidewalk (Width) ⁽¹⁾	X(7')	
Asphalt Concrete Pavement on Aggregate Base (Width from Centerline)	X	X
Asphalt Concrete Overlay	X	X
Street Lights	X	X
Median Island and Landscaping ⁽³⁾	X	X
Parkway Landscaping ⁽⁴⁾	X	X
Striping and Traffic Controls ⁽⁵⁾		
Traffic Signal Interconnect		
Conduit System for CATV		
Sewer		
Storm Drain		
Domestic Water		
Recycled Water		
Fire Hydrants as required by CVIFD		
Traffic Signal Modification ⁽⁶⁾	X	X

(1) All public improvements shall comply with all accessibility regulations.
 (2) The proposed driveways at both Central Ave and El Prado Rd shall be constructed per City Std. No. 250.
 (3) If feasible, the construction of a raised median at the left turn pocket locations for southbound and westbound directions is required; on Central Ave and El Prado Rd, respectively. This is to enforce right in/right-out only access at the project driveways. The raised medians shall extend along the full length of the project frontage or as directed by the City Engineer.

- (4) Developer/owner is responsible for all landscape maintenance along the project frontage. Parkway landscaping and irrigation installation is required to be installed.
- (5) Provide proper traffic control which includes, but not limited to, proper signing & striping at both Central Avenue and El Prado Rd. Restriping of the intersection is required as part of the implementation of a possible secondary southbound left turn lane. The City shall determine the limits of the signing & striping.
- (6) Relocation of traffic signal equipment may be required to accommodate the widening of both Central Avenue and El Prado Road and the implementation of a possible secondary southbound left turn lane.
- (7) The proposed driveways at both Central Ave and El Prado Rd shall be per City Std. No. 250 with a 5-ft sidewalk.
- (8) Design for a possible future 5-ft sidewalk along the El Prado Rd. frontage. An in-lieu fee for the construction of this future sidewalk along El Prado Rd. is required. The in-lieu fee shall be based on the engineering cost estimate at the time of preparation; to be reviewed and approved by the City Engineer.

1.11 Execute a Public Improvement Agreement and submit security in an amount acceptable to the City Engineer to guarantee construction of the public improvements listed in 1.12. All security must be accessible to the City at any time and in a form acceptable to the Assistant City Manager, pursuant to Government Code, Section 66499.

1.12 Complete and file the petition for annexation of your project property to the City's Landscape and Street Lighting Maintenance District MD 2002-01.

1.13 Comply with all applicable requirements of the City Code.

1.14 Pay all applicable fees pursuant to City Code including, but not limited to, plan check fees, inspection & permit fees, Development Impact Fees (DIF) and Sewage Facilities Development Fees (SFDF). The actual amount of fees due to the City will be based on the fee schedule in place on the date that the fees are due, or the date that they are paid, whichever occurs last. The fee amount stated in this notice is subject to change based on (1) annual adjustments for inflation, pursuant to Chino Municipal Code Section 3.40.100 or 3.45.100, (2) revisions to the Chino Municipal Code, and (3) updates to the fee studies and nexus reports adopted by the City. The Developer is solely responsible for remaining informed about changes in the fee amounts. City shall have no obligation to inform the Developer of changes in the fee amounts unless Developer requests notice of such changes, pursuant to Government Code Section 66019(b) and Chino Municipal Code Section 3.40.080(B) or 3.45.080(B).

B20-0158

1.15 All projects developing one (1) acre or more of total land area, or which are part of a larger phased development that will disturb one acre of land, are required to obtain coverage under the State Water Resources Control Board's (SWRCB) General Permit for storm water discharges associated with construction activity. Proof of filing a Notice of Intent (NOI) with the SWRCB for coverage under this permit is required. A copy of the Waste Discharger's Identification Number (WDID), issued by the SWRCB, must be submitted to the Project Engineer prior to issuance of grading permits. More detailed information regarding this General Permit, applicable fee information and the necessary forms to complete the NOI are available by calling (916) 341-5537 or on the SWRCB web site at: http://www.swrcb.ca.gov/water_issues/programs/stormwater/constpermits.shtml.

1.16 Pursuant to Santa Ana Regional Water Quality Control Board Order Number R8-2010-0036, NPDES Permit No. CAS618036, prepare a project-specific Water Quality Management Plan

(WQMP) and submit to the project engineer for review and approval. To address NPDES Permit requirements to the maximum extent practicable, the project shall be designed to specify preferential use of Low Impact Development Best Management Practices that reduce pollutants and runoff volume through structural measures (e.g. infiltration, harvesting, and bio-treatment) and non-structural measures (e.g. preserving natural areas, clustering development, and reducing impervious areas). The WQMP shall conform to the requirements of the San Bernardino County Stormwater Program, 2013 WQMP Technical Guidance Document.

- 1.17 Any future maintenance and repair of fire service and sewer laterals to the project site shall be the sole responsibility of the applicant/property owner in accordance with City Code, Chapter 13.04.175 and 13.12.150.
- 1.18 Convey ownership of all existing onsite water wells to the City and convert to monitoring wells as directed by the City's Water Utilities Supervisor. Prepare and record any necessary easements to provide the City with access to the monitoring wells. Any existing water wells that cannot be feasibly converted to monitoring wells shall be destroyed per City Standard No. 465.
- 1.19 All public street corners shall have a minimum curb radii per City Code, Chapter 19.06 and City Standards and Specifications.
- 1.20 Provide adequate sight distance per City Standard No. 865 for each project driveway and at all intersections. Landscaping type and height shall be maintained to ensure sight distance requirements are perpetuated.
- 1.21 Submit to the City electronic files, in Adobe Acrobat PDF format, of all submittals, including reports, studies, improvement plans and City redlines of previous submittals.

2.0 PRIOR TO REQUEST FOR AND RELEASE OF OCCUPANCY PERMITS/ ACCEPTANCE OF PUBLIC IMPROVEMENTS:

- 2.1 Construct and secure Development Services Department approval of all public facilities enumerated under Section 1.0 above (per Resolution No. 88-23).
- 2.2 Distribute for signature of all buyers, the information and disclosure notice announcing that the development will be annexed to the City's Landscape and Street Lighting Maintenance Assessment District before transfer of property title and completion and acceptance of all public improvements.
- 2.3 The applicant's Civil Engineer shall field verify that all BMPs are designed, constructed, and functional in accordance with the approved WQMP. BMPs shall also be inspected by Public Works Environmental staff. Coordinate inspection with staff and submit a completed City of Chino BMP field verification form for review and approval.
- 2.4 Provide and record a reciprocal use and maintenance agreement to assure common ingress and egress and joint maintenance of all common access, parking areas and drives.

- 2.5 Pay all remaining applicable fees pursuant to City Code.
- 2.6 Slurry seal along all streets impacted by the development as directed by City staff. Install signing and striping per approved plans.
- 2.7 Submit to the City, electronic files of Tract/Parcel Map and "as-built" improvement plans in AUTOCAD format and Adobe Acrobat PDF format. AUTOCAD files shall be submitted as an archived zip file of the CAD drawings with all base files attached.

IA

Attachment

CITY OF CHINO
DEVELOPMENT SERVICES DEPARTMENT
ENGINEERING DIVISION

ITEMS REQUIRED FOR FIRST PLAN CHECK SUBMITTAL

PROJECT: SA 18-0047 & SCUP 18-0048

PROJECT ENGINEER: Isidro Abreo

DATE: October 10, 2019

- A COPY OF THIS CHECK LIST MUST BE SUBMITTED WITH THE FIRST PLAN CHECK
- 1 Copy of Development Engineering Division Conditions of Approval
- 2 Sets of Maps (Subdivision Only)
- 2 Copies of preliminary Title Report (no older than six months) (Subdivision Only)
- 2 Copies of Closure Calculations (Subdivision Only)
- 1 Set of Referenced Maps (Subdivision Only)
- 2 Copies of Preliminary Soils Report (no older than sixty days)
- 2 Copies of lot line adjustment certificate
- 2 Copies of lot merger
- 2 Copies of right-of-way dedication
- 4 Sets of Rough Grading Plans
- 4 Sets of Precise Grading Plans with Private Sewer, Water and Storm Drain Improvements
- 4 Sets of Storm Drain Plans (revisions to original City record drawings)
- 2 Copies of Hydrology and Hydraulic Calculations with Backup Data (Signed and Sealed by a Registered Civil Engineer)
- 2 Copies of Engineering Cost Estimates (on City Forms) with Engineer's Wet Signature and Stamp for Public (Offsite) Improvements, Onsite Drainage Improvements and for In-lieu Fees.
- 2 Sets of Street Improvements Plans (revisions to original City record drawings)
- 2 Copies of Cross-Sections (if street plans are required) at 50' intervals and extended a minimum of 100' beyond limits of improvements
- 2 Sets of Sewer Plans (revisions to original City record drawings)
- 3 Sets of Domestic Water Plans (revisions to original City record drawings)
- 2 Sets of Recycled Water Plans
- 2 Sets of Street Light Plans with Voltage Drop Calculations (signed/sealed by a registered engineer)
- 2 Sets of Signing and Striping Plans
- 1 Sets of Traffic Signal Interconnect Plans (Revisions to Original IC Plan)
- 2 Sets of Traffic Signal Modification Plans (Revisions to Original TS Plan)
- 1 Copy of Traffic Impact Analysis Report & Approved Scoping Letter/Agreement
- 1 Water Quality Management Plan

ADA ACCESSIBILITY CONDITIONS OF APPROVAL

DATE: October 21, 2019

PROJECT FILE NO.: PL18-0047 (Site Approval) & PL18-0048 (Special Conditional Use Permit)

LOCATION: Northeast corner of Central Avenue & El Prado Avenue
(APN: 1028-202-21)

APPLICANT: Karaki Western States

1.0 GENERAL:

- 1.1 All improvements shall comply with applicable federal, state, and local accessibility regulations, standards and guidelines.
 - a. The approval of plans and specifications does not permit the violation of any section of federal law, state law, or local ordinance.
 - b. Where accessibility standards are contradictory, the provision that provides the most accessible condition shall apply.
 - c. Where the project's conditions of approval conflict with accessibility standards, the prevailing provision shall be determined by City staff.
- 1.2 Accessibility of existing and proposed building improvements will be evaluated by the City's Building Staff. Those conditions of approval are in addition to those provided herein.
- 1.3 Conventional industry construction and manufacturing tolerances do not apply to dimensions where the requirement is stated as a range with specific maximum and minimum end points. The range provides the adequate tolerance and no tolerance outside of the range at either point is permitted. To comply, structures shall be designed to a value below the maximum or above the minimum. (11B-104.1)

2.0 COMMENTS:

- 2.1 Pedestrian facilities shall be constructed according to the site plan for this project, as approved during the DRC process. Where compliance with accessibility regulations is in conflict with the pedestrian accessibility plan, the accessibility regulations in effect at the time of construction shall prevail.
- 2.2 Construct minimum 5' sidewalk on Central Avenue to connect to the existing sidewalk on the northern most property line.
 - a. All utilities and potential obstructions shall be located outside the 5' clear width of the sidewalk.
 - b. Sidewalk shall continue uninterrupted across driveway approaches.

ADA ACCESSIBILITY CONDITIONS OF APPROVAL

FILE NO.: PL18-0047 & PL18-0048

DATE: 10/21/2019

- 2.3 Due the street widening and removal of existing pedestrian improvements, provide dual directional curb ramps on the north east corner of the Central Avenue and El Prado Avenue intersection. Reconstruct existing curb ramp(s) on the north west corner of the intersection as required to provide an accessible pedestrian route and properly align crosswalk. Pedestrian walking surfaces with the crosswalk shall comply.
- 2.4 Provide an accessible bus boarding and alighting area at the existing bus stop.
- 2.5 Existing pedestrian facilities on the frontage of the development and existing structures open to the public within the development shall be evaluated for accessibility. The street frontage includes all adjacent pedestrian facilities, including crosswalks, created by, prolonged from, or connected to any required sidewalks improvements. This includes, but is not limited to, park facilities, sidewalks, curb ramps, connecting crosswalks (marked and unmarked), and their associated pedestrian facilities (pedestrian push buttons, etc.).
 - a. Improvements that are non-compliant with the accessibility standards in effect at the time of construction or alteration, shall be brought up to current accessibility standards. This work shall be incorporated into the scope of this project and shall be completed prior to acceptance by the City.
 - b. Improvements that are compliant with the accessibility standards in effect at the time of construction, shall be documented on a separate construction plan with detailed specifications (running and cross slopes of all pedestrian walking surfaces, locations and dimensions and slopes of maneuvering spaces and landings, width of sidewalk, width and vertical clearance from obstructions). The accessibility of existing improvements will be verified by City inspection staff upon completion of the project. Discrepancies between documented existing conditions and existing conditions as measured by City staff shall be remedied and brought up to accessibility standards as part of the project.



CITY OF CHINO

ENGINEERING COST ESTIMATE

PROJECT NO: SA 18-0047
LOCATION : NEC CENTRAL AVENUE AND EL PRADO ROAD - OFFSITE
By: KAMAL McHANTAF
DATE: 10/16/2023

REVIEWED
CITY OF CHINO ENGINEERING
BY Isidro Abreo **DATE** 10/17/23

Quantity	Unit	Item	Unit Price	Total Cost Per Item
STREETS				
	EA	Tree Removal	\$ 800.00	\$ -
50	CY	Concrete Removal	\$ 325.00	\$ 16,250.00
340	CY	AC Pavement Removal	\$ 100.00	\$ 34,000.00
	CY	Imported Common Fill (Incl. Compaction)	\$ 34.00	\$ -
10825	SF	Preparation of Subgrade, Sidewalk and Paving	\$ 1.00	\$ 10,825.00
1030	LF	PCC 8" Curb & 24" Gutter on 6" AB	\$ 26.00	\$ 26,780.00
	LF	PCC 6" Curb & 24" Gutter on 6" AB	\$ 24.00	\$ -
3570	LF	PCC Curb Only	\$ 20.00	\$ 71,400.00
	LF	8" A.C. Berm	\$ 20.00	\$ -
	SF	8" PCC Cross Gutter on 6" AB	\$ 16.00	\$ -
3100	SF	4" PCC Sidewalk	\$ 5.80	\$ 17,980.00
	SF	6" PCC Thick Drive Approach on 6" AB	\$ 12.50	\$ -
1250	SF	8" PCC Thick Drive Approach on 6" AB	\$ 15.00	\$ 18,750.00
	LF	2" x 6" Redwood Header	\$ 7.50	\$ -
2	EA	Street Sign and Post	\$ 475.00	\$ 950.00
6	EA	Traffic Sign and Post	\$ 400.00	\$ 2,400.00
	EA	Reflector Sign and Post	\$ 175.00	\$ -
	EA	Painted Legend	\$ 6.50	\$ -
	SF	Prime or Tack Coat	\$ 0.08	\$ -
370	TON	AC Variable - <300T	\$ 130.00	\$ 48,100.00
	TON	AC Variable - >300T	\$ 120.00	\$ -
270	TON	CAB Variable - <300T	\$ 100.00	\$ 27,000.00
	TON	CAB Variable - >300T	\$ 90.00	\$ -

FOR BONDING PURPOSES ONLY



CITY OF CHINO

ENGINEERING COST ESTIMATE

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LOCATION : NEC CENTRAL AVENUE AND EL PRADO ROAD - OFFSITE
By: KAMAL McHANTAF
DATE: 10/16/2023

REVIEWED
CITY OF CHINO ENGINEERING
BY Isidro Abreo **DATE** 10/17/23

Quantity	Unit	Item	Unit Price	Total Cost Per Item
STREETS				
	EA	Adjust Sewer Manhole to Grade	\$ 950.00	\$ -
	EA	Adjust Sewer Cleanout to Grade	\$ 500.00	\$ -
	EA	Adjust Water Valve and Can to Grade	\$ 525.00	\$ -
3	EA	Street Light (City Owner)	\$ 7,700.00	\$ 23,100.00
	EA	Electrical Pedestal	\$ 6,500.00	\$ -
	EA	Lot Monument Setting Fee	\$ 550.00	\$ -
1000	LF	Sawcut A.C.	\$ 3.00	\$ 3,000.00
	LF	Sawcut Concrete	\$ 3.00	\$ -
12000	SF	Cold Plane A.C. 2" Thick	\$ 0.28	\$ 3,360.00
	LF	Signing & Striping for		
1500		Arterial	\$ 19.00	\$ 28,500.00
		Collector	\$ 13.00	\$ -
		Local	\$ 7.00	\$ -
	EA	Traffic Signal (8 - Phase Controller)	\$ 350,000.00	\$ -
1	EA	Modify existing Traffic Signal per Quadrant	\$ 75,000.00	\$ 75,000.00
	LF	Chain Link Fence		
		4 foot Residential Grade (Add \$7.00/LF for Removal of Existing Fence)	\$ 25.00	\$ -
		6 foot School fence (Add \$9.00/LF for Removal of Existing Fence)	\$ 35.00	\$ -
	EA	Utility Poles		
		Transmission	\$ 11,500.00	\$ -
		Distribution	\$ 8,000.00	\$ -
		Service	\$ 3,000.00	\$ -
3	EA	Street Light Removal	\$ 2,000.00	\$ 6,000.00



CITY OF CHINO

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DATE: 10/16/2023

REVIEWED
CITY OF CHINO ENGINEERING
BY Isidro Abreo **DATE** 10/17/23

Quantity	Unit	Item	Unit Price	Total Cost Per Item
STREETS				
765	SF	Landscape (Including shrubs, Hardscape, Irrigation, Ground Cover, Lighting, Installation Labor and Connection to Existing Systems)	\$ 15.00	\$ 11,475.00
	LF	14 foot Median with Landscape, Irrigation, Lighting, Hardscape, Curb, Gutter & Pavement	\$ 300.00	\$ -
		Rail Road Crossing		
	LS	Safety Equipment (Complete Including Crossing Gates, Signs, and Lights)	\$ 500,000.00	\$ -
	SF	Track Crossing (Concrete)	\$ 175.00	\$ -
	SF	Approach	\$ 4.00	\$ -
2	EA	S.W. Ramps (A.D.A. Compliant)	\$ 4,000.00	\$ 8,000.00
16	EA	Traffic Signal Loops	\$ 600.00	\$ 9,600.00
30	SF	Gravel Surfacing	\$ 25.00	\$ 750.00
1	EA	Local Depression	\$ 700.00	\$ 700.00
STREETS				
		STREET SUBTOTAL		\$ 443,920.00
	LS	Mobilization (5% of Construction Cost)	5%	\$ 22,196.00
	LS	Traffic Control (5% of Construction Cost)	5%	\$ 22,196.00
	LS	Clear & Grub Site (5% of Construction Cost)	5%	\$ 22,196.00
	LS	Excavation (Clean Material) (5% of Construction Cost)	5%	\$ 22,196.00
GRAND TOTAL STREETS ONLY				\$ 532,704.00

FOR BONDING PURPOSES ONLY



CITY OF CHINO

ENGINEERING COST ESTIMATE

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BY Isidro Abreo **DATE** 10/17/23

Quantity	Unit	Item	Unit Price	Total Cost Per Item
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WATER				
	LF	Trench Support/Shoring (6 foot depth)	\$ 15.00	\$ -
	CY	Pipe Bedding & Compaction (Imported)	\$ 90.00	\$ -
	LF	6" Pipe & Fittings Installed, including excavation, bedding, backfill and pavement restoration	\$ 80.00	\$ -
	LF	8" Pipe & Fittings Installed, including excavation, bedding, backfill and pavement restoration.	\$ 100.00	\$ -
	LF	12" Pipe & Fittings Installed, including excavation, bedding, backfill and pavement restoration	\$ 135.00	\$ -
	LF	18" Pipe & Fittings Installed, including excavation, bedding, backfill and pavement restoration	\$ 175.00	\$ -
	LF	Removal, Disposal of ACP and Backfill	\$ 150.00	\$ -
	EA	6" Gate Valve	\$ 2,000.00	\$ -
	EA	8" Gate Valve	\$ 2,600.00	\$ -
	EA	12" Gate Valve	\$ 4,500.00	\$ -
	EA	18" Gate Valve	\$ 7,500.00	\$ -
	EA	Fire Hydrant Assembly per City Std.	\$ 7,500.00	\$ -
	EA	Blow-off Assembly 4" per City Std.	\$ 8,600.00	\$ -
	EA	2" Air Relief Assembly	\$ 4,500.00	\$ -
	EA	1 1/2" Water Service/Meter	\$ 3,500.00	\$ -
1	EA	2" Water Service/Meter	\$ 4,500.00	\$ 4,500.00

WATER				
		WATER SUBTOTAL		\$ 4,500.00
	LS	Mobilization (5% of Construction Cost)	5%	\$ 225.00
	LS	Traffic Control (5% of Construction Cost)	5%	\$ 225.00
GRAND TOTAL WATER ONLY				\$ 4,950.00

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DATE: 10/16/2023

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BY Isidro Abreo **DATE** 10/17/23

Quantity	Unit	Item	Unit Price	Total Cost Per Item
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RECYCLED WATER				
	LF	Trench Support/Shoring (6 foot depth)	\$ 15.00	\$ -
70	CY	Pipe Bedding (Imported)	\$ 90.00	\$ 6,300.00
	LF	6" Pipe & Fittings Installed, including excavation, bedding, backfill and pavement restoration	\$ 80.00	\$ -
210	LF	8" Pipe & Fittings Installed, including excavation, bedding, backfill and pavement restoration.	\$ 100.00	\$ 21,000.00
	LF	12" Pipe & Fittings Installed, including excavation, bedding, backfill and pavement restoration	\$ 135.00	\$ -
	LF	18" Pipe & Fittings Installed, including excavation, bedding, backfill and pavement restoration	\$ 175.00	\$ -
	EA	6" Gate Valve	\$ 2,000.00	\$ -
	EA	8" Gate Valve	\$ 2,600.00	\$ -
	EA	12" Gate Valve	\$ 4,500.00	\$ -
	EA	18" Gate Valve	\$ 7,500.00	\$ -
2	EA	Fire Hydrant Assembly per City Std.	\$ 7,500.00	\$ 15,000.00
	EA	Blow-off Assembly 5" per City Std.	\$ 8,600.00	\$ -
	EA	2" Air Relief Assembly	\$ 4,500.00	\$ -
	EA	1" Water Service/Meter	\$ 3,500.00	\$ -
1	EA	2" Water Service/Meter	\$ 4,500.00	\$ 4,500.00

RECYCLED WATER				
		RECYCLED WATER SUBTOTAL		\$ 46,800.00
	LS	Mobilization (5% of Construction Cost)	5%	\$ 2,340.00
	LS	Traffic Control (5% of Construction Cost)	5%	\$ 2,340.00
GRAND TOTAL RECYCLED WATER ONLY				\$ 51,480.00

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Quantity	Unit	Item	Unit Price	Total Cost Per Item
SEWER				
	LF	Trench Support/Shoring	\$ 15.00	\$ -
	LF	4" V.C.P Installed, including excavation, bedding, backfill and pavement restoration	\$75.00	\$ -
	LF	8" V.C.P Installed, including excavation, bedding, backfill and pavement restoration	\$93.00	\$ -
	LF	10" V.C.P. Installed, including excavation, bedding, backfill and pavement restoration	\$103.00	\$ -
	LF	12" V.C.P. Installed, including excavation, bedding, backfill and pavement restoration	\$123.00	\$ -
	LF	15" V.C.P. Installed, including excavation, bedding, backfill and pavement restoration	\$143.00	\$ -
	LF	18" V.C.P. Installed, including excavation, bedding, backfill and pavement restoration	\$163.00	\$ -
	LF	21" V.C.P. Installed, including excavation, bedding, backfill and pavement restoration	\$193.00	\$ -
	LF	24" V.C.P. Installed, including excavation, bedding, backfill and pavement restoration	\$208.00	\$ -
	EA	Sewer Saddle	\$450.00	\$ -
	EA	Wyes 4" x 8" Typical	\$225.00	\$ -
	EA	48" Sewer Manhole	\$4,700.00	\$ -
	EA	60" Sewer Manhole	\$7,500.00	\$ -
	EA	Sewer Cleanout	\$1,800.00	\$ -
	LF	6" PVC Installed, including excavation, bedding, backfill and pavement restoration	\$ 80.00	\$ -

SEWER				
		SEWER SUBTOTAL		\$ -
	LS	Mobilization (5% of Construction Cost)	5%	\$ -
	LS	Traffic Control (5% of Construction Cost)	5%	\$ -
GRAND TOTAL SEWER ONLY				\$ -

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Quantity	Unit	Item	Unit Price	Total Cost Per Item
STORM DRAIN				
	LF	24" X 36" C.M.P.A. (10 Gauge)	\$ 230.00	\$ -
	LF	27" x 43" C.M.P.A (10 Gauge)	\$ 250.00	\$ -
	EA	Storm Drain Manhole #1	\$ 10,000.00	\$ -
	EA	Junction Structure #2 (24" or larger)	\$ 8,850.00	\$ -
	EA	Junction Structure #4 (24" or smaller)	\$ 4,000.00	\$ -
	EA	Outlet Structure	\$ 7,000.00	\$ -
1	EA	Catch Basin 3.5' Width	\$ 7,200.00	\$ 7,200.00
	EA	Catch Basin 7' Width/L.D.	\$ 7,900.00	\$ -
1	EA	Catch Basin 10' Width/L.D.	\$ 9,950.00	\$ 9,950.00
	EA	Catch Basin 14' Width/L.D.	\$ 11,000.00	\$ -
	EA	Catch Basin 21' Width/L.D.	\$ 13,000.00	\$ -
10	LF	18 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 200.00	\$ 2,000.00
	LF	24 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 240.00	\$ -
	LF	27 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 260.00	\$ -
	LF	30 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 280.00	\$ -
	LF	33 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 295.00	\$ -
	LF	36 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 310.00	\$ -
	LF	39 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 320.00	\$ -
	LF	42 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 330.00	\$ -
	LF	45 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 360.00	\$ -
	LF	48 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 385.00	\$ -
	LF	54 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 440.00	\$ -
	LF	60 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 500.00	\$ -

FOR BONDING PURPOSES ONLY



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Quantity	Unit	Item	Unit Price	Total Cost Per Item
STORM DRAIN				
	LF	66 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 560.00	\$ -
	LF	72 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 625.00	\$ -
	LF	78 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 690.00	\$ -
	LF	84 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 765.00	\$ -
	LF	90 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 830.00	\$ -
	LF	96 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 920.00	\$ -
	LF	102 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 1,000.00	\$ -
	LF	108 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 1,075.00	\$ -
	LF	7' x 6' RCB Installed, including excavation, bedding, backfill and pavement restoration	\$ 700.00	\$ -
	LF	7' x 8.5' RCB Installed, including excavation, bedding, backfill and pavement restoration	\$ 820.00	\$ -
	LF	7' x 9.5' RCB Installed, including excavation, bedding, backfill and pavement restoration	\$ 870.00	\$ -
	LF	8' x 11' RCB Installed, including excavation, bedding, backfill and pavement restoration	\$ 1,000.00	\$ -
	LF	8' x 13' RCB Installed, including excavation, bedding, backfill and pavement restoration	\$ 1,100.00	\$ -
	LF	9' x 9' RCB Installed, including excavation, bedding, backfill and pavement restoration	\$ 1,000.00	\$ -
	LF	9' x 12' RCB Installed, including excavation, bedding, backfill and pavement restoration	\$ 1,100.00	\$ -
	LF	4' x 6' RCB Installed, including excavation, bedding, backfill and pavement restoration	\$ 680.00	\$ -
	EA	Flowgard Catch Basin w/ Fossil Filter	\$ 1,500.00	\$ -
	LF	8" PVC	\$ 8.00	\$ -
	LF	6" PVC	\$ 6.00	\$ -
	EA	18" x18" Brooks Catch basin	\$ 750.00	\$ -
	EA	24"x18" Riprap	\$ 100.00	\$ -
	LF	6" Perforated Pipe	\$ 4.00	\$ -
40	LF	12 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 180.00	\$ 7,200.00

STORM DRAIN				
		STORM DRAIN SUBTOTAL		\$ 26,350.00

FOR BONDING PURPOSES ONLY



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Quantity	Unit	Item	Unit Price	Total Cost Per Item
	LS	Mobilization (5% of Construction Cost)	5%	\$ 1,317.50
	LS	Traffic Control (5% of Construction Cost)	5%	\$ 1,317.50
GRAND TOTAL STORM DRAIN ONLY				\$ 28,985.00



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 BY Isidro Abreo DATE 10/17/23

Quantity	Unit	Item	Unit Price	Total Cost Per Item
		GRAND TOTAL STREETS ONLY		\$ 532,704.00
		GRAND TOTAL WATER ONLY		\$ 4,950.00
		GRAND TOTAL RECYCLED WATER ONLY		\$ 51,480.00
		GRAND TOTAL SEWER ONLY		\$ -
		GRAND TOTAL STORM DRAIN ONLY		\$ 28,985.00
		GRAND TOTAL (FOR PLAN CHECK & INSPECTION FEE DETERMINATION)		\$ 618,119.00

PROJECT ADDITIVES		<i>Project Contingencies</i>	10%	\$ 61,811.90
		<i>Construction Staking</i>	3%	\$ 18,543.57
		<i>Soils Testing</i>	1%	\$ 6,181.19
		<i>Material Testing</i>	1%	\$ 6,181.19
		<i>Construction Inspection</i>	4.8%	\$ 29,669.71
		<i>Contract Administration</i>	1%	\$ 6,181.19
		GRAND TOTAL (FOR BOND AMOUNTS)		\$ 746,687.75



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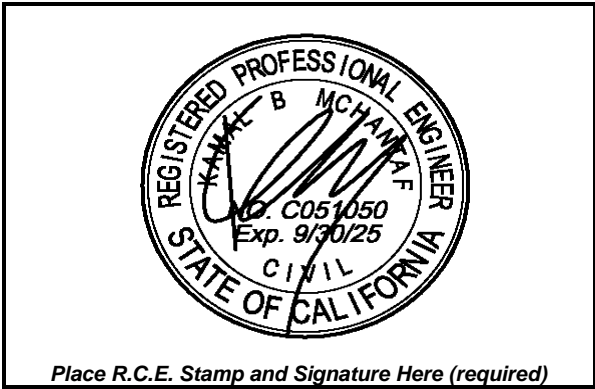
Quantity	Unit	Item	Unit Price	Total Cost Per Item
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BY ENGINEER

Prepared By: Kamal McHantaf

R.C.E. Number: 51050

Expiration: 9/30/2025



BY CITY	
Faithful Performance Bond (100% of Construction Cost)	\$ 746,700.00
Labor & Material Bond (50% of Construction Cost)	\$ 373,300.00
Warranty Bond (10% of Construction Cost)	\$ 74,700.00

FOR BONDING PURPOSES ONLY

EXHIBIT "C"

PL18-0047

KAYKEL INVESTMENT PROPERTIES, INC.

ENVIRONMENTAL WARRANTY

As a condition precedent to acceptance of the dedications and public improvements to be conveyed by the above-named Developer to the City of Chino for the above-referenced Subdivision, Developer hereby warrants to the City of Chino that:

1. Neither the property to be dedicated nor Developer are in violation of any environmental law, and neither the property to be dedicated nor the Developer are subject to any existing, pending or threatened investigation by any federal, state or local governmental authority under or in connection with the environmental laws relating to the property to be dedicated.

2. Neither Developer nor any other person with Developer's permission to be upon the property to be dedicated has used, generated, manufactured, produced, or released, on, under, or about the property to be dedicated, any Hazardous Substance except in compliance with all applicable environmental laws. For the purposes of this warranty, the term "Hazardous Substances" shall mean any substance or material which is capable of posing a risk of injury to health, safety or property, including all those materials and substances designated as hazardous or toxic by any federal, state or local law, ordinance, rule, regulation or policy, including but not limited to, all of those materials and substances defined as "Toxic Materials" in Sections 66680 through 66685 of Title 22 of the California Code of Regulations, Division 4, Chapter 30, as the same shall be amended from time to time, or any other materials requiring remediation under federal, state or local laws, ordinances, rules, regulations or policies.

3. Developer has not caused or permitted the release of and has no knowledge of the release or presence of, any Hazardous Substance on the property to be dedicated or the migration of any hazardous substance from or to any other property adjacent to, or in the vicinity of, the property to be dedicated.

4. Developer's prior and present use of the property to be dedicated has not resulted in the release of any Hazardous Substance on the property to be dedicated.

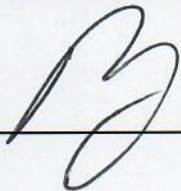
5. All persons executing this warranty hereby represent and warrant to the City of Chino, and Developer hereby represents and warrants, that the signators hereto have the legal power, right and authority to execute this warranty on behalf of the Developer and that the signators hereto have sufficient knowledge or expertise, either personally, through reasonable inspection and investigation of the property, or through reasonable reliance upon the investigation and professional opinion of Developer's environmental experts, to make the representations herein, and that no consent of any other party is

required to execute this warranty and make the representations herein on behalf of the Developer to the City of Chino.

Each of the undersigned persons declares under penalty of perjury that the foregoing is true and correct.

Dated: 11/6/23

KAYKEL INVESTMENT PROPERTIES, INC.

By:  _____

*Proof of authorization for Developer's signatures is required to be submitted concurrently with this environmental warranty.

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

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

State of California

County of RIVERSIDE

On 11/26/2023 before me, EVELIN TARIO (NOTARY)
(Here insert name and title of the officer)

personally appeared Ronald Richard Regr

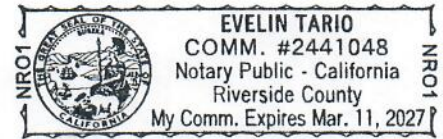
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument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

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

WITNESS my hand and official seal.

[Signature]
Signature of Notary Public

(Notary Seal)



ADDITIONAL OPTIONAL INFORMATION

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/~~she/they~~, is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

DESCRIPTION OF THE ATTACHED DOCUMENT

Environment Warrants
(Title or description of attached document)

NA
(Title or description of attached document continued)

Number of Pages 3 Document Date 11/6/23

NA
(Additional information)

CAPACITY CLAIMED BY THE SIGNER

Individual (s)
 Corporate Officer

(Title)

Partner(s)
 Attorney-in-Fact
 Trustee(s)
 Other _____

**MEMORANDUM
CITY OF CHINO
DEVELOPMENT SERVICES DEPARTMENT**

CITY COUNCIL MEETING DATE: NOVEMBER 21, 2023

TO: LINDA REICH, CITY MANAGER

FROM: WARREN MORELION, AICP, INTERIM DIRECTOR OF DEVELOPMENT SERVICES

SUBJECT

Final Acceptance of Public Improvements - Parcel Map Nos. 19830 & 19831.

RECOMMENDATION

1) Appropriate \$628,000 from the unappropriated reserve of the Water Fund and schedule a corresponding year-end transfer in the same amount from The Preserve Water Source, Storage, and Distribution Development Impact Fee Fund 261; 2) accept the public improvements as complete for Parcel Map Nos. 19830 and 19831; 3) authorize release of the performance bond and initiate the warranty bond; and 4) authorize the City Manager to execute the necessary documents on behalf of the City.

FISCAL IMPACT

Requires an appropriation in the amount of \$628,000 from the unappropriated reserve of the Water Fund and schedule a corresponding year-end transfer in the same amount from The Preserve Water Source, Storage, and Distribution Development Impact Fee Fund (261 Fund).

Staff will continue to monitor the fund balance in The Preserve Water Source, Storage, and Distribution Development Impact Fee program and will make progress payments to the developer (when funds are available) until the terms of the agreement are fulfilled. Each progress payment requires an appropriation of funds and, therefore, each payment will be brought back to the City Council for approval.

Sufficient funds are included in the City's Operating Budget to cover costs for maintenance of the accepted public improvements.

CITY OF CHINO MISSION / VISION / VALUES / STRATEGIC ISSUES

The recommendation detailed above further the City's values and strategic issues that serve as key pillars on which identified priorities, goals, and action plans are built, by fostering:

- Positive City Image

Revenue: 2611000-50000	Expenditure: 5207300-43640
------------------------	----------------------------

CITY COUNCIL MEETING DATE: NOVEMBER 21, 2023
TITLE: FINAL ACCEPTANCE OF PUBLIC IMPROVEMENTS - PARCEL MAP NOS. 19830 &
19831.
PAGE: 2

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BACKGROUND

On November 13, 2017, the Chino Planning Commission conditionally approved Parcel Map Nos. 19830 and 19831 to subdivide approximately ten (10) acres of land to construct a 186,618 square-foot industrial park consisting of four (4) light industrial buildings with six (6) units ranging in size from 21,828 to 46,652 square-feet within the Airport Related (AR) land-use designation of The Preserve Specific Plan. This development is located at 15723-15739 Euclid Avenue (Exhibit A – Location Map).

The Conditions of Approval ("COA") required public improvements along the project frontage on Euclid Avenue. These public improvements include curb, gutter, sidewalk, streetlights, paving, traffic signal & interconnect, sewer and storm drain facilities. Additionally, the developer was required to install a potable water line and recycled water line along the developer's frontage on Euclid Avenue. Initially the project was to construct the recycled water line in Euclid Avenue from the project's southerly border to Kimball Avenue. However, to minimize the disturbance to Euclid Avenue, the pipeline was realigned to be constructed within an easement on the property and adjacent to the potable water alignment. The requirements made at the time of the tentative maps have been met with the execution of a Subdivision Improvement Agreement by the City Council on September 17, 2019 to guarantee the construction of the public improvements required as a Condition of Approval of the development (Exhibit B – Subdivision Improvement Agreement).

ISSUES/ANALYSIS

The public improvements have been completed and constructed to the satisfaction of the City Engineer. The public improvements that are being accepted by the City of Chino include curb and gutter, sidewalk, concrete paving, streetlights, parkway landscaping, sewer, storm drain, domestic and recycled water, signing, striping, traffic controls, and drive approaches. All pedestrian improvements being accepted have been satisfactorily constructed to meet all applicable accessibility requirements.

This development project experienced significant delays due to the pandemic (supply chain issues/increased costs), staff turnover, changes to the COA as it pertains to the domestic and recycled water facilities as discussed above, and the coordination with the California Department of Transportation ("Caltrans") for improvements within the Euclid Avenue right of way (State Highway 83). The culmination of these circumstances delayed the project 18-months as the developer had to redesign the recycled water line and go through the dual plan check process between the City and Caltrans, which was timely and costly. Additionally, due to the timing constraints and mounting construction costs, City staff allowed the developer to move forward with an informal bidding process to hasten the construction of the water lines. The developer obtained competitive pricing and awarded to the lowest responsible bidder.

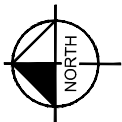
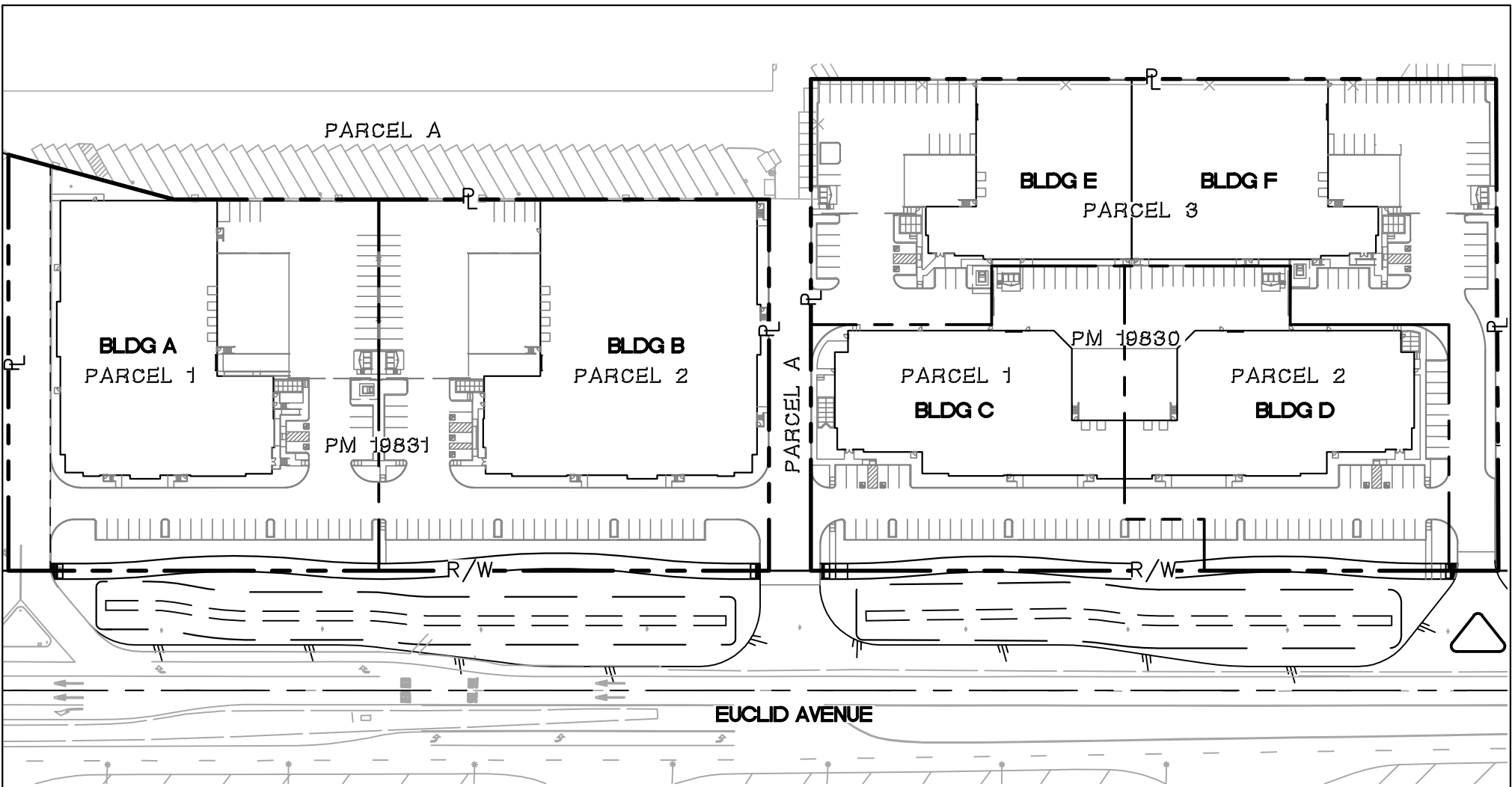
Additionally, some of the required public improvements are master-planned facilities and are included in the City's Development Impact Fee (DIF) program. These public improvements are eligible for DIF credit and reimbursement per the Chino Municipal Code, Chapter 3.45. The City Engineer reviewed the final accepted/approved "as-built" plans, specifications and supporting documentation provided by the developer to determine the eligible costs for reimbursement per the terms of the Construction Credit and Reimbursement Agreement approved between the City and Euclid/Kimball Partners, dated February 15, 2022, attached as Exhibit C. It was determined that \$1,785,004.46 is eligible for credit/reimbursement.

Staff analyzed The Preserve DIF fund balance and there is \$628,000 available to make a partial payment to the developer. It should be noted, the developer did not receive DIF credit for its Water DIF obligation during construction. Therefore, there are zero credits to deduct from the actual validated costs. Staff will continue to monitor the fund balance in The Preserve Water Source, Storage, and Distribution Development Impact Fee program and will make progress payments to the developer (when funds are available) until the terms of the agreement are fulfilled. Each progress payment requires an appropriation of funds and, therefore, each payment will be brought back to the City Council for approval.

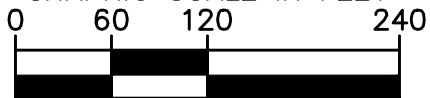
Security for a one-year warranty period has been submitted to the City. Under the warranty bond obligation, the developer will correct any defects found within one-year of City Council's acceptance of the project. Also, upon completion and final acceptance, the public improvements shall become the sole exclusive property of the City to operate and maintain. Sufficient funds are included in the City's Operating Budget to cover costs for maintenance of said facilities. The following maintenance obligations will commence following acceptance of the public improvements:

Domestic Water System:	By the City
Recycled Water System:	By the City
Potable Water System:	By the City
Sewer System:	By the City
Storm Drain:	By the City
Public Street Sweeping:	By the City
Streetlights:	By the property owner
Landscaping:	By the property owner

- Attachments: Exhibit A - Location Map
Exhibit B - Fully Executed Subdivision Improvement Agreement & Bonds
Exhibit C - Fully Executed Construction Credit & Reimbursement Agreement
Exhibit D - Public Improvements Index Map



GRAPHIC SCALE IN FEET



Kimley»Horn

401 B STREET, SUITE 600
 SAN DIEGO, CA 92101
 (619) 234 9411

EXHIBIT "A"
 EUCLID COMMERCE CENTER
 8/29/2019

SUBDIVISION IMPROVEMENT AGREEMENT

by and between

CITY OF CHINO

and

**EUCLID/KIMBALL PARTNERS, LP
a California General Partnership**

SUBDIVISION IMPROVEMENT AGREEMENT BETWEEN

THE CITY OF CHINO

AND

**EUCLID/KIMBALL PARTNERS, LP
a California General Partnership**

Agreement Date: September 17, 2019

Subdivider Name: Euclid/Kimball Partners, LP a California General Partnership

Subdivision Description: On November 13, 2017, the Chino Planning Commission conditionally approved Parcel Map Nos. 19830 and 19831 to subdivide approximately ten (10) acres of land to construct a 186,618 square-foot industrial park consisting of four (4) light industrial buildings with six (6) units ranging in size from 21,828 to 46,652 square-feet within the Airport Related (AR) land-use designation of The Preserve Specific Plan. This development is located at 15723-15739 Euclid Avenue, APN: 1056-071-12, 14, and a portion of 1056-071-13.

Tentative Map No.: 19830 and 19831

Estimated Total Cost of Improvements: \$2,500,000.00

Estimated Total Cost of Monumentation: \$8,400.00 (based upon the plans, including individual lots, subdivision boundary and public improvements).

Security:

Bond No.: K0930552A

Surety: Westchester Fire Insurance Company

Designees for the Service of Written Notice:

CITY: Chris Magdosku City Engineer 13220 Central Avenue Chino, CA 91710 (909) 334-3417 cmagdosku@cityofchino.org	SUBDIVIDER: Euclid/Kimball Partners, LP a California General Partnership 3410 La Sierra # F-225 Riverside Ca 92503 John Ginger, Managing Member (949) 300-1496 john@johnginger.com Brad Boatman, Project Manager (714) 321-1935 Homeboatman@gmail.com
CITY PROJECT INSPECTOR	SURETY
Ronnie Hernandez Permit & Inspection Supervisor 13220 Central Avenue Chino, CA 91710 (909) 334-3433 rhernandez@cityofchino.org	Westchester Fire Insurance Company

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SUBDIVISION IMPROVEMENT AGREEMENT

THIS SUBDIVISION IMPROVEMENT AGREEMENT (this "Agreement") is entered into this 17th day of September 2019, by and between the CITY OF CHINO, a municipal corporation, organized and existing in the County of San Bernardino, under and by virtue of the laws of the State of California, ("CITY"), and Euclid/Kimball Partners, LP a California General Partnership (Subdivider").

RECITALS

A. Subdivider is the owner of, and has obtained approval of a subdivision map identified as Tentative Parcel Map Nos. 19830 and 19831, (the "Map"), located in the City of Chino, County of San Bernardino, State of California (the "Property"), as described on Exhibit "A". The Map requires Subdivider to comply with certain conditions of approval for the development of the Property (the "Conditions") as described on Exhibit "B".

B. Pursuant to the Conditions, Subdivider, by the Map, has offered for dedication to City for public use of the streets and easements shown on the Map. City desires to accept the streets and easements shown on the Map for public use, and certain other improvements described in this Agreement.

C. Subdivider has delivered to City, and City has approved, plans and specifications and related documents for certain "Works of Improvement" (as hereinafter defined) which are required to be constructed and installed in order to accommodate the development of the Property.

D. Construct the public water main on the Property in-lieu of the public right-of-way due to existing field conditions along Euclid Avenue. The installation of the water main (by the Subdivider) shall occur during the on-site construction of structures and site utilities. The Subdivider shall prepare the correlating easement document to be reviewed and approved by the City, and then recorded as a separate instrument subsequent to the recordation of Parcel Map Nos. 19830 and 19831.

E. Subdivider's agreement to construct and install the Works of Improvement pursuant to this Agreement and its offer of dedication of the streets, easements and other improvements and facilities, as shown on the Map, are a material consideration to City in approving Final Parcel Map Nos. 19830 and 19831 for the Property and permitting development of the Property to proceed.

COVENANTS

Based upon the foregoing Recitals which are incorporated herein by reference and in consideration of City's approving the Map for the Property and permitting development of the Property to proceed, Subdivider agrees to timely perform all of its obligations as set forth herein.

1. Construction Obligations.

1.1. Works of Improvement. Subdivider agrees, at its sole cost and expense, to construct or install, or cause to be constructed or installed the street, drainage, domestic water, sanitary sewer, street lighting, landscaping, utility, and other improvements more fully described in Exhibit "B" attached hereto (the "Works of Improvement"), as the same may be supplemented and revised from time to time as set forth in this Agreement (said plans and specifications, together with all related documents, the "Plans"). The estimated construction cost for the Works of Improvement is \$2,500,000.00.

1.2. Other Obligations Referenced in Conditions of Tentative Map Approval. In addition to the foregoing, Subdivider shall satisfy all of the Conditions on the Map for the Property. The Conditions associated with the Map are included in Exhibit "B" attached hereto.

1.3. Intent of Plans. The intent of the Plans referenced in Section 1.1 is to prescribe a complete work of improvement which Subdivider shall perform or cause to be performed in a manner acceptable to the City Engineer, (or designee), and in full compliance with all codes and the terms of this Agreement. Subdivider shall complete a functional or operable improvement or facility, even though the Plans may not specifically call out all items of work required for Subdivider's contractor to complete its tasks, incidental appurtenances, materials, and the like. If any omissions are made or information necessary to carry out the full intent and meaning of the Plans, Subdivider or its contractor shall immediately notify its design engineer who will seek approval of the City Engineer for furnishing of detailed instructions. In the event of any doubt or question arising regarding the true meaning of any of the Plans, reference shall be made to the City Engineer whose decision thereon shall be final.

Subdivider recognizes that the Plans consist of general drawings. All authorized alterations affecting the requirements and information given on the Plans shall be in writing and approved by the City Engineer. The Plans shall be supplemented by such working or shop drawings as are necessary to adequately control the work. Without the City Engineer's prior written approval, no change shall be made by Subdivider or its contractor to any plan, specification, or working or shop drawing after it has been stamped as approved.

1.4. Survey Monuments. Before final approval of street improvements, Subdivider shall place survey monuments as shown on Final Parcel Map Nos. 19830 and 19831 in accordance with the provisions of the State Subdivision Map Act and the Subdivision Ordinance of the City of Chino. Subdivider shall provide security for such obligation as provided in Section 4.1(a)(iii) and, after setting the monuments, Subdivider shall furnish the City Engineer written notice of the setting of said monuments and written proof of having paid the engineer or surveyor for the setting of said monuments.

1.5. Performance of Work. Subdivider shall furnish or cause to be furnished all materials, labor, tools, equipment, utilities, transportation, and incidentals required to perform Subdivider's obligations under this Agreement.

1.6. Changes in the Work. The City Engineer, without invalidating this Agreement and without notification to any of the sureties or financial institutions referenced in Paragraph 4, may order extra work or may make changes by altering or deleting any portion of the Works of Improvement as specified herein or as deemed necessary or desirable by the City Engineer as

determined necessary to accomplish the purposes of this Agreement and to protect the public health, safety, or welfare. The City Engineer shall notify Subdivider or its contractor in writing (by Correction Notice) at the time a determination has been made to require changes in the work. No field changes performed or proposed by Subdivider or its contractor shall be binding on City unless approved in writing by the City Engineer. The City and Subdivider may mutually agree upon changes to the Works of Improvement, subject to the security requirements in Section 4.

1.7. Defective Work. Subdivider shall cause its contractor to repair, reconstruct, replace, or otherwise make acceptable any work found by the City Engineer to be defective.

1.8. No Warranty by City. The Plans for the Works of Improvement have been prepared by or on behalf of Subdivider or its consultants or contractors, and City makes no representation or warranty, express or implied, to Subdivider or to any other person regarding the adequacy of the Plans or related documents.

1.9. Authority of the City Engineer. In addition to the authority granted to the City Engineer elsewhere in this Agreement, the City Engineer shall have the authority to decide all questions which may arise as to the quality and acceptability of materials furnished and work performed, and all questions as to the satisfactory and acceptable fulfillment of the terms of this Agreement by Subdivider and its contractor.

1.10. Documents Available at the Site. Subdivider shall cause its contractor to keep a copy of all approved Plans at the job site and shall give access thereto to the City's inspectors and engineers at all times.

1.11. Inspection. Subdivider shall have an authorized representative on the job site at all times during which work is being done who has full authority to act for Subdivider, or its design engineer, and Subdivider's contractor(s) regarding the Works of Improvement. Subdivider shall cause its contractor to furnish the City with every reasonable facility for ascertaining whether or not the Works of Improvement as performed are in accordance with the requirements and intent of this Agreement, including the Plans. If the City inspector requests it, the Subdivider's contractor, at any time before acceptance of the Works of Improvement, shall remove or uncover such portions of the finished work as may be directed which have not previously been inspected. After examination, the Subdivider's contractor shall restore said portions of the work to the standards required hereunder. Inspection or supervision by the City Engineer (or designee) shall not be considered as direct control of the individual workmen on the job site. City's inspectors shall have the authority to stop any and all work not in accordance with the requirements contained or referenced in this Agreement.

The inspection of the work by City shall not relieve Subdivider or its contractor of any obligations to fulfill this Agreement as herein provided, and unsuitable materials or work may be rejected notwithstanding that such materials or work may have been previously overlooked or accepted.

1.12. Compliance with Law; Applicable Standards for Improvements. In addition to the express provisions of this Agreement and the Plans, Subdivider shall cause construction of the Works of Improvement to be completed in accordance with all other applicable federal, state, and local laws, ordinances, rules and regulations. In addition, without limiting the foregoing, the

Subdivider shall, at its expense, obtain and comply with the conditions of all necessary permits and licenses for the construction of the Works of Improvement. The Subdivider shall also give all necessary notices and pay all fees and taxes as required by law.

Subdivider shall construct the improvements in accordance with the City standards in effect at the time of the adoption of the Approved Tentative Map. City reserves the right to protect the public safety or welfare or comply with applicable Federal or State law or City zoning ordinances.

1.13. Suspension of Work. The City Engineer shall have authority to order suspension of the work for failure of the Subdivider's contractor to comply with law pursuant to Section 1.12. In case of suspension of work for any cause whatsoever, Subdivider and its contractor shall be responsible for all materials and shall store them properly if necessary, and shall provide suitable interim drainage and/or dust control measures, and erect temporary structures where necessary.

1.14. Erosion and Dust Control and Environmental Mitigation. All grading, landscaping, and construction activities shall be performed in a manner to control erosion and prevent flooding problems. The City Engineer shall have the authority to require erosion plans to prescribe reasonable controls on the method, manner, and time of grading, landscaping, and construction activities to prevent nuisances to surrounding properties. Plans shall include without limitation temporary drainage and erosion control requirements, dust control procedures, restrictions on truck and other construction traffic routes, noise abatement procedures, storage of materials and equipment, removal of garbage, trash, and refuse, securing the job site to prevent injury, and similar matters.

1.15. Final Acceptance of Works of Improvement. After Subdivider's contractor has completed all of the Works of Improvement, Subdivider shall then request a final inspection of the work. If items are found by the City's inspectors to be incomplete or not in compliance with this Agreement or any of the requirements contained or referenced herein, City will inform the Subdivider or its contractor of such items. After the Subdivider's contractor has completed these items, the procedure shall then be the same as specified above for the Subdivider's contractor's initial request for final inspection. If items are found by City's inspectors to be incomplete or not in compliance after two (2) "final" inspections, the City may require the Subdivider or its contractor, as a condition to performing further field inspections, to submit in writing a detailed statement of the work performed subsequent to the date of the previous inspection which was found to be incomplete or not in compliance at that time. Subdivider shall be responsible for payment to City Engineer of re-inspection fees in the amount necessary to cover the City's costs for additional final inspections, as determined by the City Engineer.

No inspection or acceptance pertaining to specific parts of the Works of Improvement shall be construed as final acceptance of any part until the overall final acceptance by the City Engineer is made. The City Engineer shall make a certification of completion and acceptance on the Works of Improvement by recordation of a Notice of Acceptance on behalf of the City. Final acceptance shall not constitute a waiver by the City Engineer of defective work subsequently discovered.

The date on which the Works of Improvement will be considered as complete shall be the date of the Notice of Acceptance.

1.16. Vesting of Ownership. Upon recordation of the Notice of Acceptance, ownership of the Works of Improvement shall vest in the City.

1.17. Subdivider's Obligation to Warn Public During Construction. Until recordation of the Notice of Acceptance, Subdivider shall give good and adequate warning to the public of any dangerous condition of the Works of Improvements, and shall take reasonable actions to protect the public from such dangerous condition. Until recordation of the Notice of Acceptance, Subdivider shall provide forty-eight (48) hours' advance written notice to all neighboring property owners and tenants affected by Subdivider's operations or construction of the hours, dates and duration of any planned construction activities.

1.18. Injury to Public Improvements, Public Property or Public Utility. Until recordation of the Notice of Acceptance of the Works of Improvement, Subdivider assumes responsibility for the care and maintenance of, and any damage to, the Works of Improvements. Subdivider shall replace or repair all Works of Improvements, public property, public utility facilities, and surveying or subdivision monuments and benchmarks which are destroyed or damaged for any reason, regardless whether resulting from the acts of the Subdivider, prior to the recordation of the Notice of Acceptance. Subdivider shall bear the entire cost of such replacement or repairs regardless of what entity owns the underlying property. Any repair or replacement shall be to the satisfaction, and subject to the approval, of the City Engineer.

Neither the City, nor any officer or employee thereof, shall be liable or responsible for any accident, loss or damage, regardless of cause, occurring to the work or Works of Improvements prior to recordation of the Notice of Acceptance of the work or improvements.

2. Time for Performance.

2.1. Commencement and Completion Dates. Subject to Sections 2.2 and 2.3 below, Subdivider shall (i) commence with construction and installation of the Works of Improvement thirty (30) days following City's approval of the Plans ("Commencement Date"); and (ii) complete or cause to be completed all of the Works of Improvement within two (2) years after the Commencement Date. In the event good cause exists as determined by the City Engineer, the time for commencement of construction or completion of the Works of Improvement hereunder may be extended by up to three (3) additional one-year periods. Extensions shall be executed in writing by the City Engineer. The City Engineer in his or her sole discretion determines whether or not the Subdivider has established good cause for an extension. As a condition of such extension, the City Engineer may require Subdivider to furnish new security guaranteeing performance of this Agreement, as extended, in an increased amount to compensate for any increase in construction costs as determined by the City Engineer. If Subdivider requests and is granted an extension of time for completion of the improvements, City may apply the standards in effect at the time of the extension.

2.2. Phasing Requirements. Notwithstanding the provisions of Section 2.1, the City reserves the right to control and regulate the phasing of completion of specific Works of Improvement as required to comply with applicable City ordinances, regulations, and rules relating to the timely provision of public services and facilities. In addition to whatever other

remedies the City may have for Subdivider's failure to satisfy such phasing requirements, as the same now exist or may be amended from time to time, Subdivider acknowledges City's right to withhold the issuance of further building permits on the Property until such phasing requirements are satisfied. Prior to issuance of building permits, Subdivider shall provide satisfactory evidence that all applicable requirements that are a condition to issuance of building permits have been satisfied. Such requirements may include the payment of fees, construction of improvements, or both. Final inspections or issuance of Certificates of Occupancy may be withheld from the Subdivider by the City, if, upon a determination by the City Engineer, completion of specific Works of Improvements or other requirements associated with the development of the Property have not been completed to the City Engineer's satisfaction.

2.3. Force Majeure. Notwithstanding the provisions of Section 2.1, Subdivider's time for commencement and completion of the Works of Improvement shall be extended for the period of any enforced delay caused due to circumstances beyond the control and without the fault of Subdivider, including to the extent applicable adverse weather conditions, flood, earthquakes, strikes, lockouts, acts or failures to act of a public agency (including City), required changes to the scope of work required by City, and similar causes; provided, however, that the period of any enforced delay hereunder shall not include any period longer than five (5) days prior to City's receipt of a written notice from Subdivider or its contractor detailing the grounds for Subdivider's claim to a right to extend its time for performance hereunder. The City Engineer shall evaluate all claims to Force Majeure and the City Engineer's decision shall be final.

2.4. Continuous Work. After commencement of construction of the Works of Improvement (or separate portion thereof), Subdivider shall cause such work to be diligently pursued to completion, and shall not abandon the work for a consecutive period or more than thirty (30) days, events of Force Majeure excepted.

2.5. Reversion to Acreage. In addition to whatever other rights City may have due to Subdivider's failure to timely perform its obligations hereunder, Subdivider recognizes that City reserves the right to revert the Property to acreage subject to the limitations and requirements set forth in California Government Code Section 66499.11 through Section 66499.20.1. In this regard, Subdivider agrees that if the Works of Improvement have not been completed on or before the later of two (2) years from the date of this Agreement or within the time allowed herein, whichever is the later, and if City thereafter initiates proceedings to revert the Property to acreage, pursuant to Government Code Section 66499.16, Subdivider hereby consents to such reversion to acreage and agrees that any improvements made by or on behalf of Subdivider shall not be considered in determining City's authority to revert the Property to acreage.

3. Labor.

3.1. Labor Standards. This Agreement is subject to, and Subdivider agrees to comply with, all of the applicable provisions of the Labor Code including, but not limited to, the wage and hour, prevailing wage, worker compensation, and various other labor requirements in Division 2, Part 7, Chapter 1, including section 1720 to 1740, 1770 to 1780, 1810 to 1815, 1860 to 1861, which provisions are specifically incorporated herein by reference as set forth herein in their entirety. Subdivider shall expressly require compliance with the provisions of this

Section in all agreements with contractors and subcontractors for the performance of the Works of Improvement.

3.2. Nondiscrimination. In accordance with the California Fair Employment and Housing Act ("FEHA"), California Government Code Section 12940 *et seq.*, Subdivider agrees that Subdivider, its agents, employees, contractors, and subcontractor performing any of the Works of Improvement shall not discriminate, in any way, against any person on the basis of race, ethnicity, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Subdivider shall expressly require compliance with the provisions of this Section in all agreements with contractors and subcontractors for the performance of this Agreement.

3.3. Licensed Contractors. Subdivider shall cause all of the Works of Improvement to be constructed by contractors and subcontractors with valid California Contractors' licenses for the type of work being performed. All of Subdivider's contractors and subcontractors shall obtain a valid City of Chino business license prior to performing any work pursuant to this Agreement. Subdivider shall provide the City Engineer with a list of all of its contractors and subcontractors prior to initiating any work, and all valid Contractor's licenses and business licenses issued thereto as a condition of constructing the Works of Improvements.

3.4. Worker's Compensation. Subdivider shall cause every contractor and subcontractor performing any of the Works of Improvement to carry Workers' Compensation Insurance as required by the Labor Code of the State of California and shall cause each such contractor and subcontractor to submit to City a Certificate of Insurance verifying such coverage prior to such contractor or subcontractor entering onto the job site.

4. Security.

4.1. Required Security.

(a) At the time Subdivider executes this Agreement, Subdivider shall furnish to City the following bonds, letters of credit, instruments of credit (assignment of deposit account) or other security acceptable to City in its sole and absolute discretion and satisfying the requirements of the applicable provisions of this Section 4 below (hereinafter "Security Instruments"):

- (i) A Security Instrument securing Subdivider's faithful performance of all of the Works of Improvement ("Faithful Performance Security Instrument"), in the amount of \$2,500,000.00 equal to 100% of the estimated construction cost referenced in Section 1.1.
- (ii) A Security Instrument guaranteeing the payment to contractors, subcontractors, and other persons furnishing labor, materials, and/or equipment ("Labor and Materials Security Instrument") with respect to the Works of Improvement in an amount equal to \$1,250,000.00 equal to 50% of the estimated construction cost referenced in Section 1.1.

- (iii) A Security Instrument guaranteeing the payment of the cost of setting monuments as required in Section 1.4 in the amount of \$8,400.00 equal to 100% of the cost thereof.

This Agreement shall not be effective for any purpose until such Security Instruments are supplied to and approved by City in accordance herewith.

(b) Required Security Instrument for Maintenance and Warranty. Prior to the City Council's acceptance of the Works of Improvement and recordation of a Notice of Completion, Subdivider shall deliver a Security Instrument warranting the work accepted for a period of one (1) year following said acceptance ("Maintenance and Warranty Security Instrument"), in the amount of \$250,000.00 equal to 10% of the estimated construction cost set forth in Section 1.1 or a suitable amount determined by the City Engineer.

4.2. Form of Security Instruments. All Security Instruments shall be in the amounts required under Section 4.1 (a) or 4.1(b), as applicable, shall meet the following minimum requirements and otherwise shall be in a form provided by City or otherwise approved by the City Attorney:

(a) Bonds. For Security Instruments provided in the form of bonds, any such bond must be issued and executed by an insurance company or bank authorized to transact surety business in the State of California. Any insurance company acting as surety shall have a minimum rating of A-IX, as rated by the current edition of Best's Key Rating Guide published by A.M. Best's Company, Oldwick, New Jersey, 08858. Any bank acting as surety shall have a minimum rating of AA, as rated by Moody's or Standard & Poor's.

(b) Letters of Credit. For Security Instruments which are letters of credit, any letter of credit shall be an original separate unconditional, irrevocable, negotiable and transferable commercial letter of credit issued by a financial institution with offices in the State of California acceptable to City. Any such letter of credit shall specifically permit City to draw on same by unilateral certification of the City Engineer of the City that Subdivider is in default under its payment or performance obligations hereunder or in the event Subdivider fails to deliver a replacement letter of credit not less than thirty (30) days prior to the date of expiration of any such letter of credit and shall further be subject to the provisions of Section 4.4.

(c) Instrument of Credit. For Security Instruments which are Instruments of Credit, any Instrument of Credit shall be an assignment of deposit account assigning as security to City all of Subdivider's interest in funds on deposit in one or more bank accounts with financial institutions acceptable to City.

(d) General Requirements for all Security Instruments.

- (i) Payments under any Security Instruments shall be required to be made (and, with respect to bonds, litigation shall be required to be

instituted and maintained) in the City of Chino, State of California (and the Security Instrument shall so provide).

- (ii) Each Security Instrument shall have a minimum term of one (1) year after the deadline for Subdivider's completing the Works of Improvement, in accordance with Section 2.1 (other than Instruments of Credit, which shall have no defined term or expiration date).
- (iii) Each Security Instrument shall provide that changes may be made in the Works of Improvement pursuant to the terms of this Agreement without notice to any issuer or surety and without affecting the obligations under such Security Instrument.
- (iv) If the Subdivider seeks to replace any security with another security, the replacement shall: (1) comply with all the requirements for security in this Agreement; (2) be provided by the Subdivider to the City Engineer; and (3) upon its written acceptance by the City Engineer, be deemed a part of this Agreement. Upon the City Engineer's acceptance of a replacement security, the former security may be released by the City.

4.3. Subdivider's Liability. While no action of Subdivider shall be required in order for City to realize on its security under any Security Instrument, Subdivider agrees to cooperate with City to facilitate City's realization under any Security Instrument, and to take no action to prevent City from such realization of any Security Instrument. Notwithstanding the giving of any Security Instrument or the subsequent expiration of any Security Instrument or any failure by any surety or financial institution to perform its obligations with respect thereto, Subdivider shall be personally liable for performance under this Agreement and for payment of the cost of the labor and materials for the improvements required to be constructed or installed hereby and shall, within ten (10) days after written demand therefor, deliver to City such substitute security as City shall require satisfying the requirements in this Section 4.

4.4. Letters of Credit.

(a) In the event a letter of credit is given pursuant to Section 4.2(b), City shall be entitled to draw on any such letter of credit if a replacement letter of credit (expiring in not less than one (1) year, unless City agrees to a lesser term in City's sole and absolute discretion) is not delivered not less than thirty (30) days prior to the expiration of the original letter of credit, such substitute letter of credit being in the same amount and having the terms and conditions as the initial letter of credit delivered hereunder, issued by a financial institution acceptable to City as of the date of delivery of the replacement letter of credit.

(b) In the event of draw by the City on a letter of credit, the City may elect, in its sole and absolute discretion, to apply any such funds drawn to the obligations secured by such letter of credit or to hold such funds in an account under the control of the City, with no interest accruing thereon for the benefit of the Subdivider. If the City elects to hold the funds in an account pursuant to the

foregoing, City may thereafter at any time elect instead to apply such funds as provided in the foregoing. Subdivider agrees and hereby grants City a security interest in such account to the extent required for City to realize on its interests therein, and agrees to execute and deliver to City any other documents requested by City in order to evidence the creation and perfection of City's security interest in such account.

4.5. Release of Security Instruments. The City shall release all Security Instruments consistent with Government Code Sections 66499.7 and 66499.8, Section 19.09.010 of the Chino Municipal Code, and as follows:

(a) City shall release the Faithful Performance Security Instrument and Labor and Materials Security Instrument when all of the following have occurred:

- (i) Subdivider has made written request for release and provided evidence of satisfaction of all other requirements in this Section 4.5;
- (ii) the Works of Improvement have been accepted;
- (iii) Subdivider has delivered the Maintenance and Warranty Security Instrument; and
- (iv) after passage of the time within which lien claims are required to be made pursuant to Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code of the State of California. If lien claims have been timely filed, City shall hold the Labor and Materials Security Instrument until such claims have been resolved, Subdivider has provided a statutory bond, or otherwise as required by applicable law.

(b) City shall release the Maintenance and Warranty Security Instrument upon Subdivider's written request upon the expiration of the warranty period, and settlement of any claims filed during the warranty period.

(c) The City may retain from any security released, an amount sufficient to cover costs and reasonable expenses and fees, including reasonable attorney's fees.

5. Cost of Construction and Provision of Inspection Service.

5.1. Subdivider Responsible for All Costs of Construction. Subdivider shall be responsible for payment of all costs incurred for construction and installation of the Works of Improvement. In the event Subdivider is entitled to reimbursement from City for any of the Works of Improvement, such reimbursement shall be subject to a separate Reimbursement Agreement to be entered into between Subdivider and City prior to construction of the Works of Improvement.

5.2. Payment to City for Cost of Related Inspection and Engineering Services. Subdivider shall compensate City for all of City's costs reasonably incurred in having its

authorized representative make the usual and customary inspections of the Works of Improvement. In addition, Subdivider shall compensate City for all design, plan check, evaluating any proposed or agreed-upon changes in the work. The procedures for deposit and payment of such fees shall be as established by the City. In no event shall Subdivider be entitled to additional inspections or a final inspection and acceptance of any of the Works of Improvement until all City fees and charges have been fully paid, including without limitation, charges for applicable penalties and additional required inspections.

5.3. Payment of Development Impact Fees. Subdivider shall pay Development Impact Fees pursuant to and in accordance with Chino Municipal Code Chapter 3.40.

6. Acceptance of Offers of Dedication. The City Council shall pass as appropriate resolution or resolutions accepting all offers of dedication shown on the Map for the Property, with acceptance to become effective upon completion and acceptance by City of the Works of Improvement. Such resolution(s) shall authorize the City Clerk to execute the Certificate made a part of the Map regarding said acceptance of the offer of dedication.

7. Warranty of Work. Subdivider shall guarantee all Works of Improvement against defective materials and workmanship for a period of one (1) year from the date of final acceptance. If any of the Works of Improvement should fail or prove defective within said one (1) year period due to any reason other than improper maintenance, or if any settlement of fill or backfill occurs, or should any portion of the Works of Improvement fail to fulfill any requirements of the Plans, Subdivider, within fifteen (15) days after written notice of such defects, or within such shorter time as may reasonably be determined by the City in the event of emergency, shall commence to repair or replace the same together with any other work which may be damaged or displaced in so doing. Should Subdivider fail to remedy defective material and/or workmanship or make replacements or repairs within the period of time set forth above, City may make such repairs and replacements and the actual cost of the required labor and materials shall be chargeable to and payable by Subdivider. The warranty provided herein shall not be in lieu of, but shall be in addition to, any warranties or other obligations otherwise imposed by law.

8. Default.

8.1. Default by Subdivider. Default by Subdivider shall include, but not be limited to:

- (a) Subdivider's failure to timely commence construction of Works of Improvement under this Agreement;
- (b) Subdivider's failure to timely complete construction of the Works of Improvement;
- (c) Subdivider's failure to perform substantial construction work for a period for 20 consecutive calendar days after commencement of the work;
- (d) Subdivider's insolvency, appointment of a receiver, or the filing of any petition in bankruptcy, either voluntary or involuntary, which Subdivider fails to discharge within 30 days;

- (e) The commencement of a foreclosure action against the subdivision or a portion thereof, or any conveyance in lieu or in avoidance of foreclosure; or
- (f) Subdivider's failure to perform any other obligation under this Agreement.

8.2. Remedies. The City reserves all remedies available to it at law or in equity for a default or breach of Subdivider's obligations under this Agreement. The City shall have the right, subject to this Section, to draw upon or use the appropriate security to mitigate the City's damages in the event of default by Subdivider. The City's right to draw upon or use the security is in addition to any other remedy available to City. The parties acknowledge that the estimated costs and security amounts may not reflect the actual cost of construction of the improvements and, therefore, City's damages for Subdivider's default shall be measured by the cost of completing the required improvements. The City may use the sums provided by the securities for the completion of the Works of Improvement in accordance with the plans. In the event the Subdivider fails to cure any default under this Agreement within 20 days after the City mails a notice of such default to the Subdivider and the Subdivider's surety, Subdivider authorizes the City to perform the obligation for which Subdivider is in default and agrees to pay the entire cost of such performance by the City. The City may take over the work and complete the Works of Improvement, by contract or by any other method City deems appropriate, at the expense of the Subdivider. In such event, City, without liability for doing so, may complete the Works of Improvement using any of Subdivider's materials, appliances, plans and other property that are at the work site and that are necessary to complete the Works of Improvement.

8.3. Notice of Violation. The Subdivider's failure to comply with the terms of this Agreement constitutes Subdivider's consent for the City to file a notice of violation against all the lots in the Subdivision, or to rescind or otherwise revert the Subdivision to acreage. Subdivider specifically recognizes that the determination of whether a reversion to acreage or rescission of the Subdivision constitutes an adequate remedy for default by the Subdivider shall be within the sole discretion of the City.

8.4. Remedies Not Exclusive. In any case where this Agreement provides a specific remedy to City for a default by Subdivider hereunder, the Subdivider agrees that the choice of remedy or remedies for Subdivider's breach shall be in the discretion of the City. Additionally, any remedy specifically provided in this Agreement shall be in addition to, and not exclusive of, City's right to pursue any other administrative, legal, or equitable remedy to which it may be entitled.

8.5. Attorney's Fees and Costs. In the event that Subdivider fails to perform any obligation under this Agreement, Subdivider agrees to pay all costs and expenses incurred by City in securing performance of such obligations, including costs of suit and reasonable attorney's fees. In the event of any dispute arising out of Subdivider's performance of its obligations under this Agreement or under any of the Security Instruments referenced herein, the prevailing party in such action, in addition to any other relief which may be granted, shall be entitled to recover its reasonable attorney's fees and costs. Such attorney's fees and cost shall include fees and costs on any appeal, and in addition a party entitled to attorney's fees and costs shall be entitled to all other reasonable costs incurred in investigating such action, taking depositions and discovery, retaining expert witnesses, and all other necessary and related costs with respect to the litigation. All such fees and costs shall be deemed to have

accrued on commencement of the action and shall be enforceable whether or not the action is prosecuted to judgment.

8.6. Waiver. No waiver by the City of any breach or default by the Subdivider shall be considered valid unless in writing, and no such waiver by the City shall be deemed a waiver of any subsequent breach or default by the Subdivider.

9. Indemnity/Hold Harmless. City or any officer, employee or agent thereof shall not be liable for any injury to persons or property occasioned by reason of the acts or omissions of Subdivider, its agents, employees, contractors and subcontractors in the performance of this Agreement. Subdivider further agrees to protect, defend, indemnify and hold harmless City, its officials, boards and commissions, and members thereof, agents, and employees from any and all claims, demands, causes of action, liability or loss of any sort, because of, or arising out of, acts or omissions of Subdivider, its agents, employees, contractors and subcontractors in the performance of this Agreement, except for such claims, demands, causes of action, liability or loss arising out of the sole active negligence of the City, its officials, boards, commissions, the members thereof, agents and employees, including all claims, demands, causes of action, liability or loss because of or arising out of, in whole or in part, the design or construction of the improvements. This indemnification and agreement to hold harmless shall extend to injuries to persons and damages or taking of property resulting from the design or construction of said Subdivision, and the public improvements as provided herein, and in addition, to adjacent property owners as a consequence of the diversion of waters from the design and construction of public drainage systems, streets and other improvements. Recordation of the Notice of Acceptance by the City of the Works of Improvements shall not constitute an assumption by the City of any responsibility for any damage or taking covered by this Section. City shall not be responsible for the design or construction of the property to be dedicated or the improvements pursuant to the approved improvement plans or map, regardless of any negligent action or inaction taken by the City in approving the plans or map, unless the particular improvement design was specifically required by City over written objection by Subdivider submitted to the City Engineer before approval of the particular improvement design, which objection indicated that the particular improvement design was dangerous or defective and suggested an alternative safe and feasible design.

After recordation of the Notice of Acceptance, the Subdivider shall remain obligated to eliminate any latent defect in design or dangerous condition caused by the design or construction defect; however, Subdivider shall not be responsible for routine maintenance. The provisions of this paragraph shall remain in full force and effect for ten (10) years following the recordation of the Notice of Acceptance by the City of the Works of Improvements. It is the intent of this section that Subdivider shall be responsible for all liability for design and construction of the improvements installed or work done pursuant to this Agreement and that City shall not be liable for any negligence, nonfeasance, misfeasance or malfeasance in approving or reviewing any work or construction. The improvement security shall not be required to cover the provisions of this Paragraph.

Subdivider shall reimburse the City for all costs and expenses, including but not limited to fees and charges of architects, engineers, attorneys, and other professionals, and court costs, incurred by City in enforcing this Section.

10. Subdivider's Indemnity of Project Approval. Subdivider shall defend, indemnify, and hold harmless the City and its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul, an approval of the City, advisory agency, appeal board, or legislative body concerning the Subdivision. The City shall promptly notify the Subdivider of any claim, action, or proceeding and cooperate fully in the defense of any such claim, action, or proceeding. In the event City fails to promptly notify the Subdivider of any claim, action, or proceeding, or if the City fails to cooperate in the defense, the Subdivider shall not thereafter be responsible to defend, indemnify, or hold harmless the City. Nothing in this Section prohibits the City from participating in the defense of any claim, action, or proceeding if City bears its own attorney's fees and costs and defends the action in good faith. Subdivider shall not be required to pay or perform any settlement unless the settlement is approved by the Subdivider.

11. Insurance Requirements. Subdivider, at Subdivider's sole cost and expense and for the full term of this Agreement and any extensions thereto, shall obtain and maintain all of the following minimum insurance requirements in a form approved by the City's authorized designee for Risk Management prior to commencing any work:

(a) Commercial General Liability policy with a minimum \$1 million combined single limit for bodily injury and property damage providing all of the following minimum coverage without deductibles:

- (i) Premises operations; including X, C, and U coverage;
- (ii) Owners' and contractors' protection;
- (iii) Blanket contractual;
- (iv) Completed operations; and
- (v) Products.

(b) Commercial Business Auto policy with a minimum \$1 million combined single limit for bodily injury and property damage, providing all of the following minimum coverage without deductibles:

- (i) Coverage shall apply to any and all leased, owned, hired, or non-owned vehicles used in pursuit of any of the activities associated with this Agreement; and
- (ii) Any and all mobile equipment including cranes which are not covered under the above Commercial Business Auto policy shall have said coverage provided under the Commercial General Liability policy.

(c) Workers Compensation and Employers' Liability policy in accordance with the laws of the State of California and providing coverage for any and all employees of the Subdivider:

- (i) This policy shall provide coverage for Workers' Compensation (Coverage A); and
 - (i) This policy shall provide coverage for \$1,000,000 Employers' Liability (Coverage B).
 - (ii) Pursuant to Labor Code section 1861, Subdivider by executing this Agreement certifies: *"I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this contract."*
 - (iii) Prior to commencement of work, the Subdivider shall file with the City's Risk Manager a Certificate of Insurance or certification of permission to self-insure workers' compensation conforming to the requirements of the Labor Code.
- (d) Endorsements. All of the following endorsements are required to be made a part of each of the above-required policies as stipulated below:
- (i) "The City of Chino, its officers, employees and agents are hereby added as additional insureds."
 - (ii) "This policy shall be considered primary insurance with respect to any other valid and collectible insurance the City may possess, including any self-insured retention the City may have and any other insurance the City does possess shall be considered excess insurance only."
 - (iii) "This insurance shall act for each insured and additional insured as though a separate policy has been written for each. This, however, will not act to increase the limit of the insuring company."
 - (iv) "Thirty (30) days prior written notice of cancellation shall be given to the City of Chino in the event of cancellation and/or reduction in coverage, except that ten (10) days prior written notice shall apply in the event of cancellation for non-payment of premium." Such notice shall be sent to the Risk Manager at the address indicated in Subsection f below.
 - (v) Subsection d(iv) hereinabove "Cancellation Notice" is the only endorsement required of the Workers' Compensation and Employers' Liability policy.
- (e) Admitted Insurers. All insurance companies providing insurance to the Subdivider under this Agreement shall be admitted to transact the business of insurance by the California Insurance Commissioner.

(f) Proof of Coverage. Copies of all required endorsements shall be attached to the Certificate of Insurance which shall be provided by the Subdivider's insurance company as evidence of the coverage required herein and shall be mailed to:

City of Chino
Risk Management
13220 Central Avenue
Chino, CA 91710

12. Environmental Warranty.

12.1. Prior to the acceptance of any dedications or Works of Improvement by City, Subdivider shall provide City with a written warranty in a form substantially similar to Exhibit "C" attached hereto and incorporated herein by reference, that:

(a) Neither the property to be dedicated nor Subdivider are in violation of any environmental law, and neither the property to be dedicated nor the Subdivider are subject to any existing, pending or threatened investigation by any federal, state or local governmental authority under or in connection with the environmental laws relating to the property to be dedicated.

(b) Neither Subdivider nor any other person with Subdivider's permission to be upon the property to be dedicated shall use, generate, manufacture, produce, or release, on, under, or about the property to be dedicated, any Hazardous Substance except in compliance with all applicable environmental laws. For the purposes of this Agreement, the term "Hazardous Substances" shall mean any substance or material which is capable of posing a risk of injury to health, safety or property, including all those materials and substances designated as hazardous or toxic by any federal, state or local law, ordinance, rule, regulation or policy, including but not limited to, all of those materials and substances defined as "Toxic Materials" in Sections 66680 through 66685 of Title 22 of the California Code of Regulations, Division 4, Chapter 30, as the same shall be amended from time to time, or any other materials requiring remediation under federal, state or local laws, ordinances, rules, regulations or policies.

(c) Subdivider has not caused or permitted the release of, and has no knowledge of the release or presence of, any Hazardous Substance on the property to be dedicated or the migration of any hazardous substance from or to any other property adjacent to, or in the vicinity of, the property to be dedicated.

(d) Subdivider's prior and present use of the property to be dedicated has not resulted in the release of any hazardous substance on the property to be dedicated.

12.2. Subdivider shall give prompt written notice to City of:

(a) Any proceeding or investigation by any federal, state or local governmental

(b) authority with respect to the presence of any hazardous substance on the property to be dedicated or the migration thereof from or to any other property adjacent to, or in the vicinity of, the property to be dedicated.

(c) Any claims made or threatened by any third party against City or the property to be dedicated relating to any loss or injury resulting from any hazardous substance; and

(d) Subdivider's discovery of any occurrence or condition on any property adjoining or in the vicinity of the property to be dedicated that could cause the property to be dedicated or any part thereof to be subject to any restrictions on its ownership, occupancy, use for the purpose for which it is intended, transferability or suit under any environmental law.

13. General Provisions.

13.1. Successors and Assigns. This Agreement shall be binding upon all successors and assigns to Subdivider's right, title, and interest in and to the Property and any portion thereof. Subdivider hereby consents to City recording this Agreement as official records of San Bernardino County, affecting fee title interest to the Property to provide constructive notice of the rights and obligations incurred by Subdivider in the City's approval of this Agreement. In the event the Property is subsequently conveyed by Subdivider to a third party prior to completion of the Works of Improvement, whereby the third party is intended to assume Subdivider's responsibilities with regard to this Agreement, (the "Replacement Subdivider"), the rights and obligations of this Agreement shall transfer to the Replacement Subdivider; however, the Security Instruments required pursuant to Section 4 of this Agreement, and furnished by Subdivider as a condition of the City's approval of this Agreement, shall remain Subdivider's responsibility to maintain until such time as Subdivider and its Replacement Subdivider enter into a Transfer and Assignment of Subdivision Agreement, (the "Transfer Agreement"), to acknowledge the transfer of fee title to the Property from the Subdivider to its Replacement Subdivider, and to acknowledge the rights and obligations associated with this Agreement upon the Replacement Subdivider, including Replacement Subdivider's responsibility to furnish replacement Security Instruments meeting the City's approval pursuant to Section 4 of this Agreement. Until such time as a Transfer Agreement, meeting the City's approval, is executed by Subdivider and its Replacement Subdivider, and replacement Security Instruments meeting City's approval are furnished by the Replacement Subdivider, Subdivider retains sole responsibility for maintaining all Security Instruments required pursuant to Section 4 of this Agreement.

13.2. No Third-Party Beneficiaries. This Agreement is intended to benefit only the parties hereto and their respective successors and assigns. Neither City nor Subdivider intend to create any third-party beneficiary rights in this Agreement in any contractor, subcontractor, member of the general public, or other person or entity.

13.3. No Vesting Rights. Performance by the Subdivider of this Agreement shall not be construed to vest Subdivider's rights with respect to any change in any zoning or building law or ordinance.

13.4. Subdivider is Not Agent of City. Neither Subdivider nor Subdivider's agents, contractors, or subcontractors are agents or contractors of the City in connection with the performance of Subdivider's obligations under this Agreement.

13.5. Time of the Essence. Time is of the essence of Subdivider's performance of all of its obligations under this Agreement.

13.6. Notices. Unless otherwise specified in this Agreement, all notices required or provided for under this Agreement shall be in writing and delivered in person or sent by mail, postage prepaid and addressed as provided in this Section. Notice shall be effective on the date it is delivered in person, or, if mailed, on the date of deposit in the United States Mail. Notice shall be provided to the persons listed on Pages 1 and 2 of this Agreement by the parties for this purpose.

Either party may provide a new designated representative and/or address by written notice as provided in this Section.

13.7. No Apportionment. Nothing contained in this Agreement shall preclude City from expending monies pursuant to agreements concurrently or previously executed between the parties, or from entering into agreements with other subdividers for the apportionment of costs of water and sewer mains, or other improvements pursuant to the provisions of the City ordinances providing therefore. Nor shall anything in the Agreement commit City to any such apportionment.

13.8. Severability. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect unless amended or modified by mutual written consent of the parties.

13.9. Captions. The captions of this Agreement are for convenience and reference only and shall not be used in the interpretation of any provision of this Agreement.

13.10. Incorporation of Recitals. The recitals to this Agreement are hereby incorporated into the terms of this Agreement.

13.11. Interpretation. This Agreement shall be interpreted in accordance with the laws of the State of California.

13.12. Entire Agreement; Waivers and Amendments. This Agreement integrates all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations and previous agreements between the parties with respect to all or part of the subject matter hereof, except as may be expressly provided herein. All waivers of the provisions of this Agreement must be in writing and signed by an authorized representative of the party to be charged, and all amendments hereto must be in writing and signed by the appropriate representatives of both parties.

13.13. Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall be deemed one original.

14. Authority. The persons executing this Agreement on behalf of the parties warrant the (i) party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into of this Agreement does not violate any provisions of any other agreement to which said party is bound.

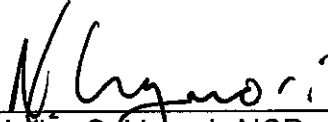
[SIGNATURES ON NEXT PAGE]

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

APPROVED AS TO FORM:

Fred Galante, City Attorney

APPROVED AS TO CONTENT:



Nicholas S. Liguori, AICP
Director of Development Services

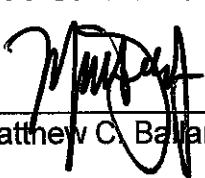
EUCLID/KIMBALL PARTNERS, LP
a California General Partnership

By: 

John Ginger, Manager
EKC Development LLC, a California
Limited Liability Company

Date: 9-16-19


CITY OF CHINO



Matthew C. Ballantyne, City Manager

Dated: 9.24.19

ATTEST:

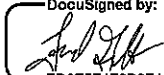
By 

Angela Robles, City Clerk

Dated: 9.24.19

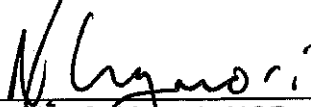
IN WITNESS WHEREOF, the City and the Subdivider have caused this Agreement to be executed the day and year first above written.

APPROVED AS TO FORM:

DocuSigned by:

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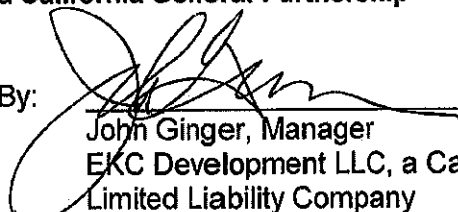
Fred Galante, City Attorney

APPROVED AS TO CONTENT:



Nicholas S. Liguori, AICP
Director of Development Services

EUCLID/KIMBALL PARTNERS, LP
a California General Partnership

By: 

John Ginger, Manager
EKC Development LLC, a California
Limited Liability Company

Date: 9-16-19

CITY OF CHINO

Matthew C. Ballantyne, City Manager

Dated: _____

ATTEST:

By _____
Angela Robles, City Clerk

Dated: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

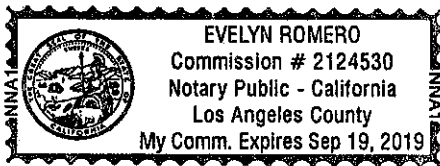
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of orange)
On 09.16.19 before me, Evelyn Romero, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared John Ginger
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



Signature _____
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer -- Title(s): _____

Partner -- Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

Signer's Name: _____

Corporate Officer -- Title(s): _____

Partner -- Limited General

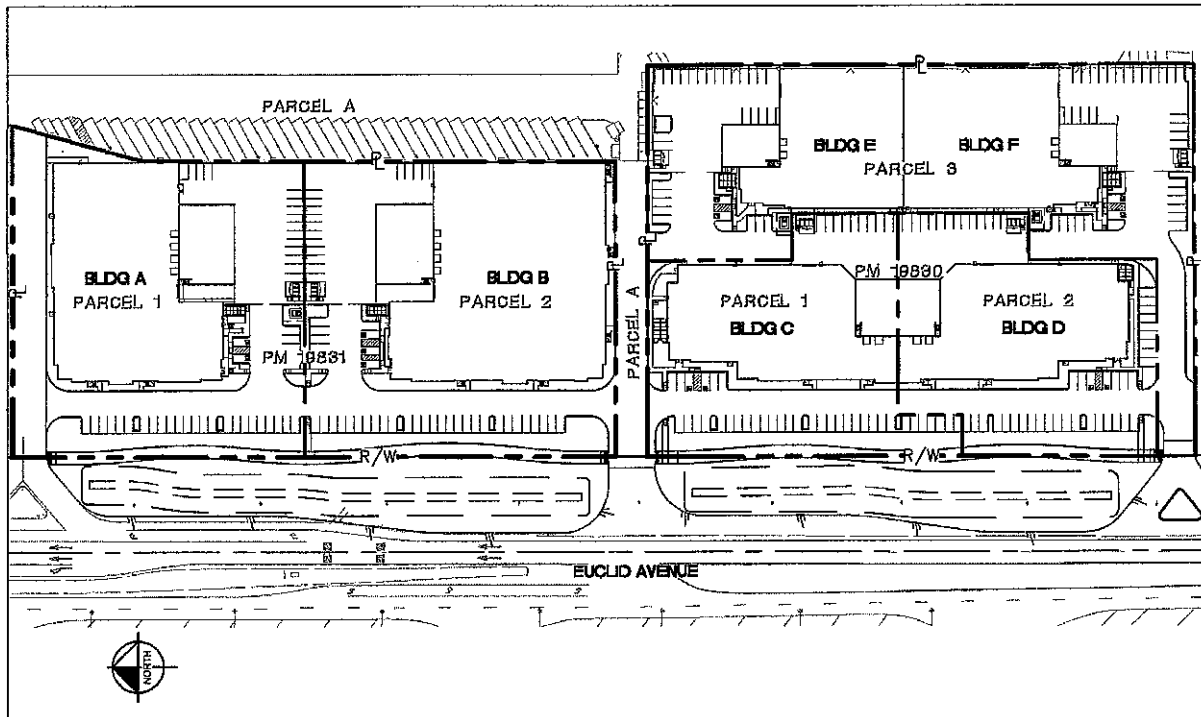
Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

EXHIBIT "A"
PARCEL MAPS 19830 & 19831
SITE MAP



01225.0006/366470.1

A-1

EXHIBIT "B"

TENTATIVE PARCEL MAPS 19830 & 19831 WORKS OF IMPROVEMENT

- A. Removal of undesirable, dangerous and dead plant materials and roots.
- B. All onsite and offsite grading as specified on the approved grading plan.
- C. Relocation of all public utility structures as necessary to properly construct the required improvements.
- D. Storm drain facilities as required and shown on the approved construction plans and in accordance with City Standards.
- E. Sanitary sewers constructed as shown on the approved, engineered plans and in accordance with City Standards.
- F. Water mains, valves, hydrants, services, meters and appurtenances to serve each lot as shown on the approved construction plans and in accordance with City Standards.
- G. Underground installation of all electrical, telephone, cable television and any other energy or communication lines that abut or are within the project site.
- H. A street lighting system (City-owned) in accordance with City Standards.
- I. Disposal of all rocks and debris located within any public right-of-way within said development or on the boundary streets thereof.
- J. Installation of concrete curbs, gutters, sidewalks, cross gutters, driveways and intersections as shown on approved construction plans and in accordance with City Standards.
- K. Installation of asphalt concrete or Portland Cement Concrete street pavement on base material as shown on approved construction plans and in accordance with City Standards.
- L. Street signs at intersections per the City Standards.
- M. Installation of approved landscaping (plants and materials).
- N. Setting monuments as required by the State Code.
- O. Construct the public water main on the Property in-lieu of the public right-of-way due to existing field conditions along Euclid Avenue. The installation of the water main (by the Subdivider) shall occur during the on-site construction of structures and site utilities. The Subdivider shall prepare the correlating easement document to be

reviewed and approved by the City, and then recorded as a separate instrument subsequent to the recordation of Parcel Map Nos. 19830 and 19831.

The Subdivider shall also perform all work and furnish all materials necessary, in the opinion of the Director of Development Services or his designee and on his order, to complete the improvements in accordance with the plans and specifications on file as hereinbefore specified, or any changes required or ordered by said Engineer which, in his opinion, are necessary or required to complete this work.

EXHIBIT "C"

PARCEL MAPS NOS. 19830 & 19831

**EUCLID/KIMBALL PARTNERS, LP
a California General Partnership**

ENVIRONMENTAL WARRANTY

As a condition precedent to acceptance of the dedications and public improvements to be conveyed by the above-named Subdivider to the City of Chino for the above-referenced Subdivision, Subdivider hereby warrants to the City of Chino that:

1. Neither the property to be dedicated nor Subdivider are in violation of any environmental law, and neither the property to be dedicated nor the Subdivider are subject to any existing, pending or threatened investigation by any federal, state or local governmental authority under or in connection with the environmental laws relating to the property to be dedicated.

2. Neither Subdivider nor any other person with Subdivider's permission to be upon the property to be dedicated has used, generated, manufactured, produced, or released, on, under, or about the property to be dedicated, any Hazardous Substance except in compliance with all applicable environmental laws. For the purposes of this warranty, the term "Hazardous Substances" shall mean any substance or material which is capable of posing a risk of injury to health, safety or property, including all those materials and substances designated as hazardous or toxic by any federal, state or local law, ordinance, rule, regulation or policy, including but not limited to, all of those materials and substances defined as "Toxic Materials" in Sections 66680 through 66685 of Title 22 of the California Code of Regulations, Division 4, Chapter 30, as the same shall be amended from time to time, or any other materials requiring remediation under federal, state or local laws, ordinances, rules, regulations or policies.

3. Subdivider has not caused or permitted the release of, and has no knowledge of the release or presence of, any Hazardous Substance on the property to be dedicated or the migration of any hazardous substance from or to any other property adjacent to, or in the vicinity of, the property to be dedicated.

4. Subdivider's prior and present use of the property to be dedicated has not resulted in the release of any Hazardous Substance on the property to be dedicated.


5. All persons executing this warranty hereby represent and warrant to the City of Chino, and Subdivider hereby represents and warrants, that the signators hereto have the legal power, right and authority to execute this warranty on behalf of the Subdivider and that the signators hereto have sufficient knowledge or expertise, either personally, through reasonable inspection and investigation of the property, or through reasonable reliance upon the investigation and professional opinion of Subdivider's environmental

experts, to make the representations herein, and that no consent of any other party is required to execute this warranty and make the representations herein on behalf of the Subdivider to the City of Chino.

Each of the undersigned persons declares under penalty of perjury that the foregoing is true and correct.

Dated: 9-16-19

EUCLID/KIMBALL PARTNERS, LP a California General Partnership

By:  _____
John Ginger, Manager
EKC Development LLC, a California Limited Liability Company

*Proof of authorization for Subdivider's signatures is required to be submitted concurrently with this environmental warranty.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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State of California)
County of Orange)
On 09-16-19 before me, Evelyn Romero, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared John Ginder
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



Signature [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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

Description of Attached Document

Title or Type of Document: _____ Document Date: _____

Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

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

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

Bond No.: K0930552A
Contract No.: 2020-179
Approved: 9/17/2019 #01
Premium: \$29,687.50

FAITHFUL PERFORMANCE BOND

WHEREAS, the City Council of the City of Chino, State of California, hereinafter designated as "CITY" and Euclid Kimball Partners, LP, hereinafter designated as "PRINCIPAL," have entered into an agreement whereby Principal agrees to install and complete certain designated public improvements, which said agreement, dated 9.17.19, and identified as Project No. PM19830 & PM 19831, is hereby referred to and made a part hereof; and

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

NOW, THEREFORE, we, the Principal and Westchester Fire Insurance Company, as surety, are held and firmly bound unto the City of Chino in the penal sum Two million five hundred thousand and NO/100 Dollars (\$2,500,000.00) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors, and administrators, jointly and severally, firmly by these presents.

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

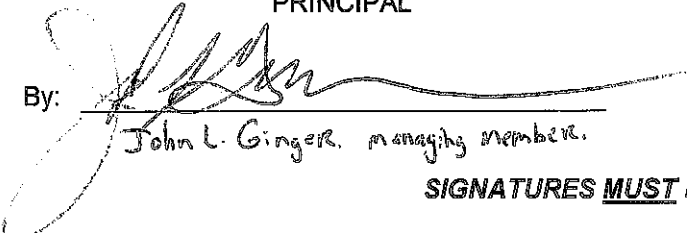
As part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees including reasonable attorneys' fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any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

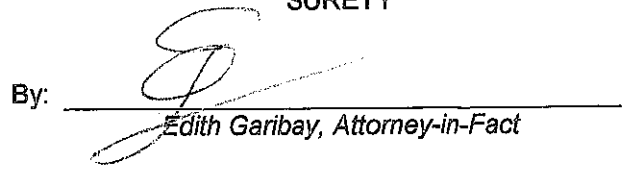
The surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice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

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety above named, on September 03, 2019.

Euclid Kimball Partners, LP
PRINCIPAL

Westchester Fire Insurance Company
SURETY

By: 
John L. Ginger, managing member.

By: 
Edith Garibay, Attorney-in-Fact

SIGNATURES MUST BE NOTARIZED

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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State of California)
County of Orange)

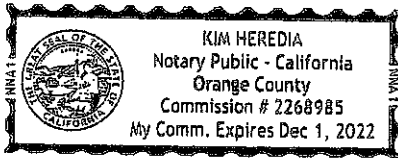
On 09-03-2019 before me, Kim Heredia, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Edith Garibay
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



Signature [Handwritten Signature]
Kim Heredia Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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

Description of Attached Document

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Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

Corporate Officer — Title(s): _____

Partner — Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

Signer's Name: _____

Corporate Officer — Title(s): _____

Partner — Limited General

Individual Attorney in Fact

Trustee Guardian or Conservator

Other: _____

Signer Is Representing: _____

ACKNOWLEDGMENT

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

State of California

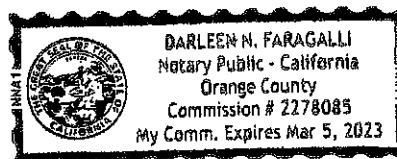
County of Orange)

On September 4, 2019 before me, Darleen N. Faragalli, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.



Signature Darleen N. Faragalli (Seal)

CHUBB*

Power of Attorney

Westchester Fire Insurance Company | ACE American Insurance Company

Know All by These Presents, that WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY corporations of the Commonwealth of Pennsylvania, do each hereby constitute and appoint Kim Heredia, Edith Garibay and Eugene T. Zondlo of Irvine, California

each as their true and lawful Attorney-in-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY have each executed and attested these presents and affixed their corporate seals on this 17th day of September, 2018.

Dawn M. Chloros

Dawn M. Chloros, Assistant Secretary

Stephen M. Haney

Stephen M. Haney, Vice President



STATE OF NEW JERSEY

County of Hunterdon

ss.

On this 17th day of September, 2018, before me, a Notary Public of New Jersey, personally came Dawn M. Chloros, to me known to be Assistant Secretary of WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY, the companies which executed the foregoing Power of Attorney, and the said Dawn M. Chloros, being by me duly sworn, did depose and say that she is Assistant Secretary of WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY and knows the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of said Companies; and that she signed said Power of Attorney as Assistant Secretary of said Companies by like authority; and that she is acquainted with Stephen M. Haney, and knows him to be Vice President of said Companies; and that the signature of Stephen M. Haney, subscribed to said Power of Attorney is in the genuine handwriting of Stephen M. Haney, and was thereto subscribed by authority of said Companies and in deponent's presence.

Notarial Seal



KATHERINE J. ADELAAR
NOTARY PUBLIC OF NEW JERSEY
No. 2318885
Commission Expires July 16, 2019

Katherine J. Adelaar
Notary Public

CERTIFICATION

Resolutions adopted by the Boards of Directors of WESTCHESTER FIRE INSURANCE COMPANY on December 11, 2006 ; ACE AMERICAN INSURANCE COMPANY on March 20, 2009:

"RESOLVED, that the following authorizations relate to the execution, for and on behalf of the Company, of bonds, undertakings, recognizances, contracts and other written commitments of the Company entered into in the ordinary course of business (each a "Written Commitment"):

- (1) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise.
- (2) Each duly appointed attorney-in-fact of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise, to the extent that such action is authorized by the grant of powers provided for in such person's written appointment as such attorney-in-fact.
- (3) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to appoint in writing any person the attorney-in-fact of the Company with full power and authority to execute, for and on behalf of the Company, under the seal of the Company or otherwise, such Written Commitments of the Company as may be specified in such written appointment, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.
- (4) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to delegate in writing to any other officer of the Company the authority to execute, for and on behalf of the Company, under the Company's seal or otherwise, such Written Commitments of the Company as are specified in such written delegation, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.
- (5) The signature of any officer or other person executing any Written Commitment or appointment or delegation pursuant to this Resolution, and the seal of the Company, may be affixed by facsimile on such Written Commitment or written appointment or delegation.

FURTHER RESOLVED, that the foregoing Resolution shall not be deemed to be an exclusive statement of the powers and authority of officers, employees and other persons to act for and on behalf of the Company, and such Resolution shall not limit or otherwise affect the exercise of any such power or authority otherwise validly granted or vested."

I, Dawn M. Chloros, Assistant Secretary of WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY (the "Companies") do hereby certify that

- (i) the foregoing Resolutions adopted by the Board of Directors of the Companies are true, correct and in full force and effect,
- (ii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Whitehouse Station, NJ, this September 03, 2019



Dawn M. Chloros

Dawn M. Chloros, Assistant Secretary

IN THE EVENT YOU WISH TO VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT:
Telephone (908) 903-3493 Fax (908) 903-3656 e-mail: surety@chubb.com

Bond No.: K0930552A
Contract No.: 2010-129
Approved: 9/17/2019 #9
Premium: Included in Performance Bond.

LABOR AND MATERIAL BOND

WHEREAS, the City Council of the City of Chino, State of California, hereinafter designated as "CITY" and Euclid Kimball Partners, LP, hereinafter designated as "PRINCIPAL," have entered into an agreement whereby Principal agrees to install and complete certain designated public improvements, which said agreement, dated 9-17-19, and identified as Project No. PM19830 & PM 19831, is hereby referred to and made a part hereof; and

WHEREAS, under the terms of said agreement, Principal is required, before entering upon the performance of the work, to file a good and sufficient payment bond with the City of Chino to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California.

NOW, THEREFORE, said Principal and the undersigned, as corporate surety, are held and firmly bound unto the City of Chino, and all contractors, subcontractors, laborers, material, men, and other persons employed in the performance of the aforesaid agreement and referred to in the aforesaid Code of Civil Procedure in the sum of One million two hundred fifty thousand and NO/100 Dollars (\$1,250,000.00) for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that said surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

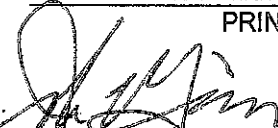
Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

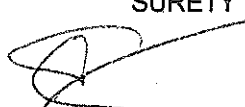
The surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the agreement or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration,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

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety above named, on September 03, 2019.

Euclid Kimball Partners, LP
PRINCIPAL

Westchester Fire Insurance Company
SURETY

By: 
John L. Ginge, Managing member.

By: 
Edith Garibay, Attorney-in-Fact

SIGNATURE(S) MUST BE NOTARIZED

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

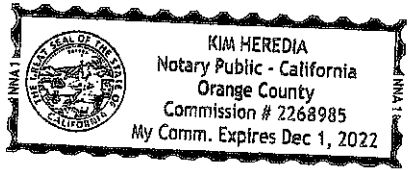
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Orange)

On 09-03-2019 before me, Kim Heredia, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Edith Garibay
Name(s) of Signer(s)

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



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

WITNESS my hand and official seal.

Signature [Handwritten Signature]
Kim Heredia Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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

Description of Attached Document

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

Capacity(ies) Claimed by Signer(s)

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

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

ACKNOWLEDGMENT

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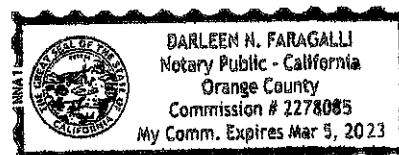
State of California
County of Orange)

On September 4, 2019 before me, Darleen N. Faragalli Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.



Signature Darleen N. Faragalli (Seal)

CHUBB

Power of Attorney

Westchester Fire Insurance Company | ACE American Insurance Company

Know All by These Presents, that WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY corporations of the Commonwealth of Pennsylvania, do each hereby constitute and appoint Kim Heredia, Edith Garibay and Eugene T. Zondlo of Irvine, California _____

each as their true and lawful Attorney-in-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY have each executed and attested these presents and affixed their corporate seals on this 17th day of September, 2018.

Dawn M. Chloros

Dawn M. Chloros, Assistant Secretary

Stephen M. Haney

Stephen M. Haney, Vice President



STATE OF NEW JERSEY

County of Hunterdon

ss.

On this 17th day of September, 2018, before me, a Notary Public of New Jersey, personally came Dawn M. Chloros, to me known to be Assistant Secretary of WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY, the companies which executed the foregoing Power of Attorney, and the said Dawn M. Chloros, being by me duly sworn, did depose and say that she is Assistant Secretary of WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY and knows the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of said Companies; and that she signed said Power of Attorney as Assistant Secretary of said Companies by like authority; and that she is acquainted with Stephen M. Haney, and knows him to be Vice President of said Companies; and that the signature of Stephen M. Haney, subscribed to said Power of Attorney is in the genuine handwriting of Stephen M. Haney, and was thereto subscribed by authority of said Companies and in deponent's presence.

Notarial Seal



KATHERINE J. ADELAAR
NOTARY PUBLIC OF NEW JERSEY
No. 2316885
Commission Expires July 16, 2019

Katherine J. Adelaar
Notary Public

CERTIFICATION

Resolutions adopted by the Boards of Directors of WESTCHESTER FIRE INSURANCE COMPANY on December 11, 2006 ; ACE AMERICAN INSURANCE COMPANY on March 20, 2009:

"RESOLVED, that the following authorizations relate to the execution, for and on behalf of the Company, of bonds, undertakings, recognizances, contracts and other written commitments of the Company entered into in the ordinary course of business (each a "Written Commitment"):

- (1) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise.
- (2) Each duly appointed attorney-in-fact of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise, to the extent that such action is authorized by the grant of powers provided for in such person's written appointment as such attorney-in-fact.
- (3) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to appoint in writing any person the attorney-in-fact of the Company with full power and authority to execute, for and on behalf of the Company, under the seal of the Company or otherwise, such Written Commitments of the Company as may be specified in such written appointment, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.
- (4) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to delegate in writing to any other officer of the Company the authority to execute, for and on behalf of the Company, under the Company's seal or otherwise, such Written Commitments of the Company as are specified in such written delegation, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.
- (5) The signature of any officer or other person executing any Written Commitment or appointment or delegation pursuant to this Resolution, and the seal of the Company, may be affixed by facsimile on such Written Commitment or written appointment or delegation.

FURTHER RESOLVED, that the foregoing Resolution shall not be deemed to be an exclusive statement of the powers and authority of officers, employees and other persons to act for and on behalf of the Company, and such Resolution shall not limit or otherwise affect the exercise of any such power or authority otherwise validly granted or vested."

I, Dawn M. Chloros, Assistant Secretary of WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY (the "Companies") do hereby certify that

- (i) the foregoing Resolutions adopted by the Board of Directors of the Companies are true, correct and in full force and effect,
- (ii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Whitehouse Station, NJ, this **September 03, 2019**



Dawn M. Chloros

Dawn M. Chloros, Assistant Secretary

IN THE EVENT YOU WISH TO VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT:
Telephone (908) 903-3493 Fax (908) 903-3656 e-mail: surety@chubb.com

Bond No.: K0930552A-M
Contract No.: 2020-129
Approved: 9/17/2019 #9
Premium: Included in
Performance Bond.

WARRANTY BOND

WHEREAS, the City Council of the City of Chino, State of California, hereinafter designated as "CITY" and Euclid Kimball Partners, LP, hereinafter designated as "PRINCIPAL," have entered into an agreement whereby Principal has agreed to warrant and guarantee the installation, completion, and maintenance of certain designated public improvements, which said agreement, dated 9.17.19, and identified as Project No. PM19830 & PM 19831, is hereby referred to and made a part hereof; and

WHEREAS, said Principal is required under the terms of said agreement to furnish a bond for the warranty of said improvements.

NOW, THEREFORE, we, the Principal, and Westchester Fire Insurance Company, as surety, are held and firmly bound unto the City of Chino in the penal sum of Two hundred fifty thousand and NO/100 Dollars (\$250,000.00) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors, and administrators, jointly and severally, firmly by these presents.

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

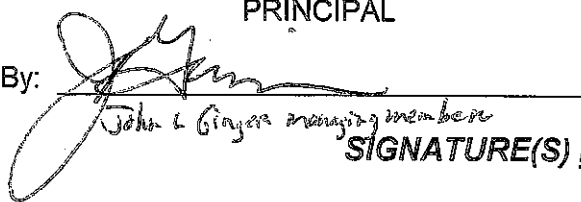
As a part of the obligation secured hereby, and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees including reasonable attorneys' fees, incurred by the City in successfully enforcing such obligation, all to be taxed as costs and included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


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

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety above named, on September 03, 2019.

Euclid Kimball Partners, LP
PRINCIPAL

Westchester Fire Insurance
SURETY

By: 
John L. Ginyer managing member

By: 
Edith Garibay, Attorney-in-Fact

SIGNATURE(S) MUST BE NOTARIZED

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

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

State of California)
County of Orange)

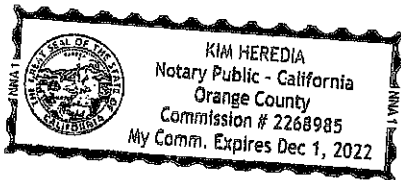
On 09-03-2019 before me, Kim Heredia, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Edith Garibay
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



Signature [Handwritten Signature]
Kim Heredia Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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

Description of Attached Document

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

Capacity(ies) Claimed by Signer(s)

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

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

ACKNOWLEDGMENT

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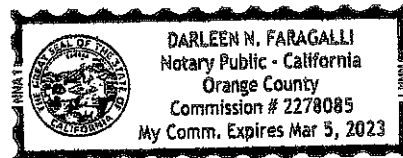
State of California
County of Orange)

On September 4, 2019 before me, Darleen N. Faragalli, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.



Signature Darleen N. Faragalli (Seal)

CHUBB®

Power of Attorney

Westchester Fire Insurance Company | ACE American Insurance Company

Know All by These Presents, that WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY corporations of the Commonwealth of Pennsylvania, do each hereby constitute and appoint Kim Heredia, Edith Garibay and Eugene T. Zondlo of Irvine, California

each as their true and lawful Attorney-in-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than ball bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY have each executed and attested these presents and affixed their corporate seals on this 17th day of September, 2018.

Dawn M. Chloros

Dawn M. Chloros, Assistant Secretary

Stephen M. Haney

Stephen M. Haney, Vice President



STATE OF NEW JERSEY

County of Hunterdon ss.

On this 17th day of September, 2018, before me, a Notary Public of New Jersey, personally came Dawn M. Chloros, to me known to be Assistant Secretary of WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY, the companies which executed the foregoing Power of Attorney, and the said Dawn M. Chloros, being by me duly sworn, did depose and say that she is Assistant Secretary of WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY and knows the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of said Companies; and that she signed said Power of Attorney as Assistant Secretary of said Companies by like authority; and that she is acquainted with Stephen M. Haney, and knows him to be Vice President of said Companies; and that the signature of Stephen M. Haney, subscribed to said Power of Attorney is in the genuine handwriting of Stephen M. Haney, and was thereto subscribed by authority of said Companies and in deponent's presence.

Notarial Seal



KATHERINE J. ADELAAR
NOTARY PUBLIC OF NEW JERSEY
No. 2316325
Commission Expires July 16, 2019

Katherine J. Adelaar
Notary Public

CERTIFICATION

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- (5) The signature of any officer or other person executing any Written Commitment or appointment or delegation pursuant to this Resolution, and the seal of the Company, may be affixed by facsimile on such Written Commitment or written appointment or delegation.

FURTHER RESOLVED, that the foregoing Resolution shall not be deemed to be an exclusive statement of the powers and authority of officers, employees and other persons to act for and on behalf of the Company, and such Resolution shall not limit or otherwise affect the exercise of any such power or authority otherwise validly granted or vested."

I, Dawn M. Chloros, Assistant Secretary of WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY (the "Companies") do hereby certify that

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- (ii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Whitehouse Station, NJ, this September 03, 2019



Dawn M. Chloros

Dawn M. Chloros, Assistant Secretary

IN THE EVENT YOU WISH TO VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT:
Telephone (908) 903-3493 Fax (908) 903-3656 e-mail: surety@chubb.com

**MEMORANDUM
CITY OF CHINO
DEVELOPMENT SERVICES DEPARTMENT**

COUNCIL MEETING DATE: SEPTEMBER 17, 2019

TO: MATTHEW C. BALLANTYNE, CITY MANAGER
FROM: NICHOLAS S. LIGUORI, AICP, DEVELOPMENT SERVICES DIRECTOR
SUBJECT: FINAL PARCEL MAPS & SUBDIVISION IMPROVEMENT AGREEMENT (PM 19830 & 19831) - EUCLID/KIMBALL PARTNERS, LP A CALIFORNIA GENERAL PARTNERSHIP.

RECOMMENDATION

1) Approve Parcel Map Nos. 19830 and 19831; 2) approve the Subdivision Improvement Agreement and securities with Euclid/Kimball Partners, LP a California General Partnership ; and 3) authorize the City Manager to execute the necessary documents on behalf of the City.

FISCAL IMPACT

There is no direct fiscal impact to the City.

Revenue:	Expenditure:
Transfer In:	Transfer Out:

COUNCIL MEETING DATE: SEPTEMBER 17, 2019
SUBJECT: FINAL PARCEL MAPS & SUBDIVISION IMPROVEMENT AGREEMENT (PM
19830 & 19831) - EUCLID/KIMBALL PARTNERS, LP A CALIFORNIA GENERAL
PARTNERSHIP
PAGE 2

BACKGROUND

On November 13, 2017, the Chino Planning Commission conditionally approved Parcel Map Nos. 19830 and 19831 to subdivide approximately ten (10) acres of land to construct a 186,618 square-foot industrial park consisting of four (4) light industrial buildings with six (6) units ranging in size from 21,828 to 46,652 square-feet within the Airport Related (AR) land-use designation of The Preserve Specific Plan. This development is located at 15723-15739 Euclid Avenue, APN: 1056-071-12 and 14 (Exhibit A).

The conditions of approval require the developer to construct public improvements, including but not limited to curb, gutter, sidewalk, street lights, paving, water, sewer, and storm drain. A public water main will be constructed on the property at a later date during on-site construction of buildings and site utilities, and an easement document will be prepared and recorded as a separate instrument subsequent to the recordation of the map. Additionally, the project is required to establish an association for the continued operation and maintenance of the perimeter street lights, common area landscaping and parkway area.

ISSUES/ANALYSIS

The requirements made at the time of the Tentative Parcel Map approval have been met by the execution of the Subdivision Improvement Agreement and by posting the necessary securities to guarantee the construction of public improvements. The City Attorney has reviewed and approved the Subdivision Improvement Agreement and respective securities.

Attachments: Exhibit A - Site Map

Exhibit B - Subdivision Improvement Agreement



CITY OF

ENGINEERING COST E

PROJECT NO: Euclid Avenue SR 83 - Public Offsites
 LOCATION : Euclid Avenue (SR 83)
 By: Kimley Horn and Associates
 DATE: 8/9/2019

SUBMITTAL DATE: Monday, August 12, 2019
 RECORD NUMBER PM 19380 & PM 19831LD ECE01
 PROJECT NUMBER PM 19380 & PM 19831
 ENGINEERING COST ESTIMATE

EUCLID COMMERCE CENTER
 PLNG WTR ENV FIRE SVCS CONSULT TRAF ADA BLDG

1ST 2ND 3RD 4TH
 RETURN PLANS BY TUESDAY, SEPTEMBER 3RD, TO Y. BASKARON

ERSC

Quantity	Unit	Item	Unit Price	Total Cost Per Item
STREETS				
	LS	Traffic Control (5% of construction cost)	5%	\$ 50,855.72
120	CY	AC Pavement Removal (Assume 7" over 8")	\$ 100.00	\$ 12,000.00
34636	SF	Preparation of Subgrade	\$ 1.00	\$ 34,636.00
14186	SF	4" PCC Sidewalk	\$ 5.80	\$ 82,278.80
3	EA	Street Sign	\$ 475.00	\$ 1,425.00
13	EA	Traffic Sign and Post (Assumed 5 Required)	\$ 400.00	\$ 5,200.00
7890	SF	Prime or Tack Coat	\$ 0.05	\$ 394.50
1516	TON	AC Variable - >300T (Assume 7" AC and 3" Grind)	\$ 80.00	\$ 121,261.01
10	EA	Street Light (City Owner)	\$ 6,700.00	\$ 67,000.00
1583	LF	Sawcut A.C.	\$ 3.00	\$ 4,749.00
1630	SF	Arterial (Assume 1/2 Road)	\$ 19.00	\$ 30,970.00
1	EA	Traffic Signal (8 - Phase Controller)	\$ 250,000.00	\$ 250,000.00
39040	SF	Cover, Lighting, Installation Labor and Connection to Existing Systems)	\$ 10.00	\$ 390,400.00
4	EA	S.W. Ramps (A.D.A. Compliant)	\$ 4,000.00	\$ 16,000.00
2	EA	Traffic Signal Loops	\$ 400.00	\$ 800.00
		STREET SUBTOTAL		\$ 1,067,970.03

PROJECT ADDITIVES	<i>Project Contingencies</i>	10%	\$ 106,797.00
	<i>Construction Staking</i>	3%	\$ 32,039.10
	<i>Soils Testing</i>	1%	\$ 10,679.70
	<i>Material Testing</i>	1%	\$ 10,679.70
	<i>Construction Inspection</i>	2%	\$ 21,359.40
	<i>Contract Administration</i>	1%	\$ 10,679.70

GRAND TOTAL STREETS ONLY			\$ 1,260,204.63
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CITY OF CHINO

ENGINEERING COST ESTIMATE (PUBLIC)

PROJECT NO: Euclid Avenue SR 83 - Public Offsites
 LOCATION : Euclid Avenue (SR 83)
 By: Kimley Horn and Associates
 DATE: 8/9/2019

Quantity	Unit	Item	Unit Price	Total Cost Per Item
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RECYCLED WATER				
0	LS	Traffic Control (5% of Construction Cost)	5%	\$ 8,646.50
1777	LF	Trench Support/Shoring (6 foot depth)	\$ 15.00	\$ 26,655.00
1660	LF	8" Pipe & Fittings Installed, including excavation, bedding, backfill and pavement restoration.	\$ 75.00	\$ 124,500.00
2	EA	8" Gate Valve	\$ 2,000.00	\$ 4,000.00
1	EA	Blow-off Assembly 6" per City Std.	\$ 4,500.00	\$ 4,500.00
1	EA	2" Water Service/Meter	\$ 4,500.00	\$ 4,500.00
117	LF	8" Steel Casing	\$ 75.00	\$ 8,775.00
RECYCLED WATER SUBTOTAL				\$ 181,576.50

PROJECT ADDITIVES	<i>Project Contingencies</i>	10%	\$	<i>18,157.65</i>
	<i>Construction Staking</i>	3%	\$	<i>5,447.30</i>
	<i>Soils Testing</i>	1%	\$	<i>1,815.77</i>
	<i>Material Testing</i>	1%	\$	<i>1,815.77</i>
	<i>Construction Inspection</i>	2%	\$	<i>3,631.53</i>
	<i>Contract Administration</i>	1%	\$	<i>1,815.77</i>

GRAND TOTAL RECYCLED WATER ONLY			\$	214,260.27
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CITY OF CHINO

ENGINEERING COST ESTIMATE (PUBLIC)

PROJECT NO: Euclid Avenue SR 83 - Public Offsites
 LOCATION : Euclid Avenue (SR 83)
 By: Kimley Horn and Associates
 DATE: 8/9/2019

Quantity	Unit	Item	Unit Price	Total Cost Per Item
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COMMUNICATIONS				
0	LS	Traffic Control (5% of Construction cost)	5%	\$ 7,500.00
1	LS	Install communications conduits and underground vaults	\$ 150,000.00	\$ 150,000.00
COMMUNICATIONS SUBTOTAL				\$ 157,500.00

PROJECT ADDITIVES				
		<i>Project Contingencies</i>	10%	\$ 15,750.00
		<i>Construction Staking</i>	3%	\$ 4,725.00
		<i>Soils Testing</i>	1%	\$ 1,575.00
		<i>Material Testing</i>	1%	\$ 1,575.00
		<i>Construction Inspection</i>	2%	\$ 3,150.00
		<i>Contract Administration</i>	1%	\$ 1,575.00

GRAND TOTAL COMMUNICATIONS ONLY				\$ 185,850.00
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CITY OF CHINO

ENGINEERING COST ESTIMATE (PUBLIC)

PROJECT NO: Euclid Avenue SR 83 - Public Offsites
 LOCATION : Euclid Avenue (SR 83)
 By: Kimley Horn and Associates
 DATE: 8/9/2019

Quantity	Unit	Item	Unit Price	Total Cost Per Item
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STORM DRAIN				
	LS	Traffic Control (5% of Construction Cost)	5%	\$ 7,254.00
48	LF	18 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 130.00	\$ 6,240.00
28	LF	24 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 150.00	\$ 4,200.00
561	LF	36 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 240.00	\$ 134,640.00
STORM DRAIN SUBTOTAL				\$ 152,334.00

PROJECT ADDITIVES				
		<i>Project Contingencies</i>	10%	\$ 15,233.40
		<i>Construction Staking</i>	3%	\$ 4,570.02
		<i>Soils Testing</i>	1%	\$ 1,523.34
		<i>Material Testing</i>	1%	\$ 1,523.34
		<i>Construction Inspection</i>	2%	\$ 3,046.68
		<i>Contract Administration</i>	1%	\$ 1,523.34

GRAND TOTAL STORM DRAIN ONLY	\$ 179,754.12
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ENGINEER'S ESTIMATE GRAND TOTAL	\$ 1,840,069.02
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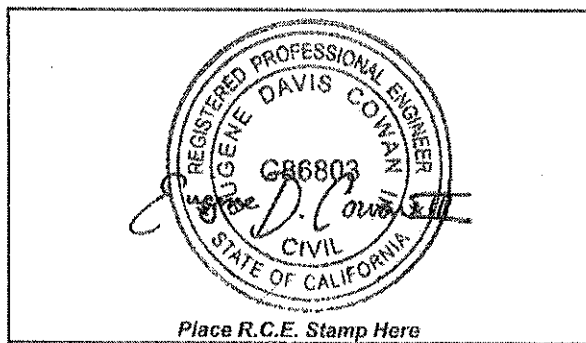


CITY OF CHINO

ENGINEERING COST ESTIMATE (PUBLIC)

PROJECT NO: Euclid Avenue SR 83 - Public Offsites
 LOCATION : Euclid Avenue (SR 83)
 By: Kimley Horn and Associates
 DATE: 8/9/2019

Quantity	Unit	Item	Unit Price	Total Cost Per Item
BY ENGINEER				
Prepared By: <u>Davie Cowan</u>				
R.C.E. Number: <u>C86803</u>				
Expiration: <u>Mar-21</u>				



BY CITY	
Faithful Performance Bond (100% of Construction Cost)	\$ 1,840,100.00
Labor & material Bond (50% of Construction Cost)	\$ 920,000.00
Warranty Bond (10% of Construction Cost)	\$ 184,000.00

+427,500.⁰⁰
 = \$ 2,267,600
 per C. Magdasko
 and Mark K.
 Project costs were
 updated to
 \$2.5mil

ENGINEERING COST ESTIMATE

PROJECT NO: PM19830 & PM 19831
 LOCATION : Euclid Avenue - Euclid Commerce Center (Boatman)
 By: Kimley Horn and Associates
 DATE: 8/7/2019

Quantity	Unit	Item	Unit Price	Total Cost Per Item
WATER				
1	LS	Traffic Control (5% of Construction Cost)	5%	\$ 15,205.90
13	EA	Thrust Block	\$ 1,000.00	\$ 13,000.00
1914	LF	12" CML&C, 10 Gauge Steel, Water Line Pipe & Fittings Installed, including excavation, bedding, backfill and	\$ 90.00	\$ 172,260.00
1914	LF	Trench Support/Shoring (6 foot depth)	\$ 15.00	\$ 28,710.00
17	LF	10" CML&C, 10 Gauge Steel, Water Line	\$ 80.00	\$ 1,360.00
1	EA	12" CL-200 Butterfly Valve	\$ 2,500.00	\$ 2,500.00
3	EA	6" Fire Hydrant Assembly with Gate Valve	\$ 7,500.00	\$ 22,500.00
2	EA	Blow-Off (for future extension) per City Std.	\$ 4,500.00	\$ 9,000.00
4	EA	2" Service Line/Meter per City Std.	\$ 5,000.00	\$ 20,000.00
2	EA	12"x10"x12" DIP tee	\$ 1,300.00	\$ 2,600.00
3	EA	12"x6"x12" DIP tee	\$ 1,200.00	\$ 3,600.00
3	EA	Fire Hydrant Assembly per City Std.	\$ 7,500.00	\$ 22,500.00
2	EA	12" custom bend	\$ 600.00	\$ 1,200.00
1	EA	12" 90 deg. bend	\$ 564.00	\$ 564.00
6	EA	12" 45 deg. bend	\$ 564.00	\$ 3,384.00
2	EA	10" DIP 90 deg. Bend	\$ 470.00	\$ 940.00
1	EA	12" Hot Tap Connection to 12" PVC Pipe	\$ 25,000.00	\$ 25,000.00
3	EA	12" Gate Valve	\$ 6,000.00	\$ 18,000.00
WATER SUBTOTAL				\$ 362,323.90

PROJECT ADDITIVES	<i>Project Contingencies</i>	10%	\$ 36,232.39
	<i>Construction Staking</i>	3%	\$ 10,869.72
	<i>Soils Testing</i>	1%	\$ 3,623.24
	<i>Material Testing</i>	1%	\$ 3,623.24
	<i>Construction Inspection</i>	2%	\$ 7,246.48
	<i>Contract Administration</i>	1%	\$ 3,623.24

GRAND TOTAL WATER ONLY			\$ 427,542.20
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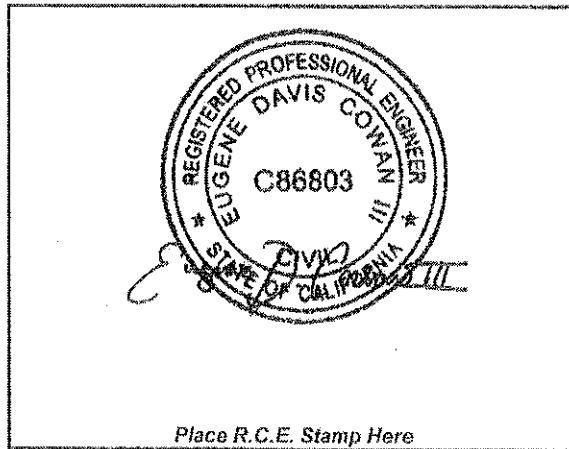
ENGINEERING COST ESTIMATE

PROJECT NO: PM19830 & PM 19831
 LOCATION : Euclid Avenue - Euclid Commerce Center (Boatman)
 By: Kimley Horn and Associates
 DATE: 8/7/2019

Quantity	Unit	Item	Unit Price	Total Cost Per Item
----------	------	------	------------	---------------------

ENGINEER'S ESTIMATE GRAND TOTAL	\$ 427,542.20
--	----------------------

BY ENGINEER	
Prepared By:	<u>Davis Cowan</u>
R.C.E. Number:	<u>86803</u>
Expiration:	<u>Mar-21</u>



BY CITY	
Faithful Performance Bond (100% of Construction Cost)	\$ 427,500.00
Labor & material Bond (50% of Construction Cost)	\$ 213,800.00
Warranty Bond (10% of Construction Cost)	\$ 42,800.00

OPERATING AGREEMENT

FOR

EKC DEVELOPMENT, LLC,

A CALIFORNIA LIMITED LIABILITY COMPANY

THIS OPERATING AGREEMENT ("Agreement"), is made as of July 30, 2018 by the Ginger Family Trust dated August 22, 1990 (as amended) ("Ginger").

RECITALS

- A. Ginger desires to form a limited liability company pursuant to the Act (as defined herein).
- B. Ginger enters into this Agreement in order to form and provide for the governing of the Company and the conduct of its business and to specify their relative rights and obligations.

NOW, THEREFORE, THE PARTIES BY THIS AGREEMENT SET FORTH THE OPERATING AGREEMENT FOR THE COMPANY UNDER THE LAWS OF THE STATE OF CALIFORNIA UPON THE TERMS AND SUBJECT TO THE CONDITIONS OF THIS AGREEMENT.

ARTICLE I

DEFINITIONS

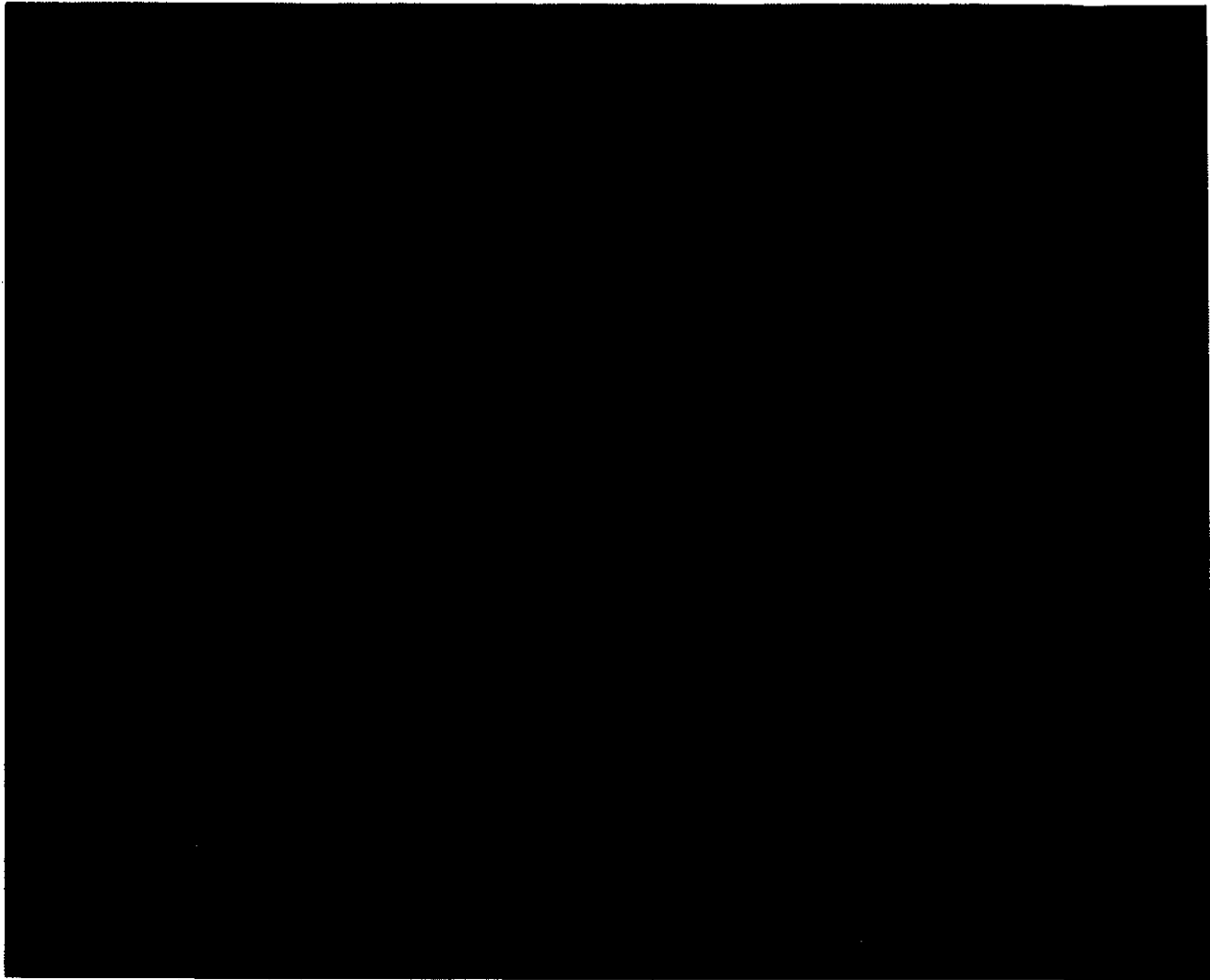
When used in this Agreement, the following terms shall have the meanings set forth below (all terms used in this Agreement that are not defined in this Article I shall have the meanings set forth elsewhere in this Agreement):

1.1 "Act" shall mean the Beverly-Killea Limited Liability Company Act, California Corporations Code Section 17000 *et seq.*, as may be amended from time to time.

1.2 "Agreement" shall mean this Operating Agreement, as originally executed and as amended from time to time.

1.3 "Articles" shall mean the Articles of Organization for the Company as originally filed with the California Secretary of State and as amended from time to time.

1.4 "Company" shall mean EKC Development, LLC, a California limited liability company.



ARTICLE V

MANAGEMENT OF COMPANY

5.1 Management.

5.1.1 The business of the Company shall be managed by the manager of the Company, John L. Ginger, whose address is [REDACTED] ("Manager").

5.1.2 The Manager will serve until the earlier of (1) the manager's resignation, retirement, death or disability; (2) the Manager's removal by Ginger; and (3) the expiration of the manager's term as manager, if a term has been designated by Ginger. A new manager will be appointed by Ginger on the occurrence of any of the foregoing events.

5.1.3 Each manager will be appointed by Ginger for (a) a term expiring with the appointment of a successor; or (b) a term expiring at a definite time specified by Ginger in connection with the appointment. A manager who is not also a member may be removed with or without cause at any time by action of Ginger.

5.1.4 The Manager shall be president of the Company and will have the powers and duties described in Section 5.2 of this Agreement and any other powers and duties that may be prescribed in this Agreement or by Ginger. Notwithstanding the foregoing, the Manager will not take any of the following actions on behalf of the Company unless Ginger has consented to the taking of that action:

- (a) Any act that would make it impossible to carry on the ordinary business of the Company;
- (b) Any confession of a judgment against the Company;
- (c) The dissolution of the Company;
- (d) The disposition of all or a substantial part of the Company's assets not in the ordinary course of business;
- (e) The incurring of any debt not in the ordinary course of business;
- (f) A change in the nature of the principal business of the Company;
- (g) The filing of a petition in bankruptcy or entering into an arrangement among the Company's creditors; and
- (h) The entering into, on behalf of the Company, of any transaction constituting a "reorganization" within the meaning of Corporations Code Section 17600.

5.2 Officers of Company. The Company will have a president, who will be the Manager. The President will be the chief executive officer of the Company and will have general supervision of the business and affairs of the Company, will preside at all meetings of members and of managers, and will have any other powers and duties usually vested in a chief executive officer. Ginger may provide for additional officers of the Company, may alter the powers and duties of all other officers and the compensation of all Company officers.

5.3 Title to Assets. All assets of the Company, whether real or personal, shall be held in the name of the Company.

5.4 Banking. All Company funds of the Company shall be deposited in one or more accounts with one or more recognized financial institutions in the name of the Company, at such locations as shall be determined by Manager or any other person or persons as the Manager may designate. Withdrawal from such accounts shall require the signature of the Manager.

with the laws of the State of California, excluding any choice of law provisions.

11.9 Exhibits. All Exhibits referred to this Agreement are incorporated herein and shall be treated as if set forth in full, whether or not attached hereto.

11.10 Severability. If any provision of this Agreement, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Agreement or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

11.11 Amendments. All amendments to this Agreement must be in writing and signed by Ginger.

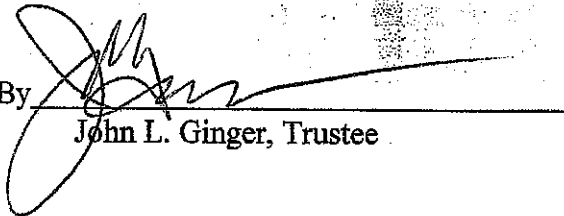
11.12 Time Is of the Essence. All dates and times in this Agreement are of the essence.

11.13 Remedies Cumulative. The remedies under this Agreement are cumulative and shall not exclude any other remedies to which any person may be lawfully entitled.

IN WITNESS WHEREOF, Ginger has executed this Agreement, effective as of the date first written above.

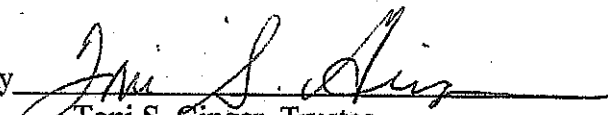
GINGER FAMILY TRUST DATED
AUGUST 22, 1990 (as amended)

By



John L. Ginger, Trustee

By



Toni S. Ginger, Trustee

**AGREEMENT OF LIMITED PARTNERSHIP OF
EUCLID/KIMBALL PARTNERS, L.P.,
A CALIFORNIA LIMITED PARTNERSHIP**

THIS AGREEMENT OF LIMITED PARTNERSHIP ("Agreement") is effective as of May 12, 2016 ("Effective Date"), by and between MG INDUSTRIAL, LLC, a California limited liability company ("MG"); and those persons listed in Exhibit "A" attached hereto and incorporated herein by this reference (collectively "Limited Partners"). MG may hereinafter be referred to as the "General Partner." The General Partner and the Limited Partners may hereinafter collectively be referred to as the "Partners" or individually as a "Partner." Capitalized words and phrases used in the Agreement have the meanings set forth in Exhibit "C," or as defined elsewhere in this Agreement.

RECITALS:

A. BOATMAN DEVELOPMENT COMPANY, INC., a California corporation ("BDC"), an affiliate of the General Partner, has entered into two purchase and sale agreements to acquire approximately 9.98 acres of vacant land located in the City of Chino, County of San Bernardino, State of California, as more particularly described in Exhibit "B" attached hereto and incorporated herein by this reference (collectively "Property").

B. Concurrent with the execution of this Agreement, MG will cause BDC to assign to the Partnership the rights of BDC to purchase the Property.

NOW, THEREFORE, the Partners agree as follows:

1. **THE PARTNERSHIP.**

1.1. **Formation.** The Partners intend to (i) form the Partnership as a limited partnership pursuant to the provisions of the Act; and (ii) enter into this Agreement to establish the rights, duties and obligations of the Partners and the limitation of liabilities to the Limited Partners.

1.2. **Filings.**

1.2.1. The General Partner shall file the Certificate of Limited Partnership – Form LP-1 ("Certificate") in the office of the Secretary of State of the State of California. The General Partner shall cause further amendments to the Certificate to be filed whenever required by the Act. The Partnership may record in the office of the county recorder of any county in the State of California, a certified copy of the Certificate, or any amendment thereto, which has been filed with the Secretary of State.

1.2.2. The General Partner shall take any and all other actions as may be reasonably necessary to perfect and maintain the status of the Partnership as a limited partnership or similar type limited liability entity under the laws of any other state or jurisdiction in which the Partnership engages in business.

1.2.3. The General Partner may cause appropriate fictitious business name and like statements to be filed and published for the Partnership under the name set forth in Subparagraph 1.3 hereof or such other name as the Partnership may have or use in any state or jurisdiction from time to time.

1.3. **Name of Partnership.** The name of the Partnership shall be:

EUCLID/KIMBALL PARTNERS, L.P.

1.4. **Principal Place of Business.** The principal place of business of the Partnership shall be [REDACTED], or such other place or places as the General Partner may from time to time determine, after written notice to the Limited Partners of such change.

1.5. **Purpose of Partnership Business.** The principal purpose of the Partnership shall be to own, develop industrial improvements, operate, maintain, lease, hold for investment or dispose of the Property. The Partnership may engage in any and all other general business activities related to or incidental to such principal purpose. The Partnership is concerned only with the matters set forth herein. In view of the limited purposes of the Partnership, no Partner shall have any obligations (fiduciary or otherwise) with respect to the Partnership or to the other Partners insofar as making other investment opportunities available to the Partnership or to the other Partners. Except as herein provided, each Partner may engage in whatever activity such Partner may choose, whether the same are competitive with the Partnership, or otherwise, without having or incurring any obligation to offer any interest in such activities to the Partnership or to the other Partners. Neither this Agreement nor any activities undertaken pursuant thereto shall prevent any Partner from engaging in such activities, and the fiduciary duties of the Partner shall be limited solely to those arising from the purposes of the Partnership described in this Subparagraph. The General Partner shall devote such time to the Partnership as is necessary for the proper utilization of the Property and efficient operation of the Partnership business.

1.6. **Term of the Partnership.** The Partnership shall continue until the dissolution and winding up of the Partnership pursuant to Paragraph 9 of this Agreement.

2. **MANAGEMENT OF THE PARTNERSHIP.**

2.1. **Authority of the General Partner.** The General Partner, acting alone, shall be the "Managing General Partner" and shall have the exclusive right to manage the business of the Partnership and possess the rights and powers which may be possessed by general partners under the Act (excepting "Major Decisions," as described in Exhibit "D" attached hereto and incorporated herein by this reference), including, but not limited to, the right and power to:

2.1.1. Pay or reimburse any and all fees and expenses incurred or expended in the formation and operation of the Partnership, including, but not limited to legal and accounting fees and insurance expenses;

2.1.2. Execute any and all agreements, contracts, documents, certifications, and instruments necessary or convenient in connection with the ownership, development, operation, management, lease or disposition of the Property;

2.1.3. Care for and distribute funds to the Partners in accordance with the provisions of this Agreement;

2.1.4. Contract on behalf of the Partnership for the services of contractors, including, but not limited to, brokers, attorneys and accountants. Such persons or entities may be affiliated with the General Partner; provided, however, that such services shall be rendered at a cost to the Partnership not in excess of the cost customarily charged for such services in such geographic area;

2.1.5. Develop and improve, manage, operate, repair, replace or rebuild, all or any portion of the Property and any improvements thereon; and sell, assign, contribute, convey or otherwise transfer any real or personal property of the Partnership to any person or entity, regardless (in each case or cases) whether in exchange for cash, notes, other debt instruments, contractual rights (secured and/or unsecured) and/or other rights (including, but not limited to, the receipt of partnership or joint venture interests in general or limited partnerships, membership interests in limited liability companies, equity interests in corporations and/or any debt or other equity interests in any of the foregoing entity structures) from any person or entity, which may (in any of the foregoing circumstances) be convenient or incidental to the accomplishment of the purposes of the Partnership;

2.1.6. Borrow on behalf of the Partnership such sums as may be required to finance the development and/or construction of improvements on or about the Property, and any permanent financing or refinancing thereof;

2.1.7. Execute and deliver such promissory notes, negotiable instruments, assignments, pledges, deeds of trust, mortgages, security instruments or other documents as are necessary to acquire such financing ("Loan Documents");

2.1.8. Obtain refinancing of or prepay all or any portion of such financing;

2.1.9. Enter into any and all obligations the General Partner deems necessary to effectuate the purposes of this Paragraph;

2.1.10. The execution and delivery of such instruments or documents consistent with this Paragraph by the General Partner shall be sufficient to bind the Partnership; and

2.1.11. Notwithstanding the foregoing, with respect to "Major Decisions," the General Partner shall have the right and power to act only with the written consent of a majority-in-interest of the Limited Partners.

2.2. **Right to Rely on the General Partner.** Any person dealing with the Partnership may rely upon a certificate signed by the General Partner as to:

2.2.1. The identity of any General Partner or Limited Partner; and

2.2.2. The persons who are authorized to execute and deliver instruments or documents on behalf of the Partnership.

On or before five business days after receipt of a written request, the General Partner shall provide such certificate.

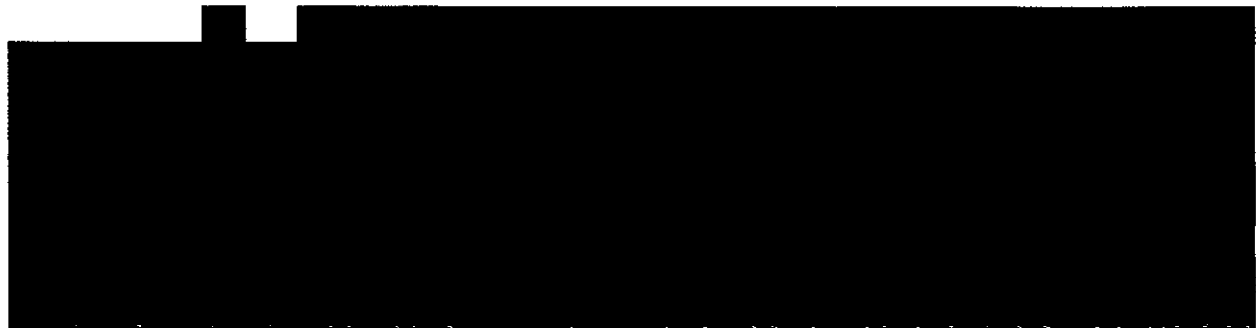
2.3. **Restrictions on Authority of the General Partner.** Without the prior consent of the Limited Partners owning 75% or more of the "Partnership Interests," as hereinafter defined, owned by the Limited Partners, the Managing General Partner shall not have the authority to:

2.3.1. Do any act in contravention of this Agreement;

2.3.2. Do any act which would make it impossible to carry on the ordinary business of the Partnership, except as otherwise provided in this Agreement;

2.3.3. Possess property or assign rights in specific property for other than a Partnership purpose;

2.3.4. Amend this Agreement, other than as set forth in Paragraph 8 herein. This Subparagraph shall not be construed as restricting transfers or re-allocation of "Partnership Interests," as hereinafter defined, between Partners.



WITHOUT AN OPINION OF COUNSEL FOR THE PARTNERSHIP THAT THE PROPOSED SALE OR OTHER TRANSFER OF THIS SECURITY DOES NOT AFFECT THE AVAILABILITY TO THE PARTNERSHIP OF SUCH EXEMPTIONS FROM REGISTRATION AND QUALIFICATION, AND THAT SUCH PROPOSED SALE OR OTHER TRANSFER IS IN COMPLIANCE WITH ALL APPLICABLE STATE AND FEDERAL SECURITIES LAWS. THE TRANSFER OF THIS SECURITY IS FURTHER RESTRICTED UNDER THE TERMS OF THE LIMITED PARTNERSHIP AGREEMENT GOVERNING THE PARTNERSHIP, A COPY OF WHICH IS ON FILE WITH THE PARTNERSHIP.

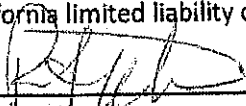
IN WITNESS WHEREOF, the Partners hereto have executed this Agreement as of the Effective Date.

GENERAL PARTNER:

MG:

MG INDUSTRIAL, LLC,
a California limited liability company

By: _____


Richard C. Boatman
Its Manager

LIMITED PARTNERS:

JOHN L. GINGER trustee of The Ginger Family Trust

[TO BE DETERMINED]

TO THE EXTENT APPLICABLE UNDER
SUBPARAGRAPH 4.2:



RICHARD C. BOATMAN

WITHOUT AN OPINION OF COUNSEL FOR THE PARTNERSHIP THAT THE PROPOSED SALE OR OTHER TRANSFER OF THIS SECURITY DOES NOT AFFECT THE AVAILABILITY TO THE PARTNERSHIP OF SUCH EXEMPTIONS FROM REGISTRATION AND QUALIFICATION, AND THAT SUCH PROPOSED SALE OR OTHER TRANSFER IS IN COMPLIANCE WITH ALL APPLICABLE STATE AND FEDERAL SECURITIES LAWS. THE TRANSFER OF THIS SECURITY IS FURTHER RESTRICTED UNDER THE TERMS OF THE LIMITED PARTNERSHIP AGREEMENT GOVERNING THE PARTNERSHIP, A COPY OF WHICH IS ON FILE WITH THE PARTNERSHIP.

IN WITNESS WHEREOF, the Partners hereto have executed this Agreement as of the Effective Date.

GENERAL PARTNER:

MG:

MG INDUSTRIAL, LLC,
a California limited liability company

By: _____

Richard C. Boatman
Its Manager

LIMITED PARTNERS:



JOHN L. GINGER trustee of The Ginger Family Trust

[TO BE DETERMINED]

TO THE EXTENT APPLICABLE UNDER
SUBPARAGRAPH 4.2:

RICHARD C. BOATMAN

EXHIBIT "A"

Partner Name
and Address

Partnership Interest

Initial Capital
Contribution

MG Industrial, LLC

50.000%

Right to purchase
the Property

[REDACTED]

[REDACTED]

Limited Partner:

John L. Ginger, trustee
Toni S. Ginger, trustee
Ginger Family Trust

26.651%

[REDACTED]

[REDACTED]

[TBD]

TOTAL

23.349%
100.000%

[REDACTED]

**FIRST AMENDMENT TO
AGREEMENT OF LIMITED PARTNERSHIP OF
EUCLID/KIMBALL PARTNERS, L.P.,
A CALIFORNIA LIMITED PARTNERSHIP**

THIS FIRST AMENDMENT TO AGREEMENT OF LIMITED PARTNERSHIP ("Amendment") is effective as of August 1, 2016 ("Effective Date"), by and between MG INDUSTRIAL, LLC, a California limited liability company ("MG"); JOHN L. GINGER, trustee of The Ginger Family Trust ("JLG"); and ANTIGUA INVESTMENTS, LLC, a Delaware limited liability company ("Antigua"). MG may hereinafter be referred to as the "General Partner." JLG and Antigua may hereinafter be collectively referred to as the "Limited Partners," and individually as a "Limited Partner." The General Partner and the Limited Partners may hereinafter collectively be referred to as the "Partners" or individually as a "Partner." Capitalized words and phrases used in this Amendment have the meanings set forth in that certain Agreement of Limited Partnership of Euclid/Kimball Partners, L.P., a California limited partnership ("Agreement"), or as defined elsewhere in this Amendment.

RECITALS:

A. MG and JLG entered into the Agreement on or about May 12, 2016, pursuant to which Euclid/Kimball Partners, L.P., a California limited partnership ("Partnership"), was formed.

B. The Partnership desires to admit Antigua as a Limited Partner, and to modify the Agreement in the manner set forth hereinbelow.

NOW, THEREFORE, the Partners agree as follows:

1. **ADMISSION OF ANTIGUA.** The Partnership hereby admits Antigua as a Limited Partner, with the Partnership Interest set forth in the revised Exhibit "A" attached hereto and incorporated herein by this reference (which replaces in its entirety the Exhibit "A" set forth in the Agreement), conditioned upon contribution by ANTIGUA to the capital of the Partnership the amount set forth in Exhibit "A."

[REDACTED]

3. **COUNTERPARTS.** This Agreement may be executed in counterparts, each of which shall be deemed an original Agreement, but such counterparts, when taken together, shall constitute but one Agreement.

4. **INCORPORATION OF RECITALS.** The Recitals to this Agreement are herein incorporated by this reference.

IN WITNESS WHEREOF, the Partners hereto have executed this Amendment as of the Effective Date.

GENERAL PARTNER:

MG:

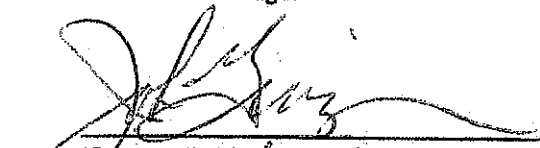
MG INDUSTRIAL, LLC,
a California limited liability company

By: 

Richard C. Boatman
Its Manager

LIMITED PARTNERS:

JLG:


JOHN L. GINGER, trustee of The Ginger Family Trust

ANTIGUA:

ANTIGUA INVESTMENTS LLC,
a Delaware limited liability company

By: 

Remo Polselli, Its Sole Member

EXHIBIT "A"

Partner Name
and Address

Partnership Interest

Initial Capital
Contribution

MG Industrial, LLC

45.00%

Right to purchase
the Property

[REDACTED]

[REDACTED]

Limited Partner:

John L. Ginger, trustee
Toni S. Ginger, trustee
Ginger Family Trust

32.39%

[REDACTED]

[REDACTED]

Antigua Investments LLC
Attention: Anna Sigurdson

22.61%

[REDACTED]

[REDACTED]

100.00%

[REDACTED]

**SECOND AMENDMENT TO
AGREEMENT OF LIMITED PARTNERSHIP OF
EUCLID/KIMBALL PARTNERS, L.P.,
A CALIFORNIA LIMITED PARTNERSHIP**

THIS SECOND AMENDMENT TO AGREEMENT OF LIMITED PARTNERSHIP ("Amendment") is effective as of December 8, 2016 ("Effective Date"), by and between MG INDUSTRIAL, LLC, a California limited liability company ("MG"); JOHN L. GINGER, trustee of The Ginger Family Trust ("JLG"); and ANTIGUA INVESTMENTS, LLC, a Delaware limited liability company ("Antigua"). MG may hereinafter be referred to as the "General Partner." The General Partner, JLG and Antigua may hereinafter collectively be referred to as the "Partners" or individually as a "Partner." Capitalized words and phrases used in this Amendment have the meanings set forth in that certain Agreement of Limited Partnership of Euclid/Kimball Partners, L.P., a California limited partnership ("Agreement"), or as defined elsewhere in this Amendment.

RECITALS:

A. MG and JLG entered into the Agreement on or about May 12, 2016, pursuant to which Euclid/Kimball Partners, L.P., a California limited partnership ("Partnership"), was formed.

B. On or about August 1, 2016, Antigua was admitted to the Partnership as a Limited Partner, with the capital account and Partnership Interest as set forth in the First Amendment to Agreement of Limited Partnership of Euclid/Kimball Partners, L.P., a California limited partnership ("First Amendment").

C. Antigua desires to withdraw from the Partnership and JLG has agreed to acquire the interest of Antigua in the Partnership.

NOW, THEREFORE, the Partners agree as follows:

1. **WITHDRAWAL OF ANTIGUA.** Antigua hereby withdraws from the Partnership and has assigned all right, title and interest in its Partnership Interest to JLG. From and after the Effective Date, Antigua shall have no interest in the Partnership. Exhibit "A" to the First Amendment is hereby deleted and a new Exhibit "A" setting forth the Partners and their Partnership Interests is set forth in Exhibit "A" attached hereto.

2. **COUNTERPARTS.** This Agreement may be executed in counterparts, each of which shall be deemed an original Agreement, but such counterparts, when taken together, shall constitute but one Agreement.

3. **INCORPORATION OF RECITALS.** The Recitals to this Agreement are herein incorporated by this reference.

IN WITNESS WHEREOF, the Partners hereto have executed this Amendment as of the Effective Date.

GENERAL PARTNER:

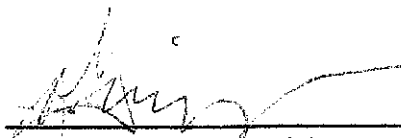
MG INDUSTRIAL, LLC,
a California limited liability company

By: _____


Richard C. Boatman
Its Manager

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

JLG:



JOHN L. GINGER trustee of The Ginger Family Trust

ANTIGUA:

ANTIGUA INVESTMENTS LLC,
a Delaware limited liability company

By: 

Remo Polselli, Its Sole Member

EXHIBIT "A"


Partner Name
and Address

Partnership Interest

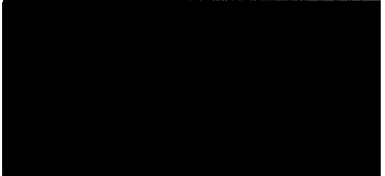
Initial Capital
Contribution

MG Industrial, LLC


45.00%

Right to purchase
the Property


Limited Partner:

John L. Ginger, trustee
Toni S. Ginger, trustee
Ginger Family Trust


55.00%



100.00%



**THIRD AMENDMENT TO AGREEMENT
OF LIMITED PARTNERSHIP OF
EUCLID/KIMBALL PARTNERS, L.P.**

THIS THIRD AMENDMENT TO AGREEMENT OF LIMITED PARTNERSHIP OF EUCLID/KIMBALL PARTNERS, L.P. ("Amendment") is made this 27th day of July, 2018 ("Effective Date") among EKC Development, LLC, a California limited liability company ("EKC"), John L. Ginger, Trustee of the Ginger Family Trust dated August 22, 1990 (as amended) and MG Industrial, LLC, a California limited liability company ("MG"). Capitalized words and phrases under this Amendment shall have the meaning set forth in the Partnership Agreement (as defined below), or elsewhere in this Amendment.

RECITALS

- A. On or about May 12, 2016, John L. Ginger, as the Trustee of the Ginger Family Trust dated August 22, 1990 (as amended) ("Ginger Trust") and MG executed that certain Agreement of Limited Partnership of Euclid/Kimball Partners, L.P., a California limited Partnership ("Partnership Agreement"). The Partnership Agreement provides that MG would act as the general partner of Euclid/Kimball Partners ("Partnership") and the Ginger Trust would be a limited partner thereof.
- B. The Partnership was formed to own, develop industrial improvements, operate, maintain, lease, hold for investment or to dispose of certain real property located in the City of Chino, State California and described in the Partnership Agreement ("Property").
- C. On or about August 1, 2016, MG, the Ginger Trust and Antigua Investments, LLC, a Delaware limited liability company ("Antigua") executed that certain First Amendment to Agreement of Euclid/Kimball Partners, L.P., a California limited partnership ("First Amendment"). The First Amendment admitted Antigua as a limited partner of the Partnership and made certain other modifications as set forth therein.
- D. On or about December 8, 2018, MG, the Ginger Trust and Antigua executed that certain Second Amendment to Agreement of Euclid/Kimball Partners, L.P., a California limited partnership ("Second Amendment"). The Second Amendment provides for the withdrawal of Antigua as a limited partner of the Partnership and acknowledges the assignment of Antigua's limited partnership interest to the Ginger Trust.
- E. As of the Effective Date, MG is the sole general partner of the Partnership and the Ginger Trust is the sole limited partner of the Partnership.

- F. EKC and MG executed that certain Partnership Interest Purchase Agreement wherein MG sold to EKC all of MG's interests in the Partnership of whatever kind or nature, including, without limitation, MG's Forty-Five percent (45%) Partnership Interest in the Partnership (as that term is defined in the Partnership Agreement, as amended), subject to the terms and conditions set forth herein and in the Partnership Agreement.
- G. The Partnership Agreement provides that MG would not transfer or convey its Partnership Interest "without the express written consent of the holder of 75% or more of the Partnership Interests owned by the Limited Partners." The Ginger Trust as the sole limited partner desires to consent to the sale of MG's Partnership Interest to EKC and admission of EKC as the general partner of the Partnership.

NOW, THEREFORE, the parties hereto agree as follows:

1. The Ginger Trust hereby consents to the transfer of MG's Partnership Interest to EKC and admission of EKC as General Partner of the Partnership as of the execution of this Amendment by all of the parties hereto.
2. MG hereby withdraws from the Partnership as the General Partner and has assigned all if it right, title and interest to EKC as of the execution of this Amendment by all of the parties hereto. From such time and after, MG shall have no interest in the Partnership.
3. EKC hereby agrees to act as the General Partner of the Partnership and has purchased all of MG's right, title and interest of EKC as of the execution of this Amendment by all of the parties hereto. In addition, thereto, EKC hereby agrees to be bound by the terms of the Partnership Agreement (as amended).
4. Exhibit "A" of the Partnership Agreement (as amended) is hereby deleted and a new Exhibit "A" attached hereto and by this reference incorporated herein sets for the Partners and their Partnership Interests.
5. The Amendment may be executed in counterparts, each of which shall be deemed an original Amendment, but such counterparts, when taken together, shall constitute but one Amendment.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the Effective Date.

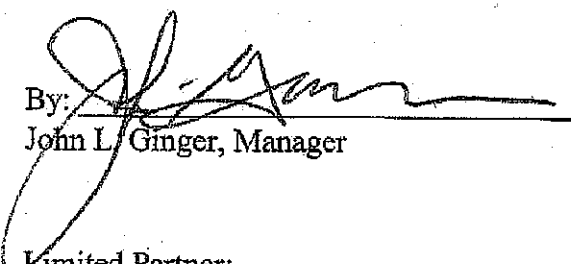
MG as Withdrawing General Partner:

MG Industrial, LLC, a California limited liability company

By: 
Richard C. Boatman, Manager

EKC as the New General Partner:

EKC Development, LLC, a California limited liability company

By: 
John L. Ginger, Manager

Limited Partner:

Ginger Family Trust Dated August 22, 1990
(as amended)

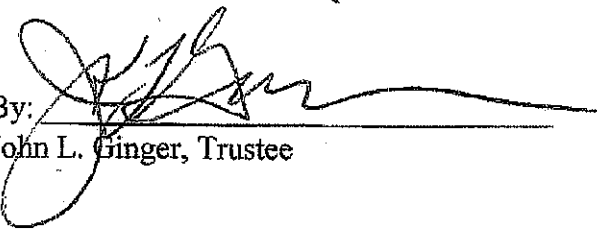
By: 
John L. Ginger, Trustee

EXHIBIT "A"

Partner Name	Partnership Interest	Capital Contribution
General Partner		
EKC Development, LLC	45%	■
Limited Partner		
Ginger Family Trust	55%	■

**M E M O R A N D U M
CITY OF CHINO
DEVELOPMENT SERVICES DEPARTMENT**

COUNCIL MEETING DATE: FEBRUARY 15, 2022

TO: MATTHEW C. BALLANTYNE, CITY MANAGER
FROM: NICHOLAS S. LIGUORI, AICP, DEVELOPMENT SERVICES DIRECTOR
SUBJECT: REIMBURSEMENT AGREEMENT (PM 19830 & 19831) - EUCLID/KIMBALL PARTNERS, LP A CALIFORNIA GENERAL PARTNERSHIP.

RECOMMENDATION

Approve the Construction Reimbursement Agreement with Euclid/Kimball Partners, LP, a California General Partnership for public improvements associated with Parcel Map Nos. 19830 and 19831; and authorize the City Manager to execute the necessary documents on behalf of the City.

FISCAL IMPACT

There is no direct fiscal impact at this time. Upon the final acceptance of the public improvements, staff will bring back to the City Council requests for reimbursement as funds become available.

Revenue:	Expenditure:
Transfer In:	Transfer Out:

BACKGROUND

On November 13, 2017, the Chino Planning Commission conditionally approved Parcel Map Nos. 19830 and 19831 to subdivide approximately ten (10) acres of land to construct a 186,618 square-foot industrial park consisting of four (4) light industrial buildings with six (6) units ranging in size from 21,828 to 46,652 square-feet within the Airport Related (AR) land-use designation of The Preserve Specific Plan. This development is located at 15723-15739 Euclid Avenue, APN: 1056-071-12 and 14 (Exhibit A).

The conditions of approval require the developer (Euclid Kimball Partners, LP) to construct public improvements, including but not limited to curb, gutter, sidewalk, street lights, paving, water, sewer, and storm drain. Additionally, some of the required public improvements are master-planned facilities, which are included in the City's Development Impact Fee (DIF) Nexus Calculation Report and correlating Master Facilities Plan ("the Report"). Public improvements included in the Report are eligible for DIF credit/reimbursement per the City's Municipal Code Chapter 3.45 and, therefore, necessitate a reimbursement agreement.

ISSUES/ANALYSIS

Currently, the developer is constructing the 12" potable water line and 8" recycled water line, along the developer's frontage to Euclid Avenue. Initially the project was to construct the recycled water line in Euclid Avenue from the project's southerly border to Kimball Avenue. However, in order to minimize the disturbance to Euclid Avenue, the pipeline was realigned to be constructed within an easement on the property and adjacent to the potable water alignment. Tie-in locations for both the potable and recycled water lines are along the southern edge of Kimball Avenue approximately 500-feet east of Euclid Avenue.

Upon completion of the master-planned facilities, the City Engineer will review the final accepted/approved "as-built" plans, specifications, and supporting documentation and will determine what costs are eligible for reimbursement. There may be a possibility that the eligible costs approved by the City Engineer exceed the original estimate. If that is the case, City staff may include the updated costs for the project in an annual update to the DIF Nexus Report. Additionally, once the final cost accounting is approved, staff will bring back to the City Council an action to appropriate funds to make progress payments to the Developer until the terms of the agreement are fulfilled.

The requirements made at the time of the tentative maps have been met with the execution of a Subdivision Improvement Agreement to guarantee the construction of the public improvements required as a Condition of Approval of the development. The developer provided securities and surety acceptable to the City of Chino in concurrence with the Subdivision Improvement Agreement.

The City Attorney has reviewed and approved the reimbursement agreement.

Attachments: Exhibit A - Location Map

Exhibit B - Construction & Reimbursement Agreement

CONSTRUCTION REIMBURSEMENT AGREEMENT
PRESERVE DEVELOPMENT IMPACT FEE PROGRAM
PARCEL MAP NOS. 19830 & 19831

This CONSTRUCTION REIMBURSEMENT AGREEMENT (“**Agreement**”) is entered into this day of February 15, 2022 (“**Effective Date**”), by and between CITY OF CHINO, a California municipal corporation (“**City**”), and EUCLID KIMBALL PARTNERS, LP, a California General Partnership (“**Developer**”). City and Developer are sometimes hereinafter referred to individually as “**Party**” and jointly as “**Parties**”.

RECITALS

A. On November 13, 2017, the Chino Planning Commission conditionally approved Parcel Map Nos. 19830 and 19831 to subdivide approximately ten (10) acres of land to construct a 186,618 square-foot industrial park consisting of four (4) light industrial buildings with six (6) units ranging in size from 21,828 to 46,652 square-feet within the Airport Related (AR) land-use designation of The Preserve Specific Plan (“**Project**”). This development is located at 15723-15739 Euclid Avenue, APN: 1056-071-12 and 14 located at 15723-15739 in the City of Chino, County of San Bernardino, California as depicted in Exhibit A (“**Property**”).

B. Developer has requested from City certain entitlements and/or permits for the Project, and City has granted the entitlements and/or permits subject to certain conditions of approval provided on Exhibit B which will require certain public improvements to be constructed in excess of those applicable to the Project (“**Conditions of Approval**”).

C. Developer has elected to construct certain public improvements in excess of those specifically required by the Conditions of Approval as described in Exhibit C (“**Public Improvements**”).

D. The DIF Ordinance provides that if, as a condition of approval of a development project, a developer constructs a public facility identified in the Nexus Reports, for which a development impact fee is imposed, Developer shall be entitled to reimbursement for eligible costs of constructing the Public Improvements, provided that developer complies with the requirements of the DIF Ordinance as it may be amended from time to time. The DIF Ordinance specifically requires that the developer and City enter into a reimbursement agreement.

E. City and Developer desire to enter into this Agreement for the following purposes: (i) to provide for the timely construction and completion of the Public Improvements, (ii) to ensure that construction of the Public Improvements is undertaken in accordance with the Plans and Specifications, and the laws and ordinances pertaining to the construction of public improvements, (iii) to provide the methodology for establishing the reimbursement amount to which Developer may be entitled after completion of the Public Improvements (“**Reimbursement**”); and (iv) the requirements for Developer’s transfer or application of all or any portion of the Reimbursement to a third party.

NOW, THEREFORE, for the purposes set forth herein, Developer and City hereby agree as follows:

AGREEMENT:

1. **Incorporation of Recitals.** The Parties hereby affirm the facts set forth in the Recitals above and agree to the incorporation of the Recitals as though fully set forth herein.

2. **Construction of Public Improvements.** Developer shall construct or have constructed, at its own cost and expense, the Public Improvements in accordance with the Plans and Specifications and the provisions of this Agreement. Developer shall provide all equipment, tools, materials, labor, tests, design work, and engineering services necessary to fully and adequately complete the Public Improvements.

2.1 **Public Works Requirements.** Developer shall ensure that the bidding, awarding, and construction of the Public Improvements are undertaken as if such Public Improvements were constructed as a public works project under the direction and authority of City, pursuant to all provisions of law applicable to governmental entities. Developer shall also comply with the requirements of City's Bidding and Contract Requirements for Public Improvements Policy, as adopted by City Council, hereby incorporated by reference and made a part of hereof (as may be amended from time to time).

(a) Developer's general contractor for the construction of the Public Improvement ("General Contractor") shall pay prevailing wages (in accordance with Articles 1 and 2 of Chapter 1, Part 7, Division 2 of the Labor Code) and otherwise comply with applicable provisions of the Labor Code, the Government Code, the Civil Code, and the Public Contract Code relating to public works projects of cities and as required by the procedures and standards of City with respect to the construction of its public works projects or as otherwise directed by City Engineer.

(b) All contractors shall be required to provide proof of insurance coverage throughout the term of the construction of the Public Improvements which they will construct in conformance with Section 5 of this Agreement.

2.2 **Standard of Performance.** Developer and its contractors shall perform all work required, constructing the Public Improvements in a skillful and workmanlike manner, and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Developer represents and maintains that it or its contractors shall be skilled in the professional calling necessary to perform the work. Developer warrants that all of its employees and contractors shall have sufficient skill and experience to perform the work assigned to them, and that they shall have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the work, and that such licenses, permits, qualifications and approvals shall be maintained throughout the term of this Agreement.

2.3 **Alterations to Public Improvements.** All work shall be done and the Public Improvements completed as shown on the Plans and Specifications, and any subsequent alterations thereto mutually agreed upon by City and Developer. If Developer desires to make any alterations to the Plans and Specifications, it shall provide written notice to City of such proposed alterations. City shall have ten (10) business days after receipt of such written notice to administratively approve or disapprove such alterations, which approval shall not be unreasonably withheld, conditioned or delayed. If City fails to provide written notice to Developer of its approval or disapproval of the alterations within such ten (10) business day period, City will be deemed to have disapproved such alterations to the Plans and Specifications. Any and all alterations in the Plans and Specifications and the Public Improvements to be completed may be accomplished without first giving prior notice thereof to Developer's surety for this Agreement.

2.4 **Force Majeure.** Developer agrees that the time within which it shall be required to perform any act under this Agreement shall not be extended except as follows: (i) Developer is delayed by City (including, without limitation, restrictions on priority, initiative or referendum, or moratoria), in

which case Developer shall provide written notice to City specifically describing the nature and extent of the delay caused by City and Developer's detailed efforts to avoid such delay, which references this Section and deliver such notice within twenty (20) days of discovering such delay, and Developer's obligations shall be extended for such time as City deems reasonable as a result of the delay if and only if Developer provides such written notice to City within such time; or (ii) Developer is delayed due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, natural disasters, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, processing with any governmental agencies, unusually severe weather, or any other similar causes beyond the control of Developer or without the fault of Developer. An extension of time for any such cause shall be for the period of the enforced delay equal to the number of days during which Developer's performance was delayed and shall commence to run from the time of the commencement of the cause, if written notice by Developer claiming such extension is sent to City within twenty (20) days of knowledge of the commencement of the cause.

3. Indemnification. Developer shall defend, indemnify, and hold harmless City, its elected officials, employees, and agents from any and all actual or alleged claims, demands, causes of action, liability, loss, damage, or injury to property or persons, including wrongful death, whether imposed by a court of law or by administrative action of any federal, state, or local governmental agency, arising out of or incident to any acts, omissions, negligence or willful misconduct of Developer in connection with the performance of this Agreement ("**Claims**"). This indemnification includes, without limitation, the payment of all penalties, fines, judgments, awards, decrees, attorneys' fees, and related costs or expenses, and the reimbursement of City, its elected officials, employees, and/or agents for all legal expenses and costs incurred by each of them. This indemnification excludes only such portion of any Claim which is caused solely and exclusively by the negligence or willful misconduct of City, as determined by a court or administrative body of competent jurisdiction. Developer's obligation to indemnify shall survive the expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by City, its elected officials, employees, or agents.

4. Maintenance of Improvements. City shall not be responsible or liable for the maintenance or care of, and shall exercise no control over, the Public Improvements until such Public Improvements are accepted by City. Developer shall have no obligation to make the Public Improvements available for public use at any time before the Public Improvements are accepted by City. Any use by any person of the Public Improvements, or any portion thereof, shall be at the sole and exclusive risk of Developer at all times prior to City's acceptance of the Improvements. Developer shall maintain all of the Public Improvements in a state of good repair until they are completed by Developer and accepted by City, and until the security for the performance of this Agreement is released. It shall be Developer's responsibility to initiate all maintenance work, but if it shall fail to do so, it shall promptly perform such maintenance work when notified to do so by City. If Developer fails to properly prosecute its maintenance obligation under this section, City may, upon written notice and Developer's failure to remedy as provided in Section 14, do all work necessary for such maintenance, and the cost thereof shall be the responsibility of Developer and its surety under this Agreement. City shall not be responsible or liable for any damages or injury of any nature in any way related to or caused by the Public Improvements or their condition prior to acceptance, except to the extent such damage or injury is caused by the negligence or willful misconduct of City, its elected officials, employees, and/or agents.

5. City Inspection of Public Improvements. Developer shall, at its sole cost and expense, and at all times during construction of the Public Improvements, maintain reasonable and safe facilities and provide safe access for inspection by City of the Public Improvements and areas where construction of the Public Improvements is occurring or will occur. Developer shall give notice to City when the construction of all or a portion of the Public Improvements is complete. Upon receiving such notice, City may inspect the Public Improvements and request any modifications or corrections as may be deemed reasonably necessary by City Engineer, in his or her sole discretion, to bring the Public Improvements into conformity

with the Plans and Specifications, including any approved revisions thereto. Developer or Developer's contractors shall make all such modifications and corrections requested by City Engineer.

6. **Liens.** Developer shall not permit any liens to be filed against the Public Improvements and indemnifies City with respect to any such liens. Upon the expiration of the time for the recording of claims of liens as prescribed by Sections 8412 and 8414 of the Civil Code with respect to the Public Improvements, Developer shall provide to City such evidence or proof as City shall reasonably require that all persons, firms, and corporations supplying work, labor, materials, supplies, and equipment to the construction of the Public Improvements have been paid, and that no claims of liens have been recorded by or on behalf of any such person, firm, or corporation. Rather than await the expiration of the said time for the recording of claims of liens, Developer may elect to provide to City a title insurance policy or other security acceptable to City guaranteeing that no such claims of liens will be recorded or become a lien upon any of the Property.

7. **Acceptance of Improvements; As-Built or Record Drawings.** If the Public Improvements are completed by Developer in accordance with the Plans and Specifications, as determined by City Engineer, City shall be authorized to accept the Public Improvements. City may, in its reasonable discretion, accept fully completed portions of the Public Improvements prior to such time as all of the Public Improvements are complete, which shall not release or modify Developer's obligation to complete the remainder of the Public Improvements. Upon the total or partial acceptance of the Public Improvements by City, Developer shall file with the Recorder's Office of the County of San Bernardino a notice of completion for the accepted Improvements in accordance with California Civil Code Section 9204 ("**Notice of Completion**"), at which time the accepted Public Improvements shall become the sole and exclusive property of City without any payment therefor. Notwithstanding the foregoing, City may not accept any Public Improvements (or the applicable portion thereof) unless and until Developer provides two (2) sets of "as-built" or record drawings or plans to City for all such Public Improvements (or the applicable portion thereof). The drawings shall be certified and shall reflect the condition of the Public Improvements as constructed, with all changes incorporated therein.

8. **Warranty and Guaranty.** Developer warrants and guarantees all the Public Improvements against any defective work or labor done, or defective materials furnished in the performance of this Agreement, including the maintenance of the Public Improvements, for a period of one (1) year following completion of the work and acceptance by City ("**Warranty**"). During the Warranty, Developer shall repair, replace, or reconstruct any defective or otherwise materially unsatisfactory portion of the Improvements, in accordance with the Plans and Specifications. All repairs, replacements, or reconstruction during the Warranty period shall be at the sole cost and expense of Developer, and shall not be eligible for reimbursements. As to any Public Improvements which have been repaired, replaced, or reconstructed during the Warranty, Developer hereby agree to provide a warranty for a one (1) year period following City acceptance of the repaired, replaced, or reconstructed Public Improvements. Nothing herein shall relieve Developer from any other liability it may have under federal, state, or local law to repair, replace, or reconstruct any Public Improvement following expiration of the Warranty or any extension thereof. Developer's warranty obligation under this section shall survive the expiration or termination of this Agreement.

9. **DIF Reimbursement.**

9.1 **Calculation of Eligible Costs.** Upon or prior to completion of the Public Improvements by Developer, Developer shall submit to City Engineer such information as City Engineer may require to calculate the actual costs incurred by Developer to construct the Public Improvements ("**Actual Costs**").

9.2 Reimbursement Limits. The reimbursement amount owed to Developer for construction of the Public Improvements (“**Reimbursement Amount**”) shall be equal to the Actual Costs, subject to the following limitations:

9.2.1 Reasonable Soft Costs. City Engineer shall, in his or her sole reasonable discretion, determine the amount of reasonable soft costs eligible for reimbursement under the DIF Ordinance. Such amounts may include professional engineering and design services, construction management, soils testing, permits, plan check fees, and inspections, but shall not include interest or attorneys’ fees. For soft costs to be reimbursable to Developer pursuant to this Agreement, City must be able to verify that such soft costs are specifically attributable to the specified Public Improvements for which reimbursement is being made, by reference to separate subcontract(s) or by another means approved by City in writing. The total amount of the soft costs shall not exceed fifteen percent (15%) of the Reimbursement Amount. City Engineer may, in his or her reasonable discretion, reduce or disallow reimbursement for any costs he or she finds excessive or unreasonable.

9.2.2 Nexus Report Costs Estimates. The Reimbursement Amount shall not exceed the cost estimates for the Public Improvements included in the Nexus Reports, unless approved by City council.

9.3 Conditions Precedent to Final Reimbursement. City’s obligation to provide reimbursements for the Public Improvements pursuant to this Agreement is conditioned upon the prior satisfaction by Developer or written waiver by City Manager of each of the following **Conditions Precedent** within the times designated below:

9.3.1 Completion of Construction. Developer shall have completed the construction of the Public Improvements acceptable to City, and thirty (30) days have elapsed since notices of completion have been recorded in relation to the Public Improvements, in accordance with California Civil Code Sections 9204 and/or 8182 (as applicable). The purpose of this provision is to ensure that the Public Improvements will be independently functional and to maintain consistency with vesting rights, and nothing herein shall be deemed to make any part of the Project a public work other than the Public Improvements.

9.3.2 Submission of Documents. Developer shall have made full and complete payment of all undisputed claims for work performed on the Public Improvements, or in the event of a dispute between Developer and the General Contractor or a subcontractor, Developer shall have obtained a commercially reasonable bond reasonably satisfactory to City to release any applicable mechanics’ lien or stop notice, and Developer shall have submitted and City shall have approved a written request for the reimbursement, including copies of all bills and/or invoices evidencing the costs of constructing the Public Improvements actually incurred by Developer and any other documents reasonably required by City.

9.3.3 As-Built Drawings. Pursuant to Section 9, Developer shall have submitted two (2) sets of final as-built drawings for the Public Improvements to City Engineer.

9.3.4 Acceptance of Required Public Improvements by City. The City Council shall have accepted title to the Public Improvements.

9.3.5 No Default. Developer shall not be in default in any of its obligations under the terms of this Agreement, and all representations and warranties of Developer contained herein shall be true and correct in all material respects.

9.3.6 Compliance with DIF Ordinance and Conditions of Approval. Developer shall be in compliance with all requirements of the DIF Ordinance and the Conditions of Approval.

10. Assignment. Prior to completion of the Public Improvements, Developer may assign this Agreement to a third party ("**Assignment**"), subject to the approval of City's Director of Development Services ("**Director**") in his/her reasonable discretion. If Developer desires to assign this Agreement, Developer shall provide detailed information as to the proposed assignee ("**Assignee**") as requested by City including but not limited, evidence of Assignee's right to acquire the Property, its background and financial information evidencing the ability of Assignee to complete the Public Improvements. Any assignment of this Agreement shall not release Assignor.

11. Default; Notice; Remedies.

11.1 Notice. If Developer neglects, refuses, or fails to fulfill or timely complete any obligation, term, or condition of this Agreement, or if City determines there is a violation of any federal, state, or local law, ordinance, regulation or code, City may at any time thereafter declare Developer to be in default or violation of this Agreement and make written demand upon Developer or its surety, or both, to immediately remedy the default or violation ("**Notice of Default**"). Developer shall substantially commence the work required to remedy the default or violation within five (5) business days of the Notice of Default. If the default or violation constitutes an immediate threat to the public health, safety, or welfare, City may provide the Notice of Default verbally, and Developer shall substantially commence the required work within twenty-four (24) hours thereof. Immediately upon City's issuance of the Notice of Default, Developer and its surety shall be liable to City for all costs of construction and installation of the Public Improvements and all other administrative costs or expenses, as provided for in Section 15 of this Agreement.

11.2 Failure to Remedy; City Action. If the work required to remedy the noticed default or violation is not commenced within the time required under Section 14.1 of this Agreement and diligently prosecuted to completion, City may complete all remaining work, arrange for the completion of all remaining work, and/or conduct such remedial activity as in its reasonable discretion it believes is required to remedy the default or violation. All such work or remedial activity shall be at the sole and absolute cost and expense of Developer and its surety, without the necessity of giving any further notice to Developer or surety. In the event City elects to complete or arrange for completion of the remaining work and the Public Improvements, City may require all work by Developer or its surety to cease in order to allow adequate coordination by City.

11.3 Other Remedies. No action by City pursuant to this Section 14 shall prohibit City from exercising any other right or pursuing any other legal or equitable remedy available under this Agreement or any federal, state, or local law. City may exercise its rights and remedies independently or cumulatively, and City may pursue inconsistent remedies. City may institute an action for damages, injunctive relief, or specific performance.

12. Administrative Costs. If Developer fails to construct and install all or any part of the Public Improvements, or if Developer fails to comply with any other obligation contained herein, Developer and its surety shall be jointly and severally liable to City for all administrative expenses, fees, and costs, including reasonable attorneys' fees and costs, incurred in obtaining compliance with this Agreement or in processing any legal action or for any other remedies permitted by law.

13. Miscellaneous.

13.1 Relationship between the Parties. The Parties hereby mutually agree that this Agreement shall not operate to create the relationship of partnership, joint venture, or agency between City and Developer. Developer's contractors are exclusively and solely under the control and dominion of Developer. Nothing herein shall be deemed to make Developer or its contractors an agent or contractor of City.

13.2 Authority to Enter Agreement. Each person executing this Agreement on behalf of Developer represents and warrants that he or she has the legal power, right and authority to execute this Agreement on behalf of Developer and that this Agreement is binding upon Developer.

13.3 Notices. Any notice, demand, request, consent, approval, or communication either Party desires or is required to give to the other Party or any person shall be in writing and either served personally, communicated electronic mail (with a receipt requested), or sent by prepaid, first-class mail to the address set forth below. Notice shall be deemed communicated immediately upon personal delivery, fax or email receipt, or forty-eight (48) hours from the time of mailing if mailed as provided in this Section:

To City: City of Chino
13220 Central Ave.
Chino, CA 91710
Attn: Director of Development Services
Email: nliguori@cityofchino.org

With Copy to: Aleshire & Wynder, LLP
188881 Von Karman Ave., Suite 1700
Irvine, CA 92612
Attn: Fred Galante, Esq.
Email: fgalante@awattorneys.com

To Developer: Euclid/Kimball Partners
3410 La Sierra # F-225
Riverside Ca 92503
Attn: John Ginger, Managing Member
Email: john@johnginger.com

13.4 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate, or convenient to attain the purposes of this Agreement.

13.5 Construction; References; Captions. The Parties agree that the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days, or period for performance shall be deemed calendar days and not work days, unless specified therein. All references to Developer include all personnel, employees, agents, and contractors of Developer, except as otherwise specified in this Agreement. All references to City include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

13.6 Amendment; Modification. No supplement, modification, or amend-mint of this Agreement shall be binding unless executed in writing and executed by both Parties.

13.7 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual right by custom, estoppel, or otherwise.

13.8 Binding Effect. Each and all of the covenants and conditions shall be binding on and shall inure to the benefit of the Parties, and their successors, heirs, personal representatives, or assigns. This section shall not be construed as an authorization for any Party to assign any right or obligation.

13.9 No Third-Party Beneficiaries. There are no intended third-party beneficiaries of any right or obligation assumed by the Parties.

13.10 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

13.11 Governing Law; Consent to Jurisdiction and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of California. Any legal action or proceeding brought to interpret or enforce this Agreement, or which in any way arises out of the Parties' activities undertaken pursuant to this Agreement, shall be filed and prosecuted in the appropriate California State Court in the County of San Bernardino, California.

13.12 Time is of the Essence. Time is of the essence in this Agreement, and the Parties agree to execute all documents and proceed with due diligence to complete all covenants and conditions.

13.13 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original and which collectively shall constitute one instrument.

13.14 City Officers and Employees. No officer or employee of City shall be personally liable to Developer or any successors in interest in the event of any default or breach by City or for any amount that may become due to Developer or any successor(s) in interest or for breach of any obligation of the terms of this Agreement. No officer or employee of Developer shall be personally liable to City or any successor(s) in interest in the event of any default or breach by Developer or for any amount that may become due to City or their successors in interest or for breach of any obligation of the terms of this Agreement.

13.15 Entire Agreement. This Agreement contains the entire agreement between City and Developer and supersedes any prior oral or written statements or agreements between City and Developer.

13.16 Exhibits. The following exhibits are attached hereto and incorporated herein by reference:

- | | |
|-----------|------------------------|
| Exhibit A | Location Map |
| Exhibit B | Conditions of Approval |
| Exhibit C | Public Improvements |

[SIGNATURES ON FOLLOWING PAGE]

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

DEVELOPER:

EUCLID KIMBALL PARTNERS, LP, a California General Partnership

By: [Signature]
Its: Managing Partner
By: _____

Its: _____

CITY:

CITY OF CHINO, a municipal corporation

By: [Signature]
Matthew C. Ballantyne
City Manager

DATED: March 10, 2022

ATTEST:

[Signature] 3-10-2022
Angela Robles, City Clerk

APPROVED AS TO CONTENT:

[Signature]
Nicholas S. Liguori, AICP
Development Services Director

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP
By: [Signature]
Fred Galante, City Attorney

DEVELOPER: TWO PERSONS AUTHORIZED BY THE APPLICABLE ENTITY FORMATION DOCUMENTS SHALL EXECUTE THIS AGREEMENT. COPIES OF APPLICABLE DOCUMENTS EVIDENCING SUCH AUTHORITY SHALL BE PROVIDED TO CITY. DEVELOPER SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE APPLICABLE FORMATION DOCUMENTS FOR THE ENTITY.

ACKNOWLEDGMENT

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

State of California
County of Los Angeles

On 01-11-2022 before me, Evelyn Romero, Notary Public
(insert name and title of the officer)

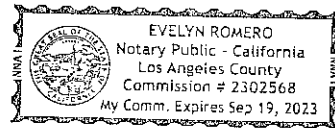
personally appeared John Ginder
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s)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

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

WITNESS my hand and official seal.

Signature 

(Seal)

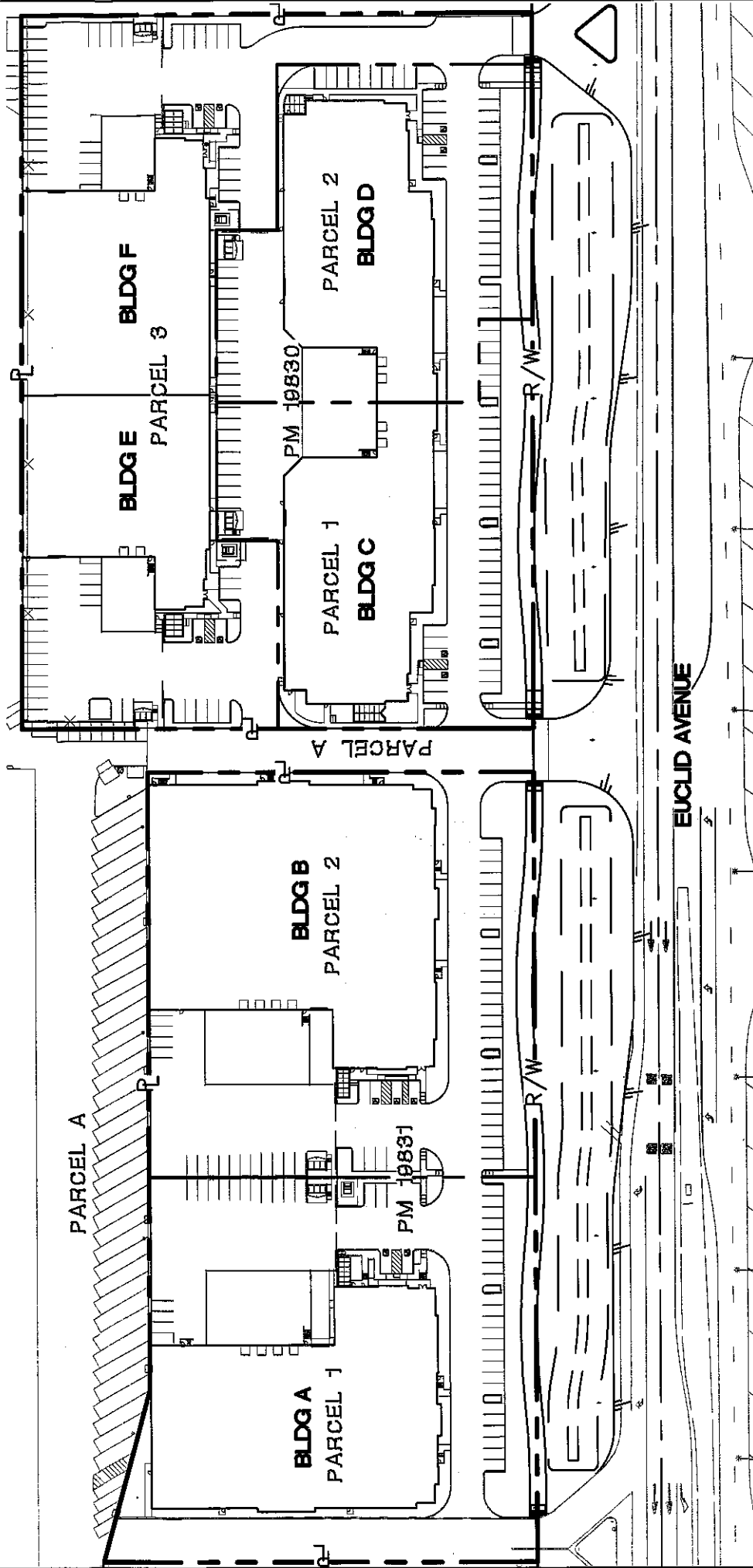


Clear Form

Print Form

EXHIBIT A
LOCATION MAP

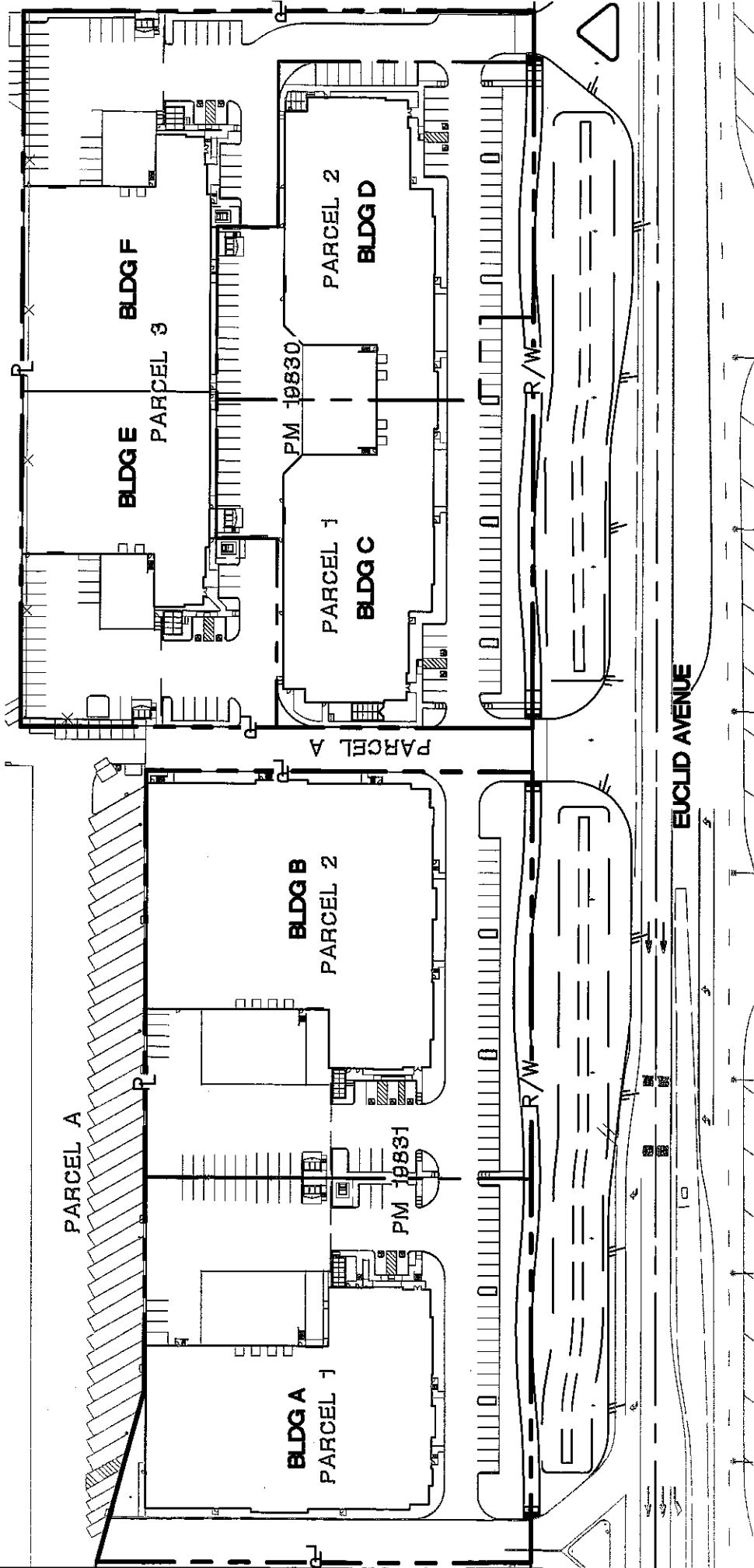
[ATTACHED]



Kimley»Horn

401 B STREET, SUITE 600
 SAN DIEGO, CA 92101
 (619) 234 9411

EXHIBIT 'A'
 EUCLID COMMERCE CENTER
 8/29/2019



Kimley»Horn

401 B STREET, SUITE 600
 SAN DIEGO, CA 92101

(619) 234 9411

EXHIBIT 'A'
 EUCLID COMMERCE CENTER
 8/29/2019

EXHIBIT B

CONDITIONS OF APPROVAL

[ATTACHED]

NL	<u> X </u>	CM	<u> X </u>	DH	<u> X </u>
GP	<u> X </u>	IA	<u> </u>	MK	<u> </u>
MB	<u> </u>	DC	<u> </u>	AC	<u> </u>

E-Mail Sent: 11/20/18
 To: Brian Sitton

PUBLIC WORKS DEPARTMENT CONDITIONS OF APPROVAL
 PL 16-0703 (PARCEL MAP NO. 19380), PL 17-0048 (PARCEL MAP NO. 19831),
 PL 16-0701 (MASTER SITE APPROVAL), PL 16-0702 (SITE APPROVAL)(DEV MOD)

DATE: November 20, 2018 PC MEETING DATE: December 3, 2018

PROJECT DESCRIPTION: Proposed commerce center with four industrial buildings (6 units) ranging in size from 22,690 to 47,890 square feet on approximately 10 acres of land.

PROJECT LOCATION: 15723-15739 Euclid Ave

APPLICANT: Brad Boatman PROJECT ENGINEER: Gabor Pakozdi

PRIOR TO THE THREE MAJOR DEVELOPMENT EVENTS, THE APPLICANT SHALL SATISFY AND FULFILL ALL CONDITIONS OUTLINED BELOW. FAILURE TO COMPLY WITH ANY CONDITIONS OF APPROVAL SHALL BE DEEMED JUST CAUSE FOR REVOCATION OF PROJECT APPROVAL BY THE PLANNING COMMISSION. HOWEVER, THE DIRECTOR OF COMMUNITY DEVELOPMENT, THE ASSISTANT CITY MANAGER, AND/OR THE DIRECTOR OF PUBLIC WORKS SHALL HAVE THE AUTHORITY TO APPROVE MINOR DEVIATIONS IN THE CONDITIONS OF APPROVAL, AND ALL PLANS INCLUDING THE CONSTRUCTION DRAWINGS.

1.0 PRIOR TO MAP RECORDATION:

- 1.1 Provide a preliminary Title Report no older than 60 days.
- 1.2 Submit a preliminary soils report to the project engineer for review and approval in accordance with Government Code, Section 66434.5.
- 1.3 Dedicate to the City a 26-foot wide easement for landscape and pedestrian access purposes, along the project frontage of Euclid Ave.
- 1.4 Prepare and record necessary drainage easements to implement the project in accordance with drainage law.
- 1.5 Provide and record a reciprocal use agreement to assure common ingress and egress and joint maintenance of all common access, parking areas and drives.
- 1.6 Provide a set of proposed Covenants, Conditions and Restrictions (CC&R) for review and approval. The proposed CC&Rs shall contain the Association's/Owner's maintenance obligations with respect to various facilities including, but not limited to, right-of-way landscaping, private streets, sidewalks, utilities, street lights, and Water Quality Management Plan (WQMP) features. This shall also address internal circulation and maintenance of common drive aisles between subject properties and adjacent properties (McBride's RV Storage LLC, Chino Valley Center LLC). This document must be submitted to and approved by the City before it is submitted to any other governmental entity.

- 1.7 Execute a Subdivision Agreement and submit security in an amount acceptable to the City Engineer to guarantee construction of the public improvements listed in 2.7 and 2.23. All security must be accessible to the City at any time and in a form acceptable to the Assistant City Manager, pursuant to Government Code, Section 66499.
- 1.8 Provide a Monumentation Bond in an amount specified in writing by a Registered Engineer or Licensed Land Surveyor of Record.
- 1.9 Comply with all applicable requirements of the City Code.
- 1.10 Pay all applicable fees pursuant to City Code including, but not limited to, plan check fees.

2.0 PRIOR TO ISSUANCE OF BUILDING PERMITS FOR ANY LOT WITHIN THE SUBDIVISION

- 2.1 Record Parcel Map No. 19380 and 19831 pursuant to the Subdivision Map Act and in accordance with City Code. Provide a duplicate photo mylar of the recorded map to the City Engineer's office.
- 2.2 All required plans and studies shall be prepared by a Registered Professional Engineer and submitted to the project engineer for review and approval. All project plans must be approved by the City Engineer's office before a Building Permit will be issued. All maps, studies, calculation sheets, reports, etc. must be on and/or folded in an 11-inch x 8 1/2-inch standard format.
- 2.3 Prepare and submit a drainage study, including supporting hydraulic and hydrological data to the project engineer for approval. The study shall confirm or recommend changes to the City's adopted Master Drainage Plan by identifying off-site and on-site storm water runoff impacts resulting from build-out of permitted General Plan land uses. In addition, the study shall identify the project's contribution and shall provide locations and sizes of catchments, system connection points, all downstream drainage-mitigating measures, and sizing of the interim earthen channel along the project frontage of Euclid Ave (see COA 2.7).
- 2.4 Prepare and submit a final grading plan showing building footprints, pad elevations, finished grades, drainage routes, retaining walls, erosion control, slope easements and other pertinent information in accordance with Appendix J of the California Building Code, latest edition.
- 2.5 Provide a certificate, from a Registered Civil Engineer, certifying that the finished grading has been completed in accordance with the City approved grading plan.
- 2.6 Design and install a monitoring manhole (per City Standard No. 530) on each domestic sewer lateral connection from any industrial building into the City's main sewer or into a private sewer main that is tributary to the City's main sewer. In addition, design and install a sampling Wye on a stubbed out sewer lateral connection into the main sewer for each industrial building in this development.

2.7 Design per City Standards full public improvements for all impacted and interior streets/facilities in accordance with City Code, Standards and Specifications. Such public improvements may include, but not be limited to the following: (Please coordinate and verify all requirements with the project engineer.)

	<u>Street Names</u>		
	Euclid Ave ⁽⁹⁾		
<u>Curb & Gutter (Offset from Centerline)^(1,2)</u>	32'		
<u>Sidewalk (Width)</u>	13'		
<u>Asphalt Concrete Pavement on Aggregate Base (Width from Centerline)⁽³⁾</u>	32'		
<u>Asphalt Concrete Overlay</u>			
<u>Street Lights^(1,4)</u>	X		
<u>Median Island and Landscaping</u>			
<u>Parkway Landscaping^(4,5)</u>	X		
<u>Striping and Traffic Controls⁽³⁾</u>	X		
<u>Traffic Signal Interconnect⁽¹⁰⁾</u>	X		
<u>Conduit System for CATV</u>			
<u>Sewer</u>			
<u>Storm Drain^(1,6)</u>	X		
<u>Domestic Water⁽⁷⁾</u>	X		
<u>Recycled Water⁽⁸⁾</u>	X		
<u>Fire Hydrants as required by CVIFD</u>	X		
<u>Driveway approaches⁽¹¹⁾</u>	X		

1. This is an interim improvement and is NOT eligible for DIF credit per the City Code.
2. Curb only.
3. Ultimate improvements that are above and beyond the first travel lane are eligible for DIF credit per the City Code.
4. See COA 2.17.
5. See COA 2.14.
6. Extend earthen channel along project frontage. This channel shall accommodate off-site runoff including, but not limited to, upstream flows north of the project and street flows from Euclid Ave. Size of the channel shall be determined per a drainage study. See COA 2.3.
7. There shall be one of point of connection from the existing 12" domestic water line on the west side of Euclid Ave. A water meter manifold shall serve the project.
8. Construct a 12" recycled water line from Kimball Ave to southerly project frontage. This improvement is eligible for DIF credit per the City Code.
9. Improvements along Euclid Avenue (SR-83) require approval of the State of California Department of Transportation (Caltrans). Caltrans may require the developer to provide additional improvements. The developer is responsible for meeting the requirements of Caltrans in order to obtain Caltrans approval.
10. Coordinate these improvements with Caltrans.
11. Northerly and southerly most driveway approaches off Euclid Ave will be restricted to right-in and right-out movements.

2.8 Obtain design and plan approval from appropriate utility companies for undergrounding all utility lines adjoining and interior to the project, including power lines of 34.5 kV or less, in accordance with City Code, Chapter 13.32.

- 2.9 Pay all applicable fees including, but not limited to, Development Impact Fees (DIF) and Sewage Facilities Development Fee (SFDF) not previously paid under Item 1.0 above, in accordance with the City Code.
- 2.10 All projects developing one (1) acre or more of total land area, or which are part of a larger phased development that will disturb one acre of land, are required to obtain coverage under the State Water Resources Control Board's (SWRCB) General Permit for storm water discharges associated with construction activity. Proof of filing a Notice of Intent (NOI) with the SWRCB for coverage under this permit is required. A copy of the Waste Discharger's Identification Number (WDID), issued by the SWRCB, must be submitted to the Project Engineer prior to issuance of grading permits. More detailed information regarding this General Permit, applicable fee information and the necessary forms to complete the NOI are available by calling (916) 341-5537 or on the SWRCB web site at: http://www.swrcb.ca.gov/water_issues/programs/stormwater/constpermits.shtml.
- 2.11 Pursuant to Santa Ana Regional Water Quality Control Board Order Number R8-2010-0036, NPDES Permit No. CAS618036, prepare a project-specific Water Quality Management Plan (WQMP) and submit to the project engineer for review and approval. To address NPDES Permit requirements to the maximum extent practicable, the project shall be designed to specify preferential use of Low Impact Development Best Management Practices that reduce pollutants and runoff volume through structural measures (e.g. infiltration, harvesting, and bio-treatment) and non-structural measures (e.g. preserving natural areas, clustering development, and reducing impervious areas). The WQMP shall conform to the requirements of the San Bernardino County Stormwater Program, 2013 WQMP Technical Guidance Document.
- 2.12 Any future maintenance and repair of fire service and sewer laterals to the project site shall be the sole responsibility of the applicant/property owner in accordance with City Code, Chapter 13.04.175 and 13.12.150.
- 2.13 Convey ownership of all existing onsite water wells to the City and convert to monitoring wells as directed by the City's Water Utilities Supervisor. Prepare and record any necessary easements to provide the City with access to the monitoring wells. Any existing water wells that cannot be feasibly converted to monitoring wells shall be destroyed per City Standard No. 465.
- 2.14 City staff shall determine the type of water (potable or recycled) to be used for grading operations, dust control activities, and common area/public landscape irrigation at the time of permit issuance.
- 2.15 Provide adequate sight distance per City Standard No. 1025 for each project driveway and at all intersections. Landscaping type and height shall be maintained to ensure sight distance requirements are perpetuated.
- 2.16 Submit to the City electronic files, in Adobe Acrobat PDF format, of all submittals, including reports, studies, improvement plans and City redlines of previous submittals.

- 2.17 The developer is responsible for the continued operation and maintenance of perimeter street lights, common area landscaping, and parkway areas (landscaping, sidewalk). The project is required to establish an association for the continued operation and maintenance of above improvements. Alternatively the properties can be annexed into one of the following at the discretion of the Assistant City Manager:
- Preserve Master Maintenance Corporation (PMMC)
 - City's Landscape and Street Lighting Maintenance District MD 2002-1
 - An alternative maintenance district
- The developer/association shall enter into a maintenance agreement with the City should the properties not be annexed into the PMMC. The developer shall also comply with any requirements from Caltrans for maintaining landscape on Euclid Ave.
- 2.18 Pay an in-lieu fee for future ultimate street improvements along Euclid Ave. The in-lieu fee will be based on an engineer's cost estimate of improvements and is subject to review and approval by the City.
- 2.19 Pay an in-lieu fee for future median (half width of 32-ft) along Euclid Ave. The in-lieu fee will be based on an engineer's cost estimate of improvements and is subject to review and approval by the City.
- 2.20 There is a private onsite sewer lift station that is owned and maintained by the adjacent property owner (McBride's RV Storage LLC). Obtain permission to connect and necessary easements from said owner to receive sewer service for this project. If this cannot be obtained an alternative solution for sewer service will need to be reviewed and approved by City staff.
- 2.21 Developer shall prepare signing and striping plans, signal plans and improvement plans for all affected street intersection and segments to include new lane configurations, appropriate transitions, modified lane configurations, utility location, etc. to the satisfaction of the City Engineer and the Assistant City Manager/Director of Public Works. Improvements along Euclid Avenue (SR-83) require approval of the State of California Department of Transportation (Caltrans). Caltrans may require the developer to provide additional improvements. The developer is responsible for meeting the requirements of Caltrans in order to obtain Caltrans approval.
- 2.22 Comply with all requirements of the final Traffic Impact Analysis (TIA) reviewed and approved by the City and Caltrans including participation in fair share contributions of required improvements and mitigation measures as shown on the Mitigation Monitoring and Reporting Program, to mitigate impacts. Internal traffic signing/striping should be implemented in accordance with the approved TIA.

- 2.23 Based on the approved plans, design the following intersection improvements as described in the final TIA. These improvements must be constructed and approved by the Public Works Department prior to the request and release of occupancy permits. Unless noted the improvements are assumed to be completed by others prior to certificate of occupancy. Refer to applicable exhibits in the TIA for intersection improvements.

Euclid Ave at Main Project Driveway

- Install a traffic signal. Traffic signal loops may be required by Caltrans at the Main Project Driveway. Caltrans may require an easement for the traffic signal loops.
 - Add a northbound right turn lane
 - Add a southbound left turn lane
 - Improvements along Euclid Avenue (SR-83) require approval of the State of California Department of Transportation (Caltrans). Caltrans may require the developer to provide additional improvements. The developer is responsible for meeting the requirements of Caltrans in order to obtain Caltrans approval.
- 2.24 Design new traffic signals as described in Section 2.23, to include all equipment, poles, traffic signal and electrical service cabinets, wheelchair access ramps, etc. to meet current City standards and Specifications and Caltrans requirements. Design shall include all traffic signal interconnect, fiber optic cable, and communications vaults, cabinets and equipment as required by Caltrans. Any widening that affects existing traffic signal equipment will require a traffic signal modification plan to be designed and constructed by developer, even if not specifically identified in Conditions of Approval.
- 2.25 Prior to installation of underground utilities, CCTV inspection of existing sewer and storm drain conduits that may be impacted by the construction shall be performed and recordings submitted to the City for comparison to post-construction inspection.
- 2.26 Development shall meet all truck turning requirements from the City of Chino and Chino Valley Independent Fire District (CVIFD).

3.0 PRIOR TO REQUEST AND RELEASE OF ANY OCCUPANCY PERMITS:

- 3.1 Construct and secure Public Works Department approval of all required improvements and public facilities enumerated under Section 2.0 above (per Resolution No. 88-23), including all required improvements in the Caltrans right of way.
- 3.2 Underground all utility lines adjoining and interior to the project, including power lines of 34.5kV or less in accordance with City Code, Chapter 13.32.
- 3.3 The applicant's Civil Engineer shall field verify that all BMPs are designed, constructed, and functional in accordance with the approved WQMP. Submit a completed City of Chino BMP field verification form to the project engineer for review and approval.
- 3.4 Slurry seal along all streets impacted by the development as directed by City staff. Install signing and striping per approved plans.
- 3.5 Submit to the City, electronic files of Tract/Parcel Map and "as-built" improvement plans in AUTOCAD format and Adobe Acrobat PDF format. AUTOCAD files shall be submitted as an archived zip file of the CAD drawings with all base files attached.

- 3.6 Submit a report certifying that all public improvements constructed as part of the project are compliant with applicable ADA regulations. The report shall be prepared and submitted by a Certified Access Specialist (CAsp). The report must be reviewed and approved prior to the City Council's acceptance of public improvements. The proposed public improvements may cause existing public improvements adjacent to or within the project area to be reconstructed in order to comply with ADA regulations.

GP

Attachment

**CITY OF CHINO
PUBLIC WORKS DEPARTMENT
ENGINEERING DIVISION**

ITEMS REQUIRED FOR FIRST PLAN CHECK SUBMITTAL

PARCEL MAP NO. 19380 (PL 16-0703) & 19831 (PL 17-0048)

PROJECT ENGINEER: Gabor Pakozdi

DATE: November 13, 2018

- A COPY OF THIS CHECK LIST MUST BE SUBMITTED WITH THE FIRST PLAN CHECK**
- 1 Copy of Public Works Department Conditions of Approval**
- 2 Sets of Maps (Subdivision Only)**
- 2 Copies of preliminary Title Report (no older than six months) (Subdivision Only)**
- 2 Copies of Closure Calculations (Subdivision Only)**
- 1 Set of Referenced Maps (Subdivision Only)**
- 2 Copies of Preliminary Soils Report (no older than sixty days)**
- 2 Copies of lot line adjustment certificate**
- 2 Copies of lot merger**
- 2 Copies of right-of-way dedication**
- 4 Sets of Rough Grading Plans**
- 5 Sets of Precise Grading Plans**
- 4 Sets of Storm Drain Plans**
- 2 Copies of Hydrology and Hydraulic Calculations with Backup Data (Signed and Sealed by a Registered Civil Engineer)**
- 2 Copies of Engineering Cost Estimate (On City Forms) with Engineer's Wet Signature and Stamp**
- 2 Sets of Street Improvements Plans**
- 2 Copies of Cross-Sections (if street plans are required) at 50' intervals and extended a minimum of 100' beyond limits of improvements**
- 3 Sets of Sewer Plans**
- 3 Sets of Domestic Water Plans**
- 3 Sets of Recycled Water Plans**
- 2 Sets of Street Light Plans**
- 2 Copies of Voltage Drop Calculations (Signed and Sealed by a Registered Engineer)**
- 2 Sets of Signing and Striping Plans**
- 2 Sets of Traffic Signal Interconnect Plans**
- 2 Sets of Traffic Signal Plans**
- 1 Water Quality Management Plan**

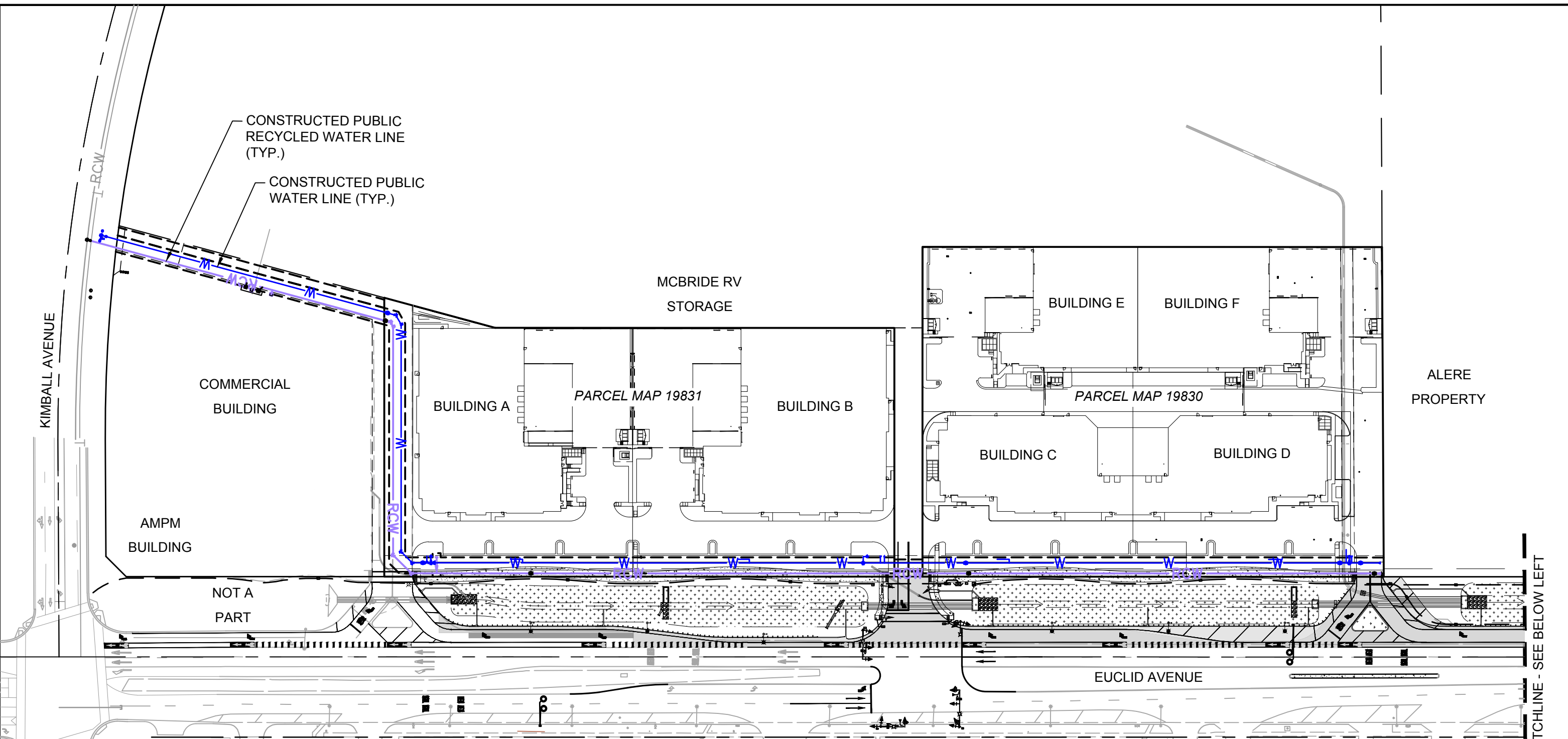
EXHIBIT C

PUBLIC IMPROVEMENTS

***Reimbursement is based on the actual validated costs approved by the City Engineer. The actual validated costs shall not exceed the project's cost estimate included in the Nexus Report. The estimated costs below are contingent upon the Nexus and Calculation Report Update 2022.**

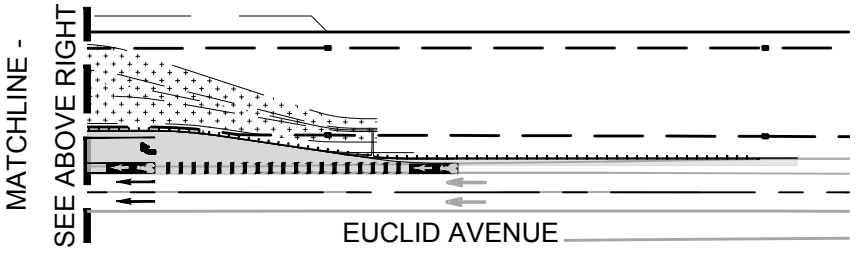
Euclid Avenue	Size	LF	Unit Cost	Pipe Cost	Soft Costs	Estimated Costs
Potable	12"	1,904.5	\$140.00	\$266,630.00	\$93,32.50	\$359,950.00
Recycled	8"	1,891	\$105.00	\$198,555.00	\$69,494.25	\$268,049.25
<i>Total not to Exceed</i>						<i>\$627,999.75</i>

K:\SND_LDEV\095979002 - KIMBALL & EUCLID - BOATMANDESIGN\EXHIBITS\2023.02.01 - INFRASTRUCTURE EXHIBIT\KIMBALL AND EUCLID INFRASTRUCTURE EXHIBIT.DWG



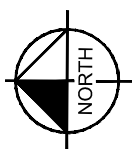
LIST OF PUBLIC IMPROVEMENTS CONSTRUCTED BY DEVELOPER:

1. PUBLIC STREET IMPROVEMENTS
2. PUBLIC SIGNING AND MARKING IMPROVEMENTS
3. PUBLIC TRAFFIC SIGNAL IMPROVEMENTS
4. PUBLIC STORM DRAIN IMPROVEMENTS
5. PUBLIC STREET LIGHT IMPROVEMENTS
6. PUBLIC RECYCLED WATER IMPROVEMENTS
7. PUBLIC DOMESTIC WATER IMPROVEMENTS
8. PUBLIC LANDSCAPE AND IRRIGATION IMPROVEMENTS



Kimley»Horn
 3880 LEMON STREET, SUITE 420,
 RIVERSIDE, CA 92501
 PHONE: 951-546-9868
 WWW.KIMLEY-HORN.COM

PM 19830 AND PM 19831
INFRASTRUCTURE EXHIBIT



JOB NO.: 095979002
 DATE: 2/6/2023
 0 60 120
 GRAPHIC SCALE AS SHOWN
 1 OF 1

**MEMORANDUM
CITY OF CHINO
DEVELOPMENT SERVICES DEPARTMENT**

CITY COUNCIL MEETING DATE: NOVEMBER 21, 2023

TO: LINDA REICH, CITY MANAGER

FROM: WARREN MORELION, AICP, DIRECTOR OF DEVELOPMENT SERVICES

SUBJECT

Chino Preserve Development Corporation - Subdivision Improvement Agreement Tract Map No.16420-5 (Block 3).

RECOMMENDATION

1) Approve Final Tract Map No. 16420-5; 2) approve Subdivision Improvement Agreement and securities with Chino Preserve Development Corporation; and 3) authorize the City Manager to execute the necessary documents on behalf of the City.

FISCAL IMPACT

There is no direct fiscal impact to the City.

CITY OF CHINO MISSION / VISION / VALUES / STRATEGIC ISSUES

The recommendation detailed above will further the City's values and strategic issues that serve as key pillars on which identified priorities, goals, and action plans are built, by fostering:

- Responsible Long-Range Planning

Revenue: Click or tap here to enter text.

Expenditure:

Transfer In: Click or tap here to enter text.

Transfer Out: Click or tap here to enter text.

BACKGROUND

In 2008, the City's Planning Commission approved an "A" level Master Site Approval and Tentative Tract Map No. 16420 to subdivide 522 acres of land generally located south of Pine Avenue, west of Hellman Avenue, and north and east of Chino Corona Road for what is known as the South of Pine area in The Preserve. The purpose of the original Master Site Approval was to establish large parcels, and phase major backbone street systems for both future residential and non-residential development within the master plan area.

On February 23, 2022, the City's Planning Commission conditionally approved a Development Modification to the Master Site Approval and Tentative Tract Map No. 16420. The modification removed the phased development concept originally approved, divided the larger land area into smaller lots to be reconveyed for development, and established improvement areas for future development. It is important to note that the Developer Modification also incorporated conditions of approval for improvements along Pine Avenue for associated developments within the larger project area to help facilitate needed improvements to the area.

Subsequently, on September 19, 2022, the City's Planning Commission approved Master Site Approval PL21-0045 and Tentative Tract Map No. 20446 to create 114 numbered lots and 7 lettered lots to accommodate 114 single-family homes (known as "Block 3"). This project is generally located on the north side of Chino Corona Road between Main Street and Legacy Park Street as shown Exhibit A. Tract Map No. 16420 (as amended) will dedicate and require surety for portions of offsite improvements within the Tentative Tract Map No. 20446 area. Furthermore, Tentative Tract Map No. 20446 is intended to be recorded in two phases. Each phase may be recorded independent of the other. As a result, Chino Preserve Development Corporation is requesting approval of Tract Map No.16420-5 Final Map, which subdivides 24.91 acres within Block 3 as shown on Exhibit B.

The Engineering Conditions of Approval (COA) for Block 3 require public improvements including, but not limited to curb, gutter, sidewalk, streetlights, asphalt concrete pavement, median/parkway landscape, sewer, water, recycled water and drainage improvements on East Preserve Loop, Chino Corona Road, and Legacy Park Street. To guarantee the completion of these public improvements, the developer is required to enter into a Subdivision Improvement Agreement and obtain the necessary securities for the improvements.

ISSUES/ANALYSIS

The requirements made at the time of tentative map approval have been met by the execution of the Subdivision Improvement Agreement for Tract Map No. 16420-5 and by posting the necessary securities to guarantee the construction of public improvements conditioned for Block 3. The City Attorney reviewed and approved the Subdivision Improvement Agreement and respective securities, which is attached as Exhibit C. Therefore, it is staff's recommendation to the City Council to approve Final Tract Map No. 16420-5.

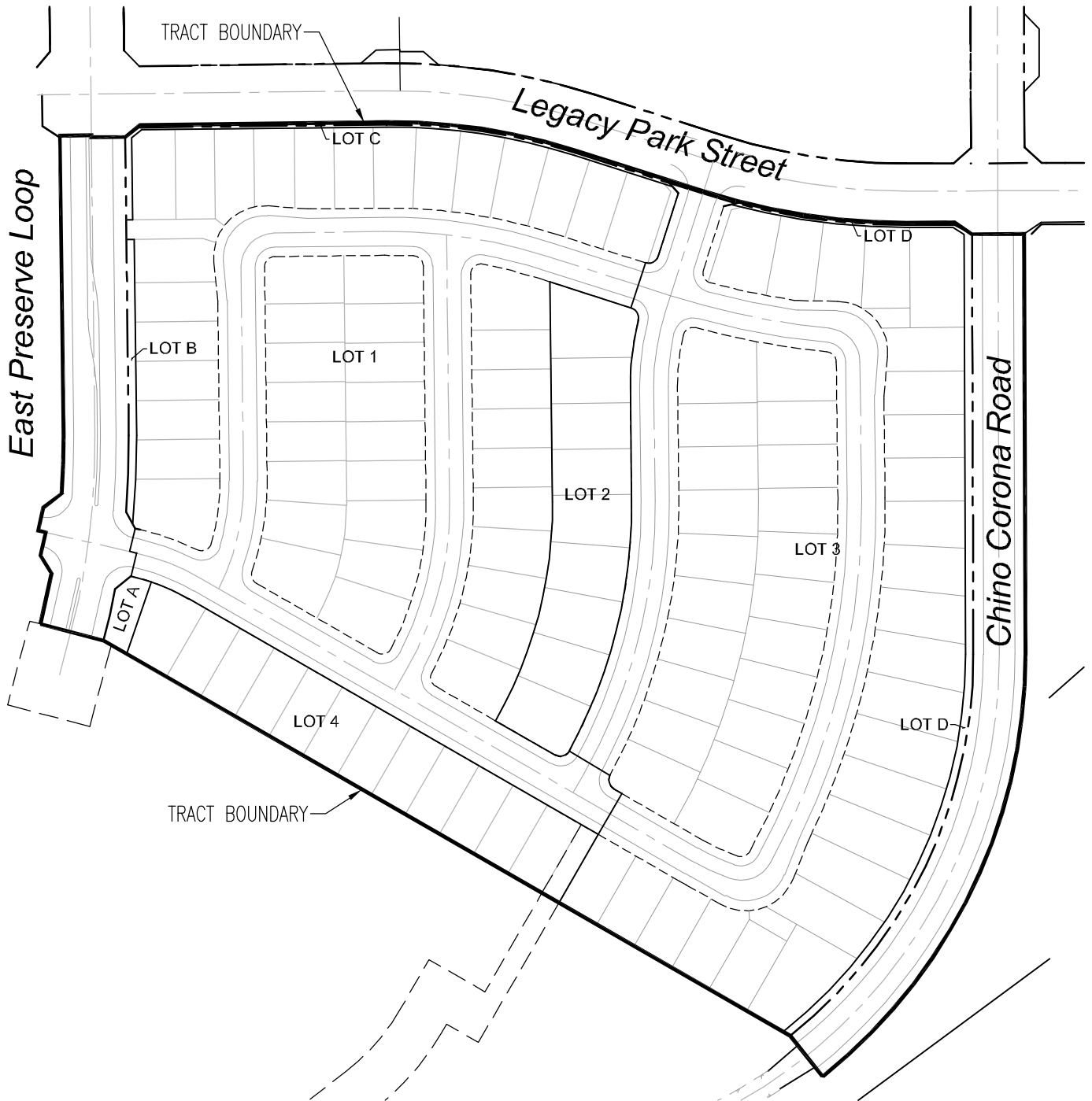
Attachments: Exhibit A - Location Map Master Site Approval PL21-0045
Exhibit B - Location Map Tract Map No. 16420-5
Exhibit C - Subdivision Improvement Agreement Tract Map No. 16420-5

EXHIBIT A
LOCATION MAP
MSA / TTM 20446 BLOCK 3



Exhibit "A"

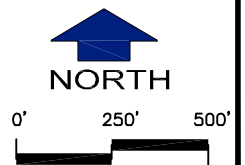
Tract Map No. 16420-5



E:\400-499\481\0481-273-Block_3A\Exhibits\Exhibit_A.dwg, Plotted: Oct. 25, 2023 -- 11:07am



10390 Commerce Center Drive
Suite 250
Rancho Cucamonga, California 91730
Phone: (909) 945-0526
Fax: (909) 945-0529



SUBDIVISION IMPROVEMENT AGREEMENT

by and between

CITY OF CHINO

and

CHINO PRESERVE DEVELOPMENT CORPORATION

SUBDIVISION IMPROVEMENT AGREEMENT BETWEEN
THE CITY OF CHINO
AND
CHINO PRESERVE DEVELOPMENT CORPORATION

Agreement Date: November 21, 2023

Subdivider Name: Chino Preserve Development Corporation

Subdivision Description: On September 19, 2022, the City's Planning Commission approved Master Site Approval PL21-0045 and Tentative Tract Map No. 20446 to create 114 numbered lots and 7 letter lots to accommodate 114 single-family homes (known as "Block 3"). This project is generally located on the north side of Chino Corona Road between Main Street and Legacy Park Street as shown Exhibit A. Tract Map No. 16420 (as amended) will dedicate and require surety for portions of offsite improvements within Tentative Tract Map No. 20446 area. Further, Tentative Tract Map No. 20446 is intended to be recorded in two phases. Each phase may be recorded independent of the other. As a result, Chino Preserve Development Corporation is requesting approval of Tract No.16420-5 Final Map, which subdivides 24.91 acres within Block 3 as shown on Exhibit A.

Tentative Map No.: 16420-5

Estimated Total Cost of Improvements: \$3,254,800.00

Estimated Total Cost of Monumentation: \$62,135.00 (based upon the plans, including individual lots, subdivision boundary and public improvements).

Security:

Bond No.: _____

Surety: _____

Designees for the Service of Written Notice:

CITY:	SUBDIVIDER:
<p>Jesus Plasencia Assistant City Engineer</p> <p>13220 Central Avenue Chino, CA 91710</p> <p>(909) 334-3417 jplasencia@cityofchino.org</p>	<p>Chino Preserve Development Corporation</p> <p>c/o Darius Fatakia Lewis Management Corporation 1156 N. Mountain Avenue Upland, CA 91786</p> <p>(909) 579-1229 darius.fatakia@lewismc.com</p>
CITY PROJECT INSPECTOR	
<p>Isaac Ortega Permit & Inspection Supervisor</p> <p>13220 Central Avenue Chino, CA 91710</p> <p>(909) 334-3501 rhernandez@cityofchino.org</p>	

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SUBDIVISION IMPROVEMENT AGREEMENT

THIS SUBDIVISION IMPROVEMENT AGREEMENT (this "Agreement") is entered into this 21st day of November 2023, by and between the CITY OF CHINO, a municipal corporation, organized and existing in the County of San Bernardino, under and by virtue of the laws of the State of California, ("CITY"), and Chino Preserve Development Corporation, a California corporation (Subdivider").

RECITALS

A. Subdivider is the owner of and has obtained approval of a subdivision map identified as Tentative Tract Map No. 16420-5, (the "Map"), located in the City of Chino, County of San Bernardino, State of California (the "Property"), as described on Exhibit "A". The Map requires Subdivider to comply with certain conditions of approval for the development of the Property (the "Conditions") as described on Exhibit "B".

B. Pursuant to the Conditions, Subdivider, by the Map, has offered for dedication to City for public use of the streets and easements shown on the Map. City desires to accept the streets and easements shown on the Map for public use, and certain other improvements described in this Agreement.

C. Subdivider has delivered to City, and City has approved, plans and specifications and related documents for certain "Works of Improvement" (as hereinafter defined) which are required to be constructed and installed in order to accommodate the development of the Property.

D. Subdivider's agreement to construct and install the Works of Improvement pursuant to this Agreement and its offer of dedication of the streets, easements and other improvements and facilities, as shown on the Map, are a material consideration to City in approving Final Map No. 16420-5 for the Property and permitting development of the Property to proceed.

COVENANTS

Based upon the foregoing Recitals which are incorporated herein by reference and in consideration of City's approving the Map for the Property and permitting development of the Property to proceed, Subdivider agrees to timely perform all of its obligations as set forth herein.

1. Construction Obligations.

1.1. Works of Improvement. Subdivider agrees, at its sole cost and expense, to construct or install, or cause to be constructed or installed the street, drainage, domestic water, sanitary sewer, street lighting, landscaping, utility, and other improvements more fully described in Exhibit "B" attached hereto (the "Works of Improvement"), as the same may be supplemented and revised from time to time as set forth in this Agreement (said plans and specifications, together with all related documents, the "Plans"). The estimated construction cost for the Works of Improvement is \$3,254,800.00.

1.2. Other Obligations Referenced in Conditions of Tentative Map Approval. In addition to the foregoing, Subdivider shall satisfy all of the Conditions on the Map for the Property. The Conditions associated with the Map are included in Exhibit "B" attached hereto.

1.3. Intent of Plans. The intent of the Plans referenced in Section 1.1 is to prescribe a complete work of improvement which Subdivider shall perform or cause to be performed in a manner acceptable to the City Engineer, (or designee), and in full compliance with all codes and the terms of this Agreement. Subdivider shall complete a functional or operable improvement or facility, even though the Plans may not specifically call out all items of work required for Subdivider's contractor to complete its tasks, incidental appurtenances, materials, and the like. If any omissions are made or information necessary to carry out the full intent and meaning of the Plans, Subdivider or its contractor shall immediately notify its design engineer who will seek approval of the City Engineer for furnishing of detailed instructions. In the event of any doubt or question arising regarding the true meaning of any of the Plans, reference shall be made to the City Engineer whose decision thereon shall be final.

Subdivider recognizes that the Plans consist of general drawings. All authorized alterations affecting the requirements and information given on the Plans shall be in writing and approved by the City Engineer. The Plans shall be supplemented by such working or shop drawings as are necessary to adequately control the work. Without the City Engineer's prior written approval, no change shall be made by Subdivider or its contractor to any plan, specification, or working or shop drawing after it has been stamped as approved.

1.4. Survey Monuments. Before final approval of street improvements, Subdivider shall place survey monuments as shown on Final Map No. 16420-5 in accordance with the provisions of the State Subdivision Map Act and the Subdivision Ordinance of the City of Chino. Subdivider shall provide security for such obligation as provided in Section 4.1(a)(iii) and, after setting the monuments, Subdivider shall furnish the City Engineer written notice of the setting of said monuments and written proof of having paid the engineer or surveyor for the setting of said monuments.

1.5. Performance of Work. Subdivider shall furnish or cause to be furnished all materials, labor, tools, equipment, utilities, transportation, and incidentals required to perform Subdivider's obligations under this Agreement.

1.6. Changes in the Work. The City Engineer, without invalidating this Agreement and without notification to any of the sureties or financial institutions referenced in Paragraph 4, may order extra work or may make changes by altering or deleting any portion of the Works of Improvement as specified herein or as deemed necessary by the City Engineer as determined necessary to accomplish the purposes of this Agreement and to protect the public health, safety, or welfare. The City Engineer shall notify Subdivider or its contractor in writing (by Correction Notice) at the time a determination has been made to require changes in the work. No field changes performed or proposed by Subdivider or its contractor shall be binding on City unless approved in writing by the City Engineer. The City and Subdivider may mutually agree upon changes to the Works of Improvement, subject to the security requirements in Section 4.

1.7. Defective Work. Subdivider shall cause its contractor to repair, reconstruct, replace, or otherwise make acceptable any work found by the City Engineer to be defective.

1.8. No Warranty by City. The Plans for the Works of Improvement have been prepared by or on behalf of Subdivider or its consultants or contractors, and City makes no representation or warranty, express or implied, to Subdivider or to any other person regarding the adequacy of the Plans or related documents.

1.9. Authority of the City Engineer. In addition to the authority granted to the City Engineer elsewhere in this Agreement, the City Engineer shall have the authority to decide all questions which may arise as to the quality and acceptability of materials furnished and work performed, and all questions as to the satisfactory and acceptable fulfillment of the terms of this Agreement by Subdivider and its contractor.

1.10. Documents Available at the Site. Subdivider shall cause its contractor to keep a copy of all approved Plans at the job site and shall give access thereto to the City's inspectors and engineers at all times.

1.11. Inspection. Subdivider shall have an authorized representative on the job site at all times during which work is being done who has full authority to act for Subdivider, or its design engineer, and Subdivider's contractor(s) regarding the Works of Improvement. Subdivider shall cause its contractor to furnish the City with every reasonable facility for ascertaining whether or not the Works of Improvement as performed are in accordance with the requirements and intent of this Agreement, including the Plans. If the City inspector requests it, the Subdivider's contractor, at any time before acceptance of the Works of Improvement, shall remove or uncover such portions of the finished work as may be directed which have not previously been inspected. After examination, the Subdivider's contractor shall restore said portions of the work to the standards required hereunder. Inspection or supervision by the City Engineer (or designee) shall not be considered as direct control of the individual workmen on the job site. City's inspectors shall have the authority to stop any and all work not in accordance with the requirements contained or referenced in this Agreement.

The inspection of the work by City shall not relieve Subdivider or its contractor of any obligations to fulfill this Agreement as herein provided, and unsuitable materials or work may be rejected notwithstanding that such materials or work may have been previously overlooked or accepted.

1.12. Compliance with Law; Applicable Standards for Improvements. In addition to the express provisions of this Agreement and the Plans, Subdivider shall cause construction of the Works of Improvement to be completed in accordance with all other applicable federal, state, and local laws, ordinances, rules and regulations. In addition, without limiting the foregoing, the Subdivider shall, at its expense, obtain and comply with the conditions of all necessary permits and licenses for the construction of the Works of Improvement. The Subdivider shall also give all necessary notices and pay all fees and taxes as required by law.

Subdivider shall construct the Works of Improvements in accordance with the City standards in effect at the time of the adoption of the Approved Tentative Map. City reserves the

right to protect the public safety or welfare or comply with applicable Federal or State law or City zoning ordinances.

1.13. Suspension of Work. The City Engineer shall have authority to order suspension of the work for failure of the Subdivider's contractor to comply with law pursuant to Section 1.12. In case of suspension of work for any cause whatsoever, Subdivider and its contractor shall be responsible for all materials and shall store them properly if necessary and shall provide suitable interim drainage and/or dust control measures, and erect temporary structures where necessary.

1.14. Erosion and Dust Control and Environmental Mitigation. All grading, landscaping, and construction activities shall be performed in a manner to control erosion and prevent flooding problems. The City Engineer shall have the authority to require erosion plans to prescribe reasonable controls on the method, manner, and time of grading, landscaping, and construction activities to prevent nuisances to surrounding properties. Plans shall include without limitation temporary drainage and erosion control requirements, dust control procedures, restrictions on truck and other construction traffic routes, noise abatement procedures, storage of materials and equipment, removal of garbage, trash, and refuse, securing the job site to prevent injury, and similar matters.

1.15. Final Acceptance of Works of Improvement. After Subdivider's contractor has completed all of the Works of Improvement, Subdivider shall then request a final inspection of the work. If items are found by the City's inspectors to be incomplete or not in compliance with this Agreement or any of the requirements contained or referenced herein, City will inform the Subdivider or its contractor of such items. After the Subdivider's contractor has completed these items, the procedure shall then be the same as specified above for the Subdivider's contractor's initial request for final inspection. If items are found by City's inspectors to be incomplete or not in compliance after two (2) "final" inspections, the City may require the Subdivider or its contractor, as a condition to performing further field inspections, to submit in writing a detailed statement of the work performed subsequent to the date of the previous inspection which was found to be incomplete or not in compliance at that time. Subdivider shall be responsible for payment to City Engineer of re-inspection fees in the amount necessary to cover the City's costs for additional final inspections, as determined by the City Engineer.

No inspection or acceptance pertaining to specific parts of the Works of Improvement shall be construed as final acceptance of any part until the overall final acceptance by the City Engineer is made. The City Engineer shall make a certification of completion and acceptance on the Works of Improvement by recordation of a Notice of Acceptance on behalf of the City. Final acceptance shall not constitute a waiver by the City Engineer of defective work subsequently discovered.

The date on which the Works of Improvement will be considered as complete shall be the date of the Notice of Acceptance.

1.16. Vesting of Ownership. Upon recordation of the Notice of Acceptance, ownership of the Works of Improvement shall vest in the City.

1.17. Subdivider's Obligation to Warn Public During Construction. Until recordation of the Notice of Acceptance, Subdivider shall give good and adequate warning to the public of any dangerous condition of the Works of Improvements, and shall take reasonable actions to protect the public from such dangerous condition. Until recordation of the Notice of Acceptance, Subdivider shall provide forty-eight (48) hours' advance written notice to all neighboring property owners and tenants affected by Subdivider's operations or construction of the hours, dates and duration of any planned construction activities.

1.18. Injury to Public Improvements, Public Property or Public Utility. Until recordation of the Notice of Acceptance of the Works of Improvement, Subdivider assumes responsibility for the care and maintenance of, and any damage to, the Works of Improvements. Subdivider shall replace or repair all Works of Improvements, public property, public utility facilities, and surveying or subdivision monuments and benchmarks which are destroyed or damaged for any reason, regardless whether resulting from the acts of the Subdivider, prior to the recordation of the Notice of Acceptance. Prior to the recordation of the Notice of Acceptance, Subdivider shall bear the entire cost of such replacement or repairs regardless of what entity owns the underlying property. Any repair or replacement shall be to the reasonable satisfaction, and subject to the reasonable approval, of the City Engineer.

Neither the City, nor any officer or employee thereof, shall be liable or responsible for any accident, loss or damage, regardless of cause, occurring to the work or Works of Improvements prior to recordation of the Notice of Acceptance of the work or improvements.

2. Time for Performance.

2.1. Commencement and Completion Dates. Subject to Sections 2.2 and 2.3 below, Subdivider shall (i) commence with construction and installation of the Works of Improvement thirty (30) days following City's approval of the Plans ("Commencement Date"); and (ii) complete or cause to be completed all of the Works of Improvement within two (2) years after the Commencement Date. In the event good cause exists as determined by the City Engineer, the time for commencement of construction or completion of the Works of Improvement hereunder may be extended by up to three (3) additional one-year periods. Extensions shall be executed in writing by the City Engineer. The City Engineer in his or her sole discretion determines whether or not the Subdivider has established good cause for an extension. As a condition of such extension, the City Engineer may require Subdivider to furnish new security guaranteeing performance of this Agreement, as extended, in an increased amount to compensate for any increase in construction costs as determined by the City Engineer. If Subdivider requests and is granted an extension of time for completion of the improvements, City may apply the standards in effect at the time of the extension.

2.2. Phasing Requirements. Notwithstanding the provisions of Section 2.1, the City reserves the right to control and regulate the phasing of completion of specific Works of Improvement as required to comply with applicable City ordinances, regulations, and rules relating to the timely provision of public services and facilities. In addition to whatever other remedies the City may have for Subdivider's failure to satisfy such phasing requirements, as the same now exist or may be amended from time to time, Subdivider acknowledges City's right to withhold the issuance of further building permits on the Property until such phasing requirements

are satisfied. Prior to issuance of building permits, Subdivider shall provide satisfactory evidence that all applicable requirements that are a condition to issuance of building permits have been satisfied. Such requirements may include the payment of fees, construction of improvements, or both. Final inspections or issuance of Certificates of Occupancy may be withheld from the Subdivider by the City, if, upon a determination by the City Engineer, completion of specific Works of Improvements or other requirements associated with the development of the Property have not been completed to the City Engineer's satisfaction.

2.3. Force Majeure. Notwithstanding the provisions of Section 2.1, Subdivider's time for commencement and completion of the Works of Improvement shall be extended for the period of any enforced delay caused due to circumstances beyond the control and without the fault of Subdivider, including to the extent applicable adverse weather conditions, flood, earthquakes, strikes, lockouts, epidemics, pandemics and other public health emergencies, construction-industry-wide inability to procure labor or materials in the region in which the Property is located, construction-industry-wide inability to procure equipment or supplies on the open market in the region in which the Property is located, unusual delays resulting from transportation, laws, rules, regulations or orders of a public agency or other public agency action or inaction (including City), , acts or failures to act of a public agency (including City), changes to the scope of work required by City, and similar causes; provided, however, that the period of any enforced delay hereunder shall not include any period longer than five (5) days prior to City's receipt of a written notice from Subdivider or its contractor detailing the grounds for Subdivider's claim to a right to extend its time for performance hereunder. The City Engineer shall evaluate all claims to Force Majeure and make a reasonable determination regarding the length of any extension of time for commencement and/or completion of the Works of Improvement and the City Engineer's decision shall be final.

2.4. Continuous Work. After commencement of construction of the Works of Improvement (or separate portion thereof), Subdivider shall cause such work to be diligently pursued to completion and shall not abandon the work for a consecutive period or more than thirty (30) days, events of Force Majeure excepted.

2.5. Reversion to Acreage. In addition to whatever other rights City may have due to Subdivider's failure to timely perform its obligations hereunder, Subdivider recognizes that City reserves the right to revert the Property to acreage subject to the limitations and requirements set forth in California Government Code Section 66499.11 through Section 66499.20.1.

3. Labor.

3.1. Labor Standards. This Agreement is subject to, and Subdivider agrees to comply with, all of the applicable provisions of the Labor Code including, but not limited to, the wage and hour, prevailing wage, worker compensation, and various other labor requirements in Division 2, Part 7, Chapter 1, including section 1720 to 1740, 1770 to 1780, 1810 to 1815, 1860 to 1861, which provisions are specifically incorporated herein by reference as set forth herein in their entirety. Subdivider shall expressly require compliance with the provisions of this Section in all agreements with contractors and subcontractors for the performance of the Works of Improvement.

3.2. Nondiscrimination. In accordance with the California Fair Employment and Housing Act ("FEHA"), California Government Code Section 12940 *et seq.*, Subdivider agrees that Subdivider, its agents, employees, contractors, and subcontractor performing any of the Works of Improvement shall not discriminate, in any way, against any person on the basis of race, ethnicity, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Subdivider shall expressly require compliance with the provisions of this Section in all agreements with contractors and subcontractors for the performance of this Agreement.

3.3. Licensed Contractors. Subdivider shall cause all of the Works of Improvement to be constructed by contractors and subcontractors with valid California Contractors' licenses for the type of work being performed. All of Subdivider's contractors and subcontractors shall obtain a valid City of Chino business license prior to performing any work pursuant to this Agreement. Subdivider shall provide the City Engineer with a list of all of its contractors and subcontractors prior to initiating any work, and all valid Contractor's licenses and business licenses issued thereto as a condition of constructing the Works of Improvements.

3.4. Worker's Compensation. Subdivider shall cause every contractor and subcontractor performing any of the Works of Improvement to carry Workers' Compensation Insurance as required by the Labor Code of the State of California and shall cause each such contractor and subcontractor to submit to City a Certificate of Insurance verifying such coverage prior to such contractor or subcontractor entering onto the job site.

4. Security.

4.1. Required Security.

(a) At the time Subdivider executes this Agreement, Subdivider shall furnish to City the following bonds, letters of credit, instruments of credit (assignment of deposit account) or other security acceptable to City in its sole and absolute discretion and satisfying the requirements of the applicable provisions of this Section 4 below (hereinafter "Security Instruments"):

- (i) A Security Instrument securing Subdivider's faithful performance of all of the Works of Improvement ("Faithful Performance Security Instrument"), in the amount of \$3,254,800.00 equal to 100% of the estimated construction cost referenced in Section 1.1.
- (ii) A Security Instrument guaranteeing the payment to contractors, subcontractors, and other persons furnishing labor, materials, and/or equipment ("Labor and Materials Security Instrument") with respect to the Works of Improvement in an amount equal to \$1,627,400.00 equal to 50% of the estimated construction cost referenced in Section 1.1.

- (iii) A Security Instrument guaranteeing the payment of the cost of setting monuments as required in Section 1.4 in the amount of \$62,135.00 equal to 100% of the cost thereof.

This Agreement shall not be effective for any purpose until such Security Instruments are supplied to and approved by City in accordance herewith.

(b) Required Security Instrument for Maintenance and Warranty. Prior to the City Council's acceptance of the Works of Improvement and recordation of a Notice of Completion, Subdivider shall deliver a Security Instrument warranting the work accepted for a period of one (1) year following said acceptance ("Maintenance and Warranty Security Instrument"), in the amount of \$325,500.00 equal to 10% of the estimated construction cost set forth in Section 1.1 or a suitable amount determined by the City Engineer.

4.2. Form of Security Instruments. All Security Instruments shall be in the amounts required under Section 4.1 (a) or 4.1(b), as applicable, shall meet the following minimum requirements and otherwise shall be in a form provided by City or otherwise approved by the City Attorney:

(a) Bonds. For Security Instruments provided in the form of bonds, any such bond must be issued and executed by an insurance company or bank authorized to transact surety business in the State of California. Any insurance company acting as surety shall have a minimum rating of A-IX, as rated by the current edition of Best's Key Rating Guide published by A.M. Best's Company, Oldwick, New Jersey, 08858. Any bank acting as surety shall have a minimum rating of AA, as rated by Moody's or Standard & Poor's.

(b) Letters of Credit. For Security Instruments which are letters of credit, any letter of credit shall be an original separate unconditional, irrevocable, negotiable and transferable commercial letter of credit issued by a financial institution with offices in the State of California acceptable to City. Any such letter of credit shall specifically permit City to draw on same by unilateral certification of the City Engineer of the City that Subdivider is in default under its payment or performance obligations hereunder or in the event Subdivider fails to deliver a replacement letter of credit not less than thirty (30) days prior to the date of expiration of any such letter of credit and shall further be subject to the provisions of Section 4.4.

(c) Instrument of Credit. For Security Instruments which are Instruments of Credit, any Instrument of Credit shall be an assignment of deposit account assigning as security to City all of Subdivider's interest in funds on deposit in one or more bank accounts with financial institutions acceptable to City.

(d) General Requirements for all Security Instruments.

- (i) Payments under any Security Instruments shall be required to be made (and, with respect to bonds, litigation shall be required to be

instituted and maintained) in the City of Chino, State of California (and the Security Instrument shall so provide).

- (ii) Each Security Instrument shall have a minimum term of one (1) year after the deadline for Subdivider's completing the Works of Improvement, in accordance with Section 2.1 (other than Instruments of Credit, which shall have no defined term or expiration date).
- (iii) Each Security Instrument shall provide that changes may be made in the Works of Improvement pursuant to the terms of this Agreement without notice to any issuer or surety and without affecting the obligations under such Security Instrument.
- (iv) If the Subdivider seeks to replace any security with another security, the replacement shall: (1) comply with all the requirements for security in this Agreement; (2) be provided by the Subdivider to the City Engineer; and (3) upon its written acceptance by the City Engineer, be deemed a part of this Agreement. Upon the City Engineer's acceptance of a replacement security, the former security shall be released by the City.

4.3. Subdivider's Liability. While no action of Subdivider shall be required in order for City to realize on its security under any Security Instrument, Subdivider agrees to cooperate with City to facilitate City's realization under any Security Instrument, and to take no action to prevent City from such realization of any Security Instrument. Notwithstanding the giving of any Security Instrument or the subsequent expiration of any Security Instrument or any failure by any surety or financial institution to perform its obligations with respect thereto, Subdivider shall be personally liable for performance under this Agreement and for payment of the cost of the labor and materials for the improvements required to be constructed or installed hereby and shall, within ten (10) days after written demand therefor, deliver to City such substitute security as City shall require satisfying the requirements in this Section 4.

4.4. Letters of Credit.

(a) In the event a letter of credit is given pursuant to Section 4.2(b), City shall be entitled to draw on any such letter of credit if a replacement letter of credit (expiring in not less than one (1) year, unless City agrees to a lesser term in City's sole and absolute discretion) is not delivered not less than thirty (30) days prior to the expiration of the original letter of credit, such substitute letter of credit being in the same amount and having the terms and conditions as the initial letter of credit delivered hereunder, issued by a financial institution acceptable to City as of the date of delivery of the replacement letter of credit.

(b) In the event of draw by the City on a letter of credit, the City may elect, in its sole and absolute discretion, to apply any such funds drawn to the obligations secured by such letter of credit or to hold such funds in an account under the

control of the City, with no interest accruing thereon for the benefit of the Subdivider. If the City elects to hold the funds in an account pursuant to the foregoing, City may thereafter at any time elect instead to apply such funds as provided in the foregoing. Subdivider agrees and hereby grants City a security interest in such account to the extent required for City to realize on its interests therein, and agrees to execute and deliver to City any other documents requested by City in order to evidence the creation and perfection of City's security interest in such account.

4.5. Release of Security Instruments. The City shall release all Security Instruments consistent with Government Code Sections 66499.7 and 66499.8, Section 19.09.010 of the Chino Municipal Code, and as follows:

(a) City shall release the Faithful Performance Security Instrument and Labor and Materials Security Instrument when all of the following have occurred:

- (i) Subdivider has made written request for release and provided evidence of satisfaction of all other requirements in this Section 4.5;
- (ii) the Works of Improvement have been accepted;
- (iii) Subdivider has delivered the Maintenance and Warranty Security Instrument; and
- (iv) after passage of the time within which lien claims are required to be made pursuant to Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code of the State of California. If lien claims have been timely filed, City shall hold the Labor and Materials Security Instrument until such claims have been resolved, Subdivider has provided a statutory bond, or otherwise as required by applicable law.

(b) City shall release the Maintenance and Warranty Security Instrument upon Subdivider's written request upon the expiration of the warranty period, and settlement of any claims filed during the warranty period.

(c) The City may retain from any security released, an amount sufficient to cover costs and reasonable expenses and fees, including reasonable attorney's fees.

5. Cost of Construction and Provision of Inspection Service.

5.1. Subdivider Responsible for All Costs of Construction. Subdivider shall be responsible for payment of all costs incurred for construction and installation of the Works of Improvement. In the event Subdivider is entitled to reimbursement from City for any of the Works of Improvement, such reimbursement shall be subject to a separate Reimbursement Agreement to be entered into between Subdivider and City prior to construction of the Works of Improvement.

5.2. Payment to City for Cost of Related Inspection and Engineering Services. Subdivider shall compensate City for all of City's costs reasonably incurred in having its authorized representative make the usual and customary inspections of the Works of Improvement. In addition, Subdivider shall compensate City for all design, plan check, evaluating any proposed or agreed-upon changes in the work. The procedures for deposit and payment of such fees shall be as established by the City. In no event shall Subdivider be entitled to additional inspections or a final inspection and acceptance of any of the Works of Improvement until all City fees and charges have been fully paid, including without limitation, charges for applicable penalties and additional required inspections.

5.3. Payment of Development Impact Fees. Unless otherwise addressed in the Development Agreement, as amended, between Subdivider, its affiliates, Chino Holding Company, LLC and Chino Development Corporation, and the City, or in a Construction Credit and Reimbursement Agreement or other agreement among any of the foregoing entities and the City, Subdivider shall pay Development Impact Fees pursuant to and in accordance with Chino Municipal Code Chapter 3.40 or 3.45, as applicable.

6. Acceptance of Offers of Dedication. The City Council shall pass as appropriate resolution or resolutions accepting all offers of dedication shown on the Map for the Property, with acceptance to become effective upon completion and acceptance by City of the Works of Improvement. Such resolution(s) shall authorize the City Clerk to execute the Certificate made a part of the Map regarding said acceptance of the offer of dedication.

7. Warranty of Work. Subdivider shall guarantee all Works of Improvement against defective materials and workmanship for a period of one (1) year from the date of final acceptance. If any of the Works of Improvement should fail or prove defective within said one (1) year period due to any reason other than improper maintenance, or if any settlement of fill or backfill occurs, or should any portion of the Works of Improvement fail to fulfill any requirements of the Plans, Subdivider, within fifteen (15) days after written notice of such defects, or within such shorter time as may reasonably be determined by the City in the event of emergency, shall commence to repair or replace the same together with any other work which may be damaged or displaced in so doing. Should Subdivider fail to remedy defective material and/or workmanship or make replacements or repairs within the period of time set forth above, City may make such repairs and replacements and the actual cost of the required labor and materials shall be chargeable to and payable by Subdivider. The warranty provided herein shall not be in lieu of, but shall be in addition to, any warranties or other obligations otherwise imposed by law.

8. Default.

8.1. Default by Subdivider. Default by Subdivider shall include, but not be limited to:

(a) Subdivider's failure to timely commence construction of Works of Improvement under this Agreement;

(b) Subdivider's failure to timely complete construction of the Works of Improvement;

- (c) Subdivider's failure to perform substantial construction work for a period for 20 consecutive calendar days after commencement of the work;
- (d) Subdivider's insolvency, appointment of a receiver, or the filing of any petition in bankruptcy, either voluntary or involuntary, which Subdivider fails to discharge within 30 days;
- (e) The commencement of a foreclosure action against the subdivision or a portion thereof, or any conveyance in lieu or in avoidance of foreclosure; or
- (f) Subdivider's failure to perform any other obligation under this Agreement.

8.2. Remedies. The City reserves all remedies available to it at law or in equity for a default or breach of Subdivider's obligations under this Agreement. The City shall have the right, subject to this Section, to draw upon or use the appropriate security to mitigate the City's damages in the event of default by Subdivider. The City's right to draw upon or use the security is in addition to any other remedy available to City. The parties acknowledge that the estimated costs and security amounts may not reflect the actual cost of construction of the improvements and, therefore, City's damages for Subdivider's default shall be measured by the cost of completing the required improvements. The City may use the sums provided by the securities for the completion of the Works of Improvement in accordance with the plans. In the event the Subdivider fails to cure any default under this Agreement within 20 days after the City mails a notice of such default to the Subdivider and the Subdivider's surety, Subdivider authorizes the City to perform the obligation for which Subdivider is in default and agrees to pay the entire cost of such performance by the City. The City may take over the work and complete the Works of Improvement, by contract or by any other method City deems appropriate, at the expense of the Subdivider. In such event, City, without liability for doing so, may complete the Works of Improvement using any of Subdivider's materials, appliances, plans and other property that are at the work site and that are necessary to complete the Works of Improvement.

8.3. Remedies Not Exclusive. In any case where this Agreement provides a specific remedy to City for a default by Subdivider hereunder, the Subdivider agrees that the choice of remedy or remedies for Subdivider's breach shall be in the discretion of the City. Additionally, any remedy specifically provided in this Agreement shall be in addition to, and not exclusive of, City's right to pursue any other administrative, legal, or equitable remedy to which it may be entitled.

8.4. Attorney's Fees and Costs. In the event that Subdivider fails to perform any obligation under this Agreement, Subdivider agrees to pay all costs and expenses incurred by City in securing performance of such obligations, including costs of suit and reasonable attorney's fees. In the event of any dispute arising out of Subdivider's performance of its obligations under this Agreement or under any of the Security Instruments referenced herein, the prevailing party in such action, in addition to any other relief which may be granted, shall be entitled to recover its reasonable attorney's fees and costs. Such attorney's fees and cost shall include fees and costs on any appeal, and in addition a party entitled to attorney's fees and costs shall be entitled to all other reasonable costs incurred in investigating such action, taking depositions and discovery, retaining expert witnesses, and all other necessary and related costs

with respect to the litigation. All such fees and costs shall be deemed to have accrued on commencement of the action and shall be enforceable whether or not the action is prosecuted to judgment.

8.5. Waiver. No waiver by the City of any breach or default by the Subdivider shall be considered valid unless in writing, and no such waiver by the City shall be deemed a waiver of any subsequent breach or default by the Subdivider.

9. Indemnity/Hold Harmless. City or any officer, employee or agent thereof shall not be liable for any injury to persons or property occasioned by reason of the acts or omissions of Subdivider, its agents, employees, contractors and subcontractors in the performance of this Agreement. Subdivider further agrees to protect, defend, indemnify and hold harmless City, its officials, boards and commissions, and members thereof, agents, and employees from any and all claims, demands, causes of action, liability or loss of any sort, because of, or arising out of, acts or omissions of Subdivider, its agents, employees, contractors and subcontractors in the performance of this Agreement, except for such claims, demands, causes of action, liability or loss arising out of the active negligence or willful misconduct of the City, its officials, boards, commissions, the members thereof, agents and employees, including all claims, demands, causes of action, liability or loss because of or arising out of, in whole or in part, the design or construction of the improvements. This indemnification and agreement to hold harmless shall extend to injuries to persons and damages or taking of property resulting from the design or construction of said Subdivision, and the public improvements as provided herein, and in addition, to adjacent property owners as a consequence of the diversion of waters from the design and construction of public drainage systems, streets and other improvements. City shall not be responsible for the design or construction of the property to be dedicated or the improvements pursuant to the approved improvement plans or map, regardless of any negligent action or inaction taken by the City in approving the plans or map, unless the particular improvement design was specifically required by City over written objection by Subdivider submitted to the City Engineer before approval of the particular improvement design, which objection indicated that the particular improvement design was dangerous or defective and suggested an alternative safe and feasible design.

For a period of one (1) year after the City's acceptance of the improvements, the Subdivider shall remain obligated to eliminate any latent defect in design or dangerous condition caused by the design or construction defect; however, Subdivider shall not be responsible for routine maintenance. It is the intent of this section that, subject to applicable law, including statutes of limitations, Subdivider shall be responsible for all liability for design and construction of the improvements installed or work done pursuant to this Agreement and that City shall not be liable for any negligence, nonfeasance, misfeasance or malfeasance in approving or reviewing any work or construction. The improvement security shall not be required to cover the provisions of this Paragraph.

In the event of a dispute regarding this Section, the non-prevailing party shall reimburse the prevailing party for all costs and expenses, including but not limited to fees and charges of architects, engineers, attorneys, and other professionals, and court costs, incurred by the prevailing party in enforcing this Section.

10. Subdivider's Indemnity of Project Approval. Subdivider shall defend, indemnify, and hold harmless the City and its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul, an approval of the City, advisory agency, appeal board, or legislative body concerning the Subdivision. The City shall promptly notify the Subdivider of any claim, action, or proceeding and cooperate fully in the defense of any such claim, action, or proceeding. In the event City fails to promptly notify the Subdivider of any claim, action, or proceeding, or if the City fails to cooperate in the defense, the Subdivider shall not thereafter be responsible to defend, indemnify, or hold harmless the City. Nothing in this Section prohibits the City from participating in the defense of any claim, action, or proceeding if City bears its own attorney's fees and costs and defends the action in good faith. Subdivider shall not be required to pay or perform any settlement unless the settlement is approved by the Subdivider.

11. Insurance Requirements. Subdivider, at Subdivider's sole cost and expense and for the full term of this Agreement and any extensions thereto, shall obtain and maintain all of the following minimum insurance requirements in a form approved by the City's authorized designee for Risk Management prior to commencing any work:

(a) Commercial General Liability policy with a minimum \$1 million combined single limit for bodily injury and property damage providing all of the following minimum coverage without deductibles:

- (i) Premises operations; including X, C, and U coverage;
- (ii) Owners' and contractors' protection;
- (iii) Blanket contractual;
- (iv) Completed operations; and
- (v) Products.

(b) Commercial Business Auto policy with a minimum \$1 million combined single limit for bodily injury and property damage, providing all of the following minimum coverage without deductibles:

- (i) Coverage shall apply to any and all leased, owned, hired, or non-owned vehicles used in pursuit of any of the activities associated with this Agreement; and
- (ii) Any and all mobile equipment including cranes which are not covered under the above Commercial Business Auto policy shall have said coverage provided under the Commercial General Liability policy.

(c) Workers Compensation and Employers' Liability policy in accordance with the laws of the State of California and providing coverage for any and all employees of the Subdivider:

- (i) This policy shall provide coverage for Workers' Compensation (Coverage A); and
 - (i) This policy shall provide coverage for \$1,000,000 Employers' Liability (Coverage B).
 - (ii) Pursuant to Labor Code section 1861, Subdivider by executing this Agreement certifies: *"I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this contract."*
 - (iii) Prior to commencement of work, the Subdivider shall file with the City's Risk Manager a Certificate of Insurance or certification of permission to self-insure workers' compensation conforming to the requirements of the Labor Code.
- (d) Endorsements. All of the following endorsements are required to be made a part of each of the above-required policies as stipulated below:
- (i) "The City of Chino, its officers, employees and agents are hereby added as additional insureds."
 - (ii) "This policy shall be considered primary insurance with respect to any other valid and collectible insurance the City may possess, including any self-insured retention the City may have and any other insurance the City does possess shall be considered excess insurance only."
 - (iii) "This insurance shall act for each insured and additional insured as though a separate policy has been written for each. This, however, will not act to increase the limit of the insuring company."
 - (iv) "Thirty (30) days prior written notice of cancellation shall be given to the City of Chino in the event of cancellation and/or reduction in coverage, except that ten (10) days prior written notice shall apply in the event of cancellation for non-payment of premium." Such notice shall be sent to the Risk Manager at the address indicated in Subsection f below.
 - (v) Subsection d(iv) hereinabove "Cancellation Notice" is the only endorsement required of the Workers' Compensation and Employers' Liability policy.
- (e) Admitted Insurers. All insurance companies providing insurance to the Subdivider under this Agreement shall be admitted to transact the business of insurance by the California Insurance Commissioner.

(f) Proof of Coverage. Copies of all required endorsements shall be attached to the Certificate of Insurance which shall be provided by the Subdivider's insurance company as evidence of the coverage required herein and shall be mailed to:

City of Chino
Risk Management
13220 Central Avenue
Chino, CA 91710

12. Environmental Warranty.

12.1. Prior to the acceptance of any dedications or Works of Improvement by City, Subdivider shall provide City with a written warranty in a form substantially similar to Exhibit "C" attached hereto and incorporated herein by reference, that:

(a) Neither the property to be dedicated nor Subdivider are in violation of any environmental law, and neither the property to be dedicated nor the Subdivider are subject to any existing, pending or threatened investigation by any federal, state or local governmental authority under or in connection with the environmental laws relating to the property to be dedicated.

(b) Neither Subdivider nor any other person with Subdivider's permission to be upon the property to be dedicated shall use, generate, manufacture, produce, or release, on, under, or about the property to be dedicated, any Hazardous Substance except in compliance with all applicable environmental laws. For the purposes of this Agreement, the term "Hazardous Substances" shall mean any substance or material which is capable of posing a risk of injury to health, safety or property, including all those materials and substances designated as hazardous or toxic by any federal, state or local law, ordinance, rule, regulation or policy, including but not limited to, all of those materials and substances defined as "Toxic Materials" in Sections 66680 through 66685 of Title 22 of the California Code of Regulations, Division 4, Chapter 30 in effect as of the date of this Agreement and/or the date of the completion of the public improvements, or any other materials requiring remediation under federal, state or local laws, ordinances, rules, regulations or policies in effect as of the date of this Agreement and/or the date of the completion of the public improvements.

(c) Subdivider has not caused or permitted the release of, and has no knowledge of the release or presence of, any Hazardous Substance on the property to be dedicated or the migration of any hazardous substance from or to any other property adjacent to, or in the vicinity of, the property to be dedicated.

(d) Subdivider's prior and present use of the property to be dedicated has not resulted in the release of any hazardous substance on the property to be dedicated.

12.2. Subdivider shall give prompt written notice to City of:

- (a) Any proceeding or investigation by any federal, state or local governmental
- (b) authority with respect to the presence of any hazardous substance on the property to be dedicated or the migration thereof from or to any other property adjacent to, or in the vicinity of, the property to be dedicated.
- (c) Any claims made or threatened by any third party against City or the property to be dedicated relating to any loss or injury resulting from any hazardous substance; and
- (d) Subdivider's discovery of any occurrence or condition on any property adjoining or in the vicinity of the property to be dedicated that could cause the property to be dedicated or any part thereof to be subject to any restrictions on its ownership, occupancy, use for the purpose for which it is intended, transferability or suit under any environmental law.

13. General Provisions.

13.1. Successors and Assigns. This Agreement shall be binding upon all successors and assigns to Subdivider's right, title, and interest in and to the Property and any portion thereof. Subdivider hereby consents to City recording this Agreement as official records of San Bernardino County, affecting fee title interest to the Property to provide constructive notice of the rights and obligations incurred by Subdivider in the City's approval of this Agreement. In the event the Property is subsequently conveyed by Subdivider to a third party prior to completion of the Works of Improvement, whereby the third party is intended to assume Subdivider's responsibilities with regard to this Agreement, (the "Replacement Subdivider"), the rights and obligations of this Agreement shall transfer to the Replacement Subdivider; however, the Security Instruments required pursuant to Section 4 of this Agreement, and furnished by Subdivider as a condition of the City's approval of this Agreement, shall remain Subdivider's responsibility to maintain until such time as Subdivider and its Replacement Subdivider enter into a Transfer and Assignment of Subdivision Agreement, (the "Transfer Agreement"), to acknowledge the transfer of fee title to the Property from the Subdivider to its Replacement Subdivider, and to acknowledge the rights and obligations associated with this Agreement upon the Replacement Subdivider, including Replacement Subdivider's responsibility to furnish replacement Security Instruments meeting the City's approval pursuant to Section 4 of this Agreement. Until such time as a Transfer Agreement, meeting the City's approval, is executed by Subdivider and its Replacement Subdivider, and replacement Security Instruments meeting City's approval are furnished by the Replacement Subdivider, Subdivider retains sole responsibility for maintaining all Security Instruments required pursuant to Section 4 of this Agreement.

13.2. No Third-Party Beneficiaries. This Agreement is intended to benefit only the parties hereto and their respective successors and assigns. Neither City nor Subdivider intend to create any third-party beneficiary rights in this Agreement in any contractor, subcontractor, member of the general public, or other person or entity.

13.3. No Vesting Rights. Performance by the Subdivider of this Agreement shall not be construed to vest Subdivider's rights with respect to any change in any zoning or building law or ordinance.

13.4. Subdivider is Not Agent of City. Neither Subdivider nor Subdivider's agents, contractors, or subcontractors are agents or contractors of the City in connection with the performance of Subdivider's obligations under this Agreement.

13.5. Time of the Essence. Time is of the essence of Subdivider's performance of all of its obligations under this Agreement.

13.6. Notices. Unless otherwise specified in this Agreement, all notices required or provided for under this Agreement shall be in writing and delivered in person or sent by mail, postage prepaid and addressed as provided in this Section. Notice shall be effective on the date is delivered in person, or, if mailed, on the date of deposit in the United States Mail. Notice shall be provided to the persons listed on Pages 1 and 2 of this Agreement by the parties for this purpose.

Either party may provide a new designated representative and/or address by written notice as provided in this Section.

13.7. No Apportionment. Nothing contained in this Agreement shall preclude City from expending monies pursuant to agreements concurrently or previously executed between the parties, or from entering into agreements with other subdividers for the apportionment of costs of water and sewer mains, or other improvements pursuant to the provisions of the City ordinances providing therefore. Nor shall anything in the Agreement commit City to any such apportionment.

13.8. Severability. If any portion of this Agreement is held invalid by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect unless amended or modified by mutual written consent of the parties.

13.9. Captions. The captions of this Agreement are for convenience and reference only and shall not be used in the interpretation of any provision of this Agreement.

13.10. Incorporation of Recitals. The recitals to this Agreement are hereby incorporated into the terms of this Agreement.

13.11. Interpretation. This Agreement shall be interpreted in accordance with the laws of the State of California.

13.12. Entire Agreement; Waivers and Amendments. This Agreement integrates all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations and previous agreements between the parties with respect to all or part of the subject matter hereof, except as may be expressly provided herein. All waivers of the provisions of this Agreement must be in writing and signed by an authorized representative of the party to be charged, and all amendments hereto must be in writing and signed by the appropriate representatives of both parties.

13.13. Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall be deemed one original.

14. Authority. The persons executing this Agreement on behalf of the parties warrant (i) the party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into of this Agreement does not violate any provisions of any other agreement to which said party is bound.

[SIGNATURES ON NEXT PAGE]

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

APPROVED AS TO FORM:

Fred Galante, City Attorney

APPROVED AS TO CONTENT:

Warren Morelion, AICP
Director of Development Services

CHINO PRESERVE DEVELOPMENT CORPORATION:

By: _____
(Signature and Date)

Name: Bryan Goodman
(Please type or print name)

Title: Authorized Agent
(Please type or print title)

CITY OF CHINO

Dr. Linda Reich, City Manager

Date: _____

ATTEST:

By _____
Natalie Gonzaga, City Clerk

Dated: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

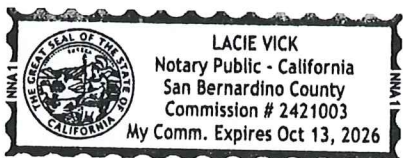
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of San Bernardino)
On Nov. 7, 2023 before me, Lacie Vick, Notary Public,
Date Here Insert Name and Title of the Officer
personally appeared Bryan Goodman
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.



Signature Lacie Vick
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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

Description of Attached Document

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

Capacity(ies) Claimed by Signer(s)

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

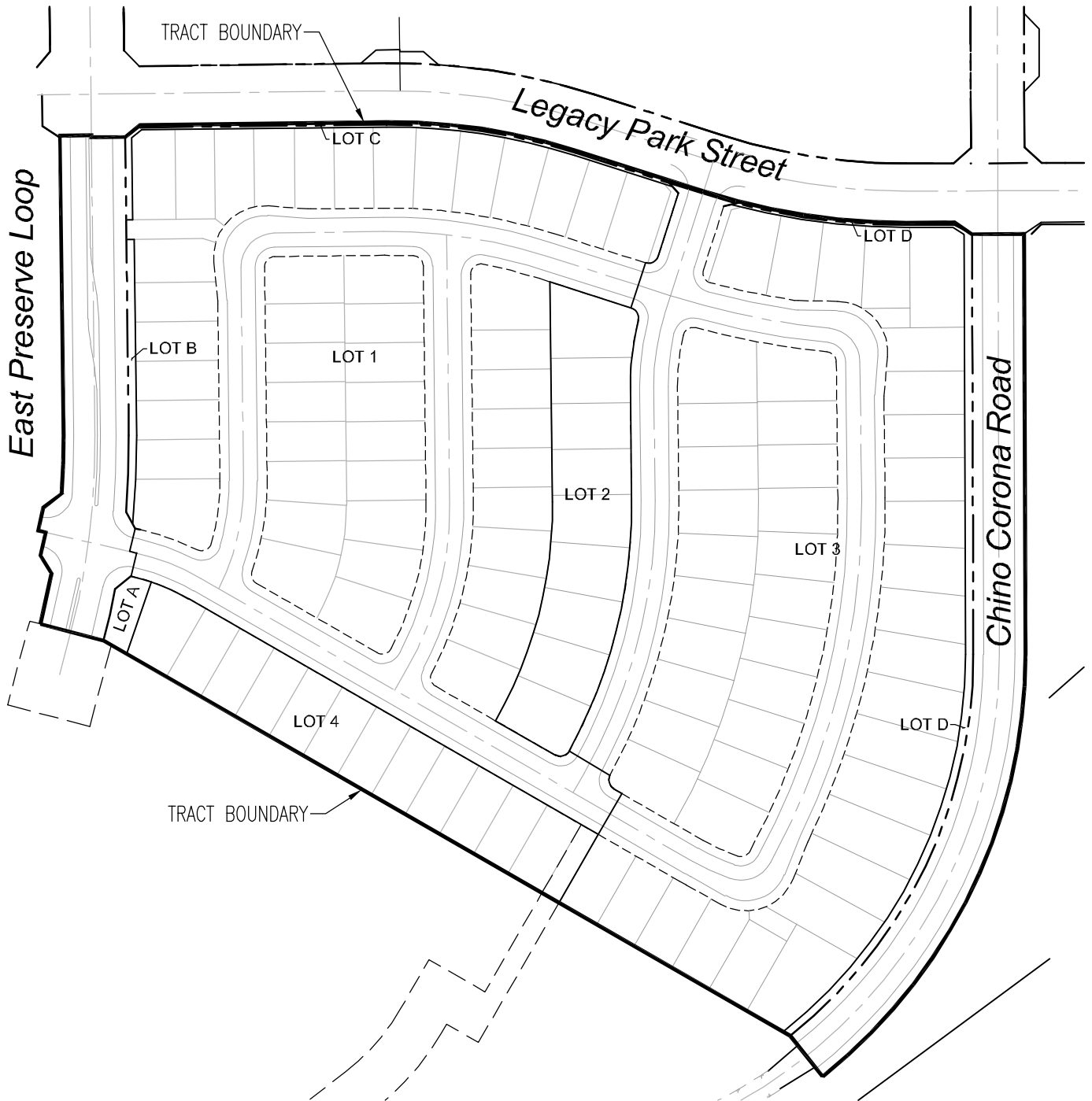
Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

EXHIBIT “A”

[attached]

Exhibit "A"

Tract Map No. 16420-5



E:\400-499\481\0481-273-Block_3A\Exhibits\Exhibit_A.dwg, Plotted: Oct. 25, 2023 -- 11:07am



10390 Commerce Center Drive
Suite 250
Rancho Cucamonga, California 91730
Phone: (909) 945-0526
Fax: (909) 945-0529

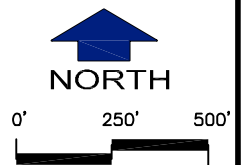


EXHIBIT "B"

TRACT MAP NO. 16420-5 WORKS OF IMPROVEMENT

- A. Removal of undesirable, dangerous and dead plant materials and roots.
- B. All onsite and offsite grading as specified on the approved grading plan.
- C. Relocation of all public utility structures as necessary to properly construct the required improvements.
- D. Storm drain facilities as required and shown on the approved construction plans and in accordance with City Standards.
- E. Sanitary sewers constructed as shown on the approved, engineered plans and in accordance with City Standards.
- F. Water mains, valves, hydrants, services, meters and appurtenances to serve each lot as shown on the approved construction plans and in accordance with City Standards.
- G. Underground installation of all electrical, telephone, cable television and any other energy or communication lines that abut or are within the project site.
- H. A street lighting system (City-owned) in accordance with City Standards.
- I. Disposal of all rocks and debris located within any public right-of-way within said development or on the boundary streets thereof.
- J. Installation of concrete curbs, gutters, sidewalks, cross gutters, driveways and intersections as shown on approved construction plans and in accordance with City Standards.
- K. Installation of asphalt concrete or Portland Cement Concrete street pavement on base material as shown on approved construction plans and in accordance with City Standards.
- L. Street signs at intersections per the City Standards.
- M. Installation of approved landscaping (plants and materials).
- N. Setting monuments as required by the State Code.

The Subdivider shall also perform all work and furnish all materials necessary, in the opinion of the Director of Development Services or his designee and on his order, to complete the improvements in accordance with the plans and specifications on file as hereinbefore specified, or any changes required or ordered by said Engineer which, in his opinion, are necessary or required to complete this work.



CITY OF CHINO

ENGINEERING COST ESTIMATE

PROJECT NO: Tract 16420-5
 LOCATION : SE Corner East Preserve Loop & Legacy Park Street
 By: ps
 DATE: August 22, 2023

Quantity	Unit	Item	Unit Price	Total Cost Per Item
STREETS				
	EA	Tree Removal	\$ 800.00	\$ -
3	CY	Concrete Removal	\$ 325.00	\$ 975.00
32	CY	AC Pavement Removal	\$ 100.00	\$ 3,200.00
	CY	Imported Common Fill (Incl. Compaction)	\$ 34.00	\$ -
	SF	Preparation of Subgrade, Sidewalk and Paving	\$ 1.00	\$ -
3,640	LF	PCC 8" Curb & 24" Gutter on 6" AB	\$ 26.00	\$ 94,640.00
	LF	PCC 6" Curb & 24" Gutter on 6" AB	\$ 24.00	\$ -
1,367	LF	PCC Curb Only	\$ 20.00	\$ 27,340.00
	LF	8" A.C. Berm	\$ 20.00	\$ -
744	SF	8" PCC Cross Gutter on 6" AB	\$ 16.00	\$ 11,904.00
29,922	SF	4" PCC Sidewalk	\$ 5.80	\$ 173,547.60
515	SF	6" PCC Thick Drive Approach on 6" AB	\$ 12.50	\$ 6,437.50
	SF	8" PCC Thick Drive Approach on 6" AB	\$ 15.00	\$ -
	LF	2" x 6" Redwood Header	\$ 7.50	\$ -
	EA	Street Sign and Post	\$ 475.00	\$ -
6	EA	Traffic Sign and Post	\$ 400.00	\$ 2,400.00
	EA	Reflector Sign and Post	\$ 175.00	\$ -
	EA	Painted Legend	\$ 6.50	\$ -
	SF	Prime or Tack Coat	\$ 0.08	\$ -
	TON	AC Variable - <300T	\$ 130.00	\$ -
1,872	TON	AC Variable - >300T	\$ 120.00	\$ 224,640.00
	TON	CAB Variable - <300T	\$ 100.00	\$ -
1,652	TON	CAB Variable - >300T	\$ 90.00	\$ 148,680.00



CITY OF CHINO

ENGINEERING COST ESTIMATE

PROJECT NO: Tract 16420-5
 LOCATION : SE Corner East Preserve Loop & Legacy Park Street
 By: ps
 DATE: August 22, 2023

Quantity	Unit	Item	Unit Price	Total Cost Per Item
STREETS				
2	EA	Adjust Sewer Manhole to Grade	\$ 950.00	\$ 1,900.00
	EA	Adjust Sewer Cleanout to Grade	\$ 500.00	\$ -
10	EA	Adjust Water Valve and Can to Grade	\$ 525.00	\$ 5,250.00
15	EA	Street Light (HOA Owner)	\$ 7,700.00	\$ 115,500.00
1	EA	Electrical Pedestal	\$ 6,500.00	\$ 6,500.00
	EA	Lot Monument Setting Fee	\$ 550.00	\$ -
	LF	Sawcut A.C.	\$ 3.00	\$ -
	LF	Sawcut Concrete	\$ 3.00	\$ -
35,269	SF	Cold Plane A.C. 2" Thick	\$ 0.28	\$ 9,875.32
		Signing & Striping for		
	LF	Arterial	\$ 19.00	\$ -
1,980	LF	Collector	\$ 13.00	\$ 25,740.00
	LF	Local	\$ 7.00	\$ -
	EA	Traffic Signal (8 - Phase Controller)	\$ 350,000.00	\$ -
	EA	Modify existing Traffic Signal per Quadrant	\$ 75,000.00	\$ -
	LF	Chain Link Fence		
		4 foot Residential Grade (Add \$7.00/LF for Removal of Existing Fence)	\$ 25.00	\$ -
		6 foot School fence (Add \$9.00/LF for Removal of Existing Fence)	\$ 35.00	\$ -
	EA	Utility Poles		
		Transmission	\$ 11,500.00	\$ -
		Distribution	\$ 8,000.00	\$ -
		Service	\$ 3,000.00	\$ -



CITY OF CHINO

ENGINEERING COST ESTIMATE

PROJECT NO: Tract 16420-5
 LOCATION : SE Corner East Preserve Loop & Legacy Park Street
 By: ps
 DATE: August 22, 2023

Quantity	Unit	Item	Unit Price	Total Cost Per Item
STREETS				
	SF	Landscape (Including shrubs, Hardscape, Irrigation, Ground Cover, Lighting, Installation Labor and Connection to Existing Systems)	\$ 15.00	\$ -
	LF	14 foot Median with Landscape, Irrigation, Lighting, Hardscape, Curb, Gutter & Pavement	\$ 300.00	\$ -
		Rail Road Crossing		
	LS	Safety Equipment (Complete Including Crossing Gates, Signs, and Lights)	\$ 500,000.00	\$ -
	SF	Track Crossing (Concrete)	\$ 175.00	\$ -
	SF	Approach	\$ 4.00	\$ -
14	EA	S.W. Ramps (A.D.A. Compliant)	\$ 4,000.00	\$ 56,000.00
	EA	Traffic Signal Loops	\$ 600.00	\$ -
525	SF	4" to 6" Fresno River Cobble Pavement	\$ 10.00	\$ 5,250.00
35	LF	Metal Beam Guard Rail	\$ 70.00	\$ 2,450.00

STREETS				
		STREET SUBTOTAL		\$ 922,229.42
	LS	Mobilization (5% of Construction Cost)	5%	\$ 46,111.47
	LS	Traffic Control (5% of Construction Cost)	5%	\$ 46,111.47
	LS	Clear & Grub Site (5% of Construction Cost)	5%	\$ 46,111.47
	LS	Excavation (Clean Material) (5% of Construction Cost)	5%	\$ 46,111.47
GRAND TOTAL STREETS ONLY				\$ 1,106,675.30



CITY OF CHINO

ENGINEERING COST ESTIMATE

PROJECT NO: Tract 16420-5
 LOCATION : SE Corner East Preserve Loop & Legacy Park Street
 By: ps
 DATE: August 22, 2023

Quantity	Unit	Item	Unit Price	Total Cost Per Item
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WATER				
	LF	Trench Support/Shoring (6 foot depth)	\$ 15.00	\$ -
	CY	Pipe Bedding & Compaction (Imported)	\$ 90.00	\$ -
	LF	6" Pipe & Fittings Installed, including excavation, bedding, backfill and pavement restoration	\$ 80.00	\$ -
132	LF	8" Pipe & Fittings Installed, including excavation, bedding, backfill and pavement restoration.	\$ 100.00	\$ 13,200.00
1,838	LF	12" Pipe & Fittings Installed, including excavation, bedding, backfill and pavement restoration	\$ 135.00	\$ 248,130.00
	LF	18" Pipe & Fittings Installed, including excavation, bedding, backfill and pavement restoration	\$ 175.00	\$ -
	LF	Removal, Disposal of ACP and Backfill	\$ 150.00	\$ -
	EA	6" Gate Valve	\$ 2,000.00	\$ -
2	EA	8" Gate Valve	\$ 2,600.00	\$ 5,200.00
4	EA	12" Gate Valve	\$ 4,500.00	\$ 18,000.00
	EA	18" Gate Valve	\$ 7,500.00	\$ -
4	EA	Fire Hydrant Assembly per City Std.	\$ 7,500.00	\$ 30,000.00
2	EA	Blow-off Assembly 4" per City Std.	\$ 8,600.00	\$ 17,200.00
1	EA	2" Air Relief Assembly	\$ 4,500.00	\$ 4,500.00
	EA	1" Water Service/Meter	\$ 3,500.00	\$ -
	EA	2" Water Service/Meter	\$ 4,500.00	\$ -

WATER				
		WATER SUBTOTAL		\$ 336,230.00
	LS	Mobilization (5% of Construction Cost)	5%	\$ 16,811.50
	LS	Traffic Control (5% of Construction Cost)	5%	\$ 16,811.50
GRAND TOTAL WATER ONLY				\$ 369,853.00



CITY OF CHINO

ENGINEERING COST ESTIMATE

PROJECT NO: Tract 16420-5
 LOCATION : SE Corner East Preserve Loop & Legacy Park Street
 By: ps
 DATE: August 22, 2023

Quantity	Unit	Item	Unit Price	Total Cost Per Item
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RECYCLED WATER

	LF	Trench Support/Shoring (6 foot depth)	\$ 15.00	\$ -
	CY	Pipe Bedding (Imported)	\$ 90.00	\$ -
	LF	6" Pipe & Fittings Installed, including excavation, bedding, backfill and pavement restoration	\$ 80.00	\$ -
	LF	8" Pipe & Fittings Installed, including excavation, bedding, backfill and pavement restoration.	\$ 100.00	\$ 187,900.00
	LF	12" Pipe & Fittings Installed, including excavation, bedding, backfill and pavement restoration	\$ 135.00	\$ -
	LF	18" Pipe & Fittings Installed, including excavation, bedding, backfill and pavement restoration	\$ 175.00	\$ -
	EA	6" Gate Valve	\$ 2,000.00	\$ -
3	EA	8" Gate Valve	\$ 2,600.00	\$ 7,800.00
	EA	12" Gate Valve	\$ 4,500.00	\$ -
	EA	18" Gate Valve	\$ 7,500.00	\$ -
	EA	Warf Head Hydrant Assembly per City Std.	\$ 7,500.00	\$ 7,500.00
3	EA	Blow-off Assembly 4" per City Std.	\$ 8,600.00	\$ 25,800.00
1	EA	2" Air Relief Assembly	\$ 4,500.00	\$ 4,500.00
	EA	1" Water Service/Meter	\$ 3,500.00	\$ -
3	EA	2" Water Service/Meter	\$ 4,500.00	\$ 13,500.00

RECYCLED WATER

		RECYCLED WATER SUBTOTAL		\$ 247,000.00
	LS	Mobilization (5% of Construction Cost)	5%	\$ 12,350.00
	LS	Traffic Control (5% of Construction Cost)	5%	\$ 12,350.00
GRAND TOTAL RECYCLED WATER ONLY				\$ 271,700.00



CITY OF CHINO

ENGINEERING COST ESTIMATE

PROJECT NO: Tract 16420-5
 LOCATION : SE Corner East Preserve Loop & Legacy Park Street
 By: ps
 DATE: August 22, 2023

Quantity	Unit	Item	Unit Price	Total Cost Per Item
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SEWER				
	LF	Trench Support/Shoring	\$ 15.00	\$ -
	LF	4" V.C.P Installed, including excavation, bedding, backfill and pavement restoration	\$75.00	\$ -
6	LF	8" V.C.P Installed, including excavation, bedding, backfill and pavement restoration	\$93.00	\$ 558.00
2,641	LF	10" V.C.P. Installed, including excavation, bedding, backfill and pavement restoration	\$103.00	\$ 272,023.00
	LF	12" V.C.P. Installed, including excavation, bedding, backfill and pavement restoration	\$123.00	\$ -
	LF	15" V.C.P. Installed, including excavation, bedding, backfill and pavement restoration	\$143.00	\$ -
	LF	18" V.C.P. Installed, including excavation, bedding, backfill and pavement restoration	\$163.00	\$ -
	LF	21" V.C.P. Installed, including excavation, bedding, backfill and pavement restoration	\$193.00	\$ -
	LF	24" V.C.P. Installed, including excavation, bedding, backfill and pavement restoration	\$208.00	\$ -
	EA	Sewer Saddle	\$450.00	\$ -
	EA	Wyes 4" x 8" Typical	\$225.00	\$ -
11	EA	48" Sewer Manhole	\$4,700.00	\$ 51,700.00
	EA	60" Sewer Manhole	\$7,500.00	\$ -
	EA	Sewer Cleanout	\$1,800.00	\$ -

SEWER				
		SEWER SUBTOTAL		\$ 324,281.00
	LS	Mobilization (5% of Construction Cost)	5%	\$ 16,214.05
	LS	Traffic Control (5% of Construction Cost)	5%	\$ 16,214.05
GRAND TOTAL SEWER ONLY				\$ 356,709.10



CITY OF CHINO

ENGINEERING COST ESTIMATE

PROJECT NO: Tract 16420-5
 LOCATION : SE Corner East Preserve Loop & Legacy Park Street
 By: ps
 DATE: August 22, 2023

Quantity	Unit	Item	Unit Price	Total Cost Per Item
STORM DRAIN				
	LF	24" X 36" C.M.P.A. (10 Gauge)	\$ 230.00	\$ -
	LF	27" x 43" C.M.P.A (10 Gauge)	\$ 250.00	\$ -
5	EA	Storm Drain Manhole #1	\$ 10,000.00	\$ 50,000.00
1	EA	Junction Structure #2 (24" or larger)	\$ 8,850.00	\$ 8,850.00
	EA	Junction Structure #4 (24" or smaller)	\$ 4,000.00	\$ -
	EA	Outlet Structure	\$ 7,000.00	\$ -
	EA	Catch Basin 3.5' Width	\$ 7,200.00	\$ -
	EA	Catch Basin 7' Width/L.D.	\$ 7,900.00	\$ -
	EA	Catch Basin 10' Width/L.D.	\$ 9,950.00	\$ -
	EA	Catch Basin 14' Width/L.D.	\$ 11,000.00	\$ -
	EA	Catch Basin 21' Width/L.D.	\$ 13,000.00	\$ -
	LF	18 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 200.00	\$ -
1	LF	24 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 240.00	\$ 26,640.00
	LF	27 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 260.00	\$ -
	LF	30 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 280.00	\$ -
	LF	33 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 295.00	\$ -
909	LF	36 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 310.00	\$ 281,790.00
	LF	39 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 320.00	\$ -
359	LF	42 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 330.00	\$ 118,470.00
	LF	45 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 360.00	\$ -
52	LF	48 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 385.00	\$ 20,020.00
	LF	54 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 440.00	\$ -
	LF	60 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 500.00	\$ -
	LF	66 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 560.00	\$ -



CITY OF CHINO

ENGINEERING COST ESTIMATE

PROJECT NO: Tract 16420-5
 LOCATION : SE Corner East Preserve Loop & Legacy Park Street
 By: ps
 DATE: August 22, 2023

Quantity	Unit	Item	Unit Price	Total Cost Per Item
STORM DRAIN				
	LF	72 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 625.00	\$ -
	LF	78 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 690.00	\$ -
	LF	84 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 765.00	\$ -
	LF	90 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 830.00	\$ -
	LF	96 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 920.00	\$ -
	LF	102 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 1,000.00	\$ -
	LF	108 inch RCP Installed, including excavation, bedding, backfill and pavement restoration	\$ 1,075.00	\$ -
	LF	7' x 6' RCB Installed, including excavation, bedding, backfill and pavement restoration	\$ 700.00	\$ -
	LF	7' x 8.5' RCB Installed, including excavation, bedding, backfill and pavement restoration	\$ 820.00	\$ -
	LF	7' x 9.5' RCB Installed, including excavation, bedding, backfill and pavement restoration	\$ 870.00	\$ -
	LF	8' x 11' RCB Installed, including excavation, bedding, backfill and pavement restoration	\$ 1,000.00	\$ -
	LF	8' x 13' RCB Installed, including excavation, bedding, backfill and pavement restoration	\$ 1,100.00	\$ -
	LF	9' x 9' RCB Installed, including excavation, bedding, backfill and pavement restoration	\$ 1,000.00	\$ -
	LF	9' x 12' RCB Installed, including excavation, bedding, backfill and pavement restoration	\$ 1,100.00	\$ -
	LF	4' x 6' RCB Installed, including excavation, bedding, backfill and pavement restoration	\$ 680.00	\$ -
3	EA	36" CSP RISER	\$ 2,500.00	\$ 7,500.00
47	LF	30" CSP PIPE, 14 GUAGE	\$ 240.00	\$ 11,280.00
40	LF	24" CSP PIPE, 14 GUAGE	\$ 200.00	\$ 8,000.00
4	EA	CONCRETE COLLAR	\$ 600.00	\$ 2,400.00
3	EA	BRICK & MORTAR PLUG	\$ 300.00	\$ 900.00

STORM DRAIN				
		STORM DRAIN SUBTOTAL		\$ 535,850.00
	LS	Mobilization (5% of Construction Cost)	5%	\$ 26,792.50
	LS	Traffic Control (5% of Construction Cost)	5%	\$ 26,792.50
GRAND TOTAL STORM DRAIN ONLY				\$ 589,435.00



CITY OF CHINO

ENGINEERING COST ESTIMATE

PROJECT NO: Tract 16420-5
 LOCATION : SE Corner East Preserve Loop & Legacy Park Street
 By: ps
 DATE: August 22, 2023

Quantity	Unit	Item	Unit Price	Total Cost Per Item
DIRECT COSTS		GRAND TOTAL STREETS ONLY		\$ 1,106,675.30
		GRAND TOTAL WATER ONLY		\$ 369,853.00
		GRAND TOTAL RECYCLED WATER ONLY		\$ 271,700.00
		GRAND TOTAL SEWER ONLY		\$ 356,709.10
		GRAND TOTAL STORM DRAIN ONLY		\$ 589,435.00
		GRAND TOTAL (FOR PLAN CHECK & INSPECTION FEE DETERMINATION)		\$ 2,694,372.40

PROJECT ADDITIVES		<i>Project Contingencies</i>	10%	\$ 269,437.24
		<i>Construction Staking</i>	3%	\$ 80,831.17
		<i>Soils Testing</i>	1%	\$ 26,943.72
		<i>Material Testing</i>	1%	\$ 26,943.72
		<i>Construction Inspection</i>	4.8%	\$ 129,329.88
		<i>Contract Administration</i>	1%	\$ 26,943.72
		GRAND TOTAL (FOR BOND AMOUNTS)		\$ 3,254,801.86



CITY OF CHINO

ENGINEERING COST ESTIMATE

PROJECT NO: Tract 16420-5
 LOCATION : SE Corner East Preserve Loop & Legacy Park Street
 By: ps
 DATE: August 22, 2023

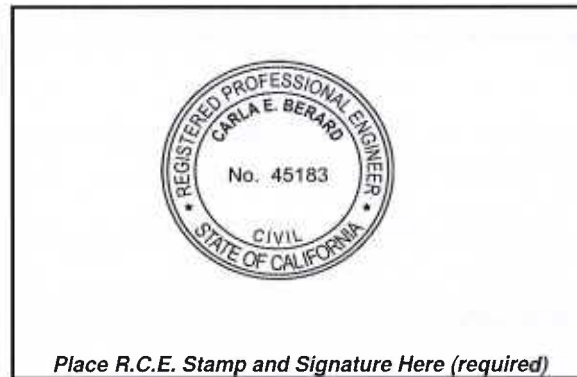
Quantity	Unit	Item	Unit Price	Total Cost Per Item
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BY ENGINEER

Prepared By: C. Berard

R.C.E. Number: 45183

Expiration: _____



BY CITY	
<i>Faithful Performance Bond (100% of Construction Cost)</i>	<u>\$ 3,254,800.00</u>
<i>Labor & Material Bond (50% of Construction Cost)</i>	<u>\$ 1,627,400.00</u>
<i>Warranty Bond (10% of Construction Cost)</i>	<u>\$ 325,500.00</u>

EXHIBIT "C"

TRACT NO. 16420-5

CHINO PRESERVE DEVELOPMENT CORPORATION

ENVIRONMENTAL WARRANTY

As a condition precedent to acceptance of the dedications and public improvements to be conveyed by the above-named Subdivider to the City of Chino for the above-referenced Subdivision, Subdivider hereby warrants to the City of Chino that:

1. Neither the property to be dedicated nor Subdivider are in violation of any environmental law, and neither the property to be dedicated nor the Subdivider are subject to any existing, pending or threatened investigation by any federal, state or local governmental authority under or in connection with the environmental laws relating to the property to be dedicated.

2. Neither Subdivider nor any other person with Subdivider's permission to be upon the property to be dedicated has used, generated, manufactured, produced, or released, on, under, or about the property to be dedicated, any Hazardous Substance except in compliance with all applicable environmental laws. For the purposes of this warranty, the term "Hazardous Substances" shall mean any substance or material which is capable of posing a risk of injury to health, safety or property, including all those materials and substances designated as hazardous or toxic by any federal, state or local law, ordinance, rule, regulation or policy, including but not limited to, all of those materials and substances defined as "Toxic Materials" in Sections 66680 through 66685 of Title 22 of the California Code of Regulations, Division 4, Chapter 30 in effect as of the date of this Warranty and/or the date of the completion of the public improvements, or any other materials requiring remediation under federal, state or local laws, ordinances, rules, regulations or policies in effect as of the date of this Warranty and/or the date of the completion of the public improvements.

3. Subdivider has not caused or permitted the release of, and has no knowledge of the release or presence of, any Hazardous Substance on the property to be dedicated or the migration of any hazardous substance from or to any other property adjacent to, or in the vicinity of, the property to be dedicated.

4. Subdivider's prior and present use of the property to be dedicated has not resulted in the release of any Hazardous Substance on the property to be dedicated.

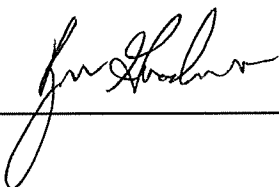
5. All persons executing this warranty hereby represent and warrant to the City of Chino, and Subdivider hereby represents and warrants, that the signatories hereto have the legal power, right and authority to execute this warranty on behalf of the Subdivider and that the signatories hereto have sufficient knowledge or expertise, either personally, through reasonable inspection and investigation of the property, or through reasonable

reliance upon the investigation and professional opinion of Subdivider's environmental experts, to make the representations herein, and that no consent of any other party is required to execute this warranty and make the representations herein on behalf of the Subdivider to the City of Chino.

Each of the undersigned persons declares under penalty of perjury that the foregoing is true and correct.

Dated: 11/7/2023

CHINO PRESERVE DEVELOPMENT CORPORATION*

By:  _____

*Proof of authorization for Subdivider's signatures is required to be submitted concurrently with this environmental warranty.

**MEMORANDUM
CITY OF CHINO
DEVELOPMENT SERVICES DEPARTMENT**

CITY COUNCIL MEETING DATE: NOVEMBER 21, 2023

TO: LINDA REICH, CITY MANAGER

FROM: WARREN MORELION, AICP, DIRECTOR OF DEVELOPMENT SERVICES

SUBJECT

Memorandum of Understanding with San Bernardino County - Inspection & Permitting of Yorba Villas and other projects pending annexation.

RECOMMENDATION

Approve the Memorandum of Understanding between the City of Chino and San Bernardino County for plan check, inspection and ministerial permit issuance services and authorize the City Manager to execute all necessary documents on behalf of the City.

FISCAL IMPACT

Approval of the Memorandum of Understanding is not expected to have a fiscal impact on the City as all charges by the County for services performed will be pass through costs borne by developers.

CITY OF CHINO MISSION / VISION / VALUES / STRATEGIC ISSUES

The recommendation detailed above further the City's values and strategic issues that serve as key pillars on which identified priorities, goals, and action plans are built, by fostering:

- Positive City Image
- Responsible Long-Range Planning
- Public Service Excellence through Internal and External Partnerships

Revenue: Click or tap here to enter text.	Expenditure:
Transfer In: Click or tap here to enter text.	Transfer Out: Click or tap here to enter text.

CITY COUNCIL MEETING DATE: NOVEMBER 21, 2023

TITLE: MEMORANDUM OF UNDERSTANDING WITH SAN BERNARDINO COUNTY - INSPECTION & PERMITTING OF YORBA VILLAS AND OTHER PROJECTS PENDING ANNEXATION.

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BACKGROUND

On June 20, 2023, the City Council approved a Pre-Annexation and Development Agreement (Agreement) with Yorba Villas LLC, owners of property located at 4570 and 4664 Francis Avenue in the County of San Bernardino (Property). The Agreement provided for certainty as to the annexation of the Property to the City and the owner's ability to develop the Property as contemplated by entitlements it received from the County of San Bernardino. The Agreement requires the owner to support the City's application to the Local Agency Formation Commission (LAFCO) for the Ramona Francis Annexation process, including the Property. Since the entitlements were issued by the County, the Agreement further called for the County to perform all inspections and issue ministerial permits consistent with those entitlements. The Agreement exempted permits related to the sewer service connections, which would be performed by the City.

The Agreement contemplated that the City would enter into a memorandum of understanding with the County authorizing the County to perform those inspections and issuance of ministerial permits.

ISSUES/ANALYSIS

Following approval of the Agreement, the City Attorney drafted the attached Memorandum of Understanding (MOU), which incorporates the County's comments and revisions. The specific services in the MOU include plan check services, inspection services, issuance of ministerial development permits (including, but not limited to, grading permits, infrastructure permits, building permits and certificates of occupancy) and bond processing, oversight and exoneration in connection with the development of the Yorba Villas project. The MOU further allows the City, in its discretion, to request the County's services for other projects within the City's sphere of influence that may be pending annexation at commencement of the applicable project.

Any developer utilizing the services under the MOU, including the Yorba Villas owner, is responsible under the MOU for payment of any applicable County fees for services provided. The MOU requires the County to provide the City with itemized billing statements for any County-provided services in accordance with the County's Schedule of Fees. The City is then to collect applicable County fees from those developers and tender them to the County within 60 calendar days.

The County is to provide the services under the MOU in a timeframe that complies with standard County practice and procedures. The MOU is effective for 5 years following approval by the County. The County Board of Supervisors is currently anticipated to consider approval of the MOU in December, 2023.

ENVIRONMENTAL DETERMINATION

In accordance with the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, §§ 15000 et seq.), and any applicable local CEQA policies and procedures, the Memorandum of Understanding is not a "project" for purposes of CEQA, as that term is defined by the CEQA Guidelines section 15378, because the Memorandum of Understanding merely contemplates a government funding mechanism or other government fiscal activity, which does not involve any commitment to any specific project

CITY COUNCIL MEETING DATE: NOVEMBER 21, 2023

TITLE: MEMORANDUM OF UNDERSTANDING WITH SAN BERNARDINO COUNTY -
INSPECTION & PERMITTING OF YORBA VILLAS AND OTHER PROJECTS PENDING
ANNEXATION.

PAGE: 3

which may result in potentially significant physical impact on the environment, pursuant to Guidelines section 15378(b)(4), or alternatively, it constitutes an organizational or administrative activity that will not result in a direct or indirect physical change in the environment pursuant to Guidelines section 15378(b)(5). Any developer utilizing the services under the Memorandum of Understanding has or will be required to secure CEQA approval before qualifying for use of the services.

Attachment - Memorandum of Understanding Between the City of Chino and San Bernardino County for Plan Check, Inspection and Ministerial Permit Issuance Services

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF CHINO AND SAN BERNARDINO COUNTY
FOR PLAN CHECK, INSPECTION AND MINISTERIAL PERMIT ISSUANCE
SERVICES**

This Memorandum of Understanding (“MOU”) is made and entered into this ____ day of _____, 2023 by and between the City of Chino (“City”), and San Bernardino County (“County”) related to plan check, inspection and ministerial permit issuance services. Hereinafter, the City and County may be referred to individually as a “Party” or collectively as the “Parties.”

I. RECITALS

WHEREAS, on October 4, 2022, the County’s Board of Supervisors approved a Planned Development Permit (“PDP”) and Vesting Tentative Tract Map No. 20394 (“VTM 20394”) for the development of a gated project at the property located at 4570 and 4664 Francis Avenue in the unincorporated area of San Bernardino County (“Property”) comprising of 45 single-family homes, new private streets, a small private park, street improvements (along Francis and Yorba Avenue), on-site stormwater infrastructure and related amenities at the Property (collectively, “Yorba Villas Project”);

WHEREAS, the Property is within City’s sphere of influence;

WHEREAS, City intends to submit an annexation application (“Annexation”) for an area consisting of a 144.683-acres located at the northern border of the City, generally centered on Ramona Avenue and Mustang Road (“Annexation Area”) to the San Bernardino Local Agency Formation Commission (“LAFCO”) in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code §§ 56000-57550), which Annexation Area includes the Property;

WHEREAS, to allow for consistency following an approval by LAFCO of the Annexation, City desires County to provide post-final map, PDP and other entitlement plan check services, inspection services, issuance of ministerial development permits (including, but not limited to, grading permits, infrastructure permits, building permits and certificates of occupancy) and County bonding processing, oversight and exoneration (collectively “Services”) in connection with the development of the Yorba Villas Project consistent with the PDP, VTM 20394 and applicable County development and building regulations as set forth in Title 6 of the San Bernardino County Code of Ordinances (collectively “County Regulations”). When specifically requested, City further desires County to provide similar Services in connection with the development of other projects located within the Annexation Area that has received a County approval prior to LAFCO’s approval of the Annexation (collectively “Other Projects”);

WHEREAS, the applicant for the Yorba Villas Project and an applicant for an Other Project shall be collectively referred to as “Applicant”;

WHEREAS, County has personnel with sufficient training and expertise to provide the Services as requested by City;

WHEREAS, County is prepared to provide such Services under the terms and conditions set forth in this MOU; and

NOW THEREFORE, in consideration of the forgoing Recitals, which Recitals are incorporated herein by this reference, and mutual promises, covenants and conditions contained herein, the Parties mutually agree as follows:

II. TERMS AND CONDITIONS

A. SCOPE OF SERVICES.

The City agrees to honor any unexpired (including validly extended) land use entitlement (examples include, but are not limited to, a Planned Development Permit, Minor Use Permit, Conditional Use Permit, Special Use Permit, Tentative Parcel Map and/or Tentative Tract Map), and associated development plan, building plan, building permit, infrastructure permit, grading permit and/or certificate of occupancy that was approved or conditionally approved by the County before LAFCO's approval of the Annexation, including the Yorba Villas Project and Other Projects. The City requires professional services from the County as described in Section II.C for all post entitlement, plan and permit checks for the development of the Yorba Villas Project or Other Projects. The scope of professional services rendered by County will be designed to ensure the Yorba Villas Project and Other Projects are constructed in a manner consistent with the County approved discretionary entitlements and complies with those County Regulations applicable at the time such discretionary entitlements were approved by County.

B. TERM

The term of this MOU shall be effective on the date last executed by the Parties and shall continue in effect for up to five (5) years, or until terminated pursuant to Section V below.

C. SERVICES TO BE RENDERED BY COUNTY

1) Plan Check Services

With respect to development plans (e.g., building plans, infrastructure plans, grading plans) approved by the County prior to Annexation, if Applicant proposes

any revision to any such plan or any supplement thereto, City shall submit such proposed revision and supplement to County, and County shall provide all plan check, plan revision, and inspection services related thereto. The Applicant shall be responsible for the payment of any applicable fees, as established in County's Schedule of Fees codified in San Bernardino County Code, Section 16.0201 et seq. ("County Fees") for the type of review requested at the time of submission of the request, to cover the cost of services provided. All such County services shall be provided in a timeframe that complies with standard County practice and procedures.

2) Inspection/Permitting Services

With respect to building permits, infrastructure permits, grading permits or similar ministerial permits issued by County to an Applicant prior to Annexation, County will provide all inspection services related thereto, and, prior to Annexation, County shall issue all related certificates of occupancy for any structure authorized by any such permit that qualify for approval in accordance with applicable County Regulations. Following Annexation, if an Applicant applies to City for a building permit for a structure contemplated by a development plan that was approved by the County prior to Annexation, the City will submit such building permit application to County, and County will review such application to determine compliance with applicable County Regulations and thereafter notify City whether such application qualifies for building permit approval pursuant to such County Regulations. Upon receipt of County's notification that any such building permit application qualifies for approval, City shall promptly issue the relevant building permit to the Applicant. For all building permits issued by City in accordance with the immediately preceding sentence, City shall submit all related applications for certificates of occupancy to the County for review. Upon receipt of any such certificate of occupancy application, County shall perform all related inspection services and determine whether such application qualifies for certificate of occupancy approval

pursuant to applicable County Regulations and notify City of such determination. Upon receipt of County's notification that any such certificate of occupancy application qualifies for approval, City shall promptly issue the relevant certificate of occupancy to the Applicant. The Applicant shall be responsible for the payment of any applicable County Fees to cover the cost of services provided by County. All such County services shall be provided in a timeframe that complies with standard County practice and procedures.

3) Excluded Services

Services to be rendered by County specifically exclude sewer connection services for which City shall conduct all permitting and inspection services, including charging any Applicant the applicable City fees, including sewer development impact fees.

D. PAYMENT FOR SERVICES

Following Annexation, County shall provide City with itemized billing statements for any County provided services in accordance with the County Fees. City shall collect applicable County Fees from Applicants for the cost of the services rendered by County and shown on the billing statements and tender same to County within sixty (60) calendar days.

E. PERSONNEL

The services provided by the County in accordance with this MOU shall be performed by County personnel under the control and direction of County. To the extent that City personnel may also participate in any of the activities herein provided for, any expenses by the City in this process shall be borne by City, unless such activities are separately requested by any Applicant, in which case, City shall directly bill City's

applicable fees to such Applicant.

F. MUTUAL HOLD HARMLESS/INDEMNIFICATION

- 1) To the fullest extent permitted by applicable law, City shall and does agree to indemnify, protect, defend and hold harmless County, its agencies, districts, special districts and departments, their respective directors, officers, elected and appointed officials, employees, agents and representatives (collective “County indemnitees”) for, from and against any and all liabilities, claims, damages, losses, liens, causes of action, suits, awards, judgements and expenses, attorney and/or consultant fees and costs, taxable or otherwise, of any nature, kind or description of any person or entity, directly or indirectly arising out of, caused by, or resulting from the MOU, including any approved amendments or modifications (“City Liabilities”). The City’s indemnification obligation herein shall apply to County’s “active” as well as “passive” negligence but does not apply to the County’s “sole negligence” or “willful misconduct” within the meaning of Civil Code Section 2782.
 - a) In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code Section 2782. Such interpretation shall not relieve City from indemnifying the County to the fullest extent allowed by law.
 - b) With respect to any action or claim subject to indemnification herein by City, City shall, at its sole cost, have the right to use counsel of its own choice, subject to approval of County, which shall not be unreasonably withheld, and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of County; provided, however that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes City’s indemnification to County as set forth herein. City’s

obligation to defend, indemnify and hold harmless County shall be subject to County having given City written notice within a reasonable period of time of the claim or of the commencement of the related action as the case may be, and information and reasonable assistance, at City's expense, for the defense or settlement thereof. City's obligation hereunder shall be satisfied when City has provided to County the appropriate form of dismissal relieving County from any liability for the action or claim involved.

- 2) To the fullest extent permitted by applicable law, County shall and does agree to indemnify, protect, defend and hold harmless City, its agencies, districts, special districts and departments, their respective directors, officers, elected and appointed officials, employees, agents and representatives (collectively "City Indemnitees") for, from and against any and all liabilities, claims, damages, losses, liens, causes of action, suits, awards, judgements and expenses, attorney and/or consultant fees and costs, taxable or otherwise, of any nature, kind or description of any person or entity, directly or indirectly arising out of, caused by, or resulting from the MOU, including any approved amendments or modifications ("County Liabilities"). The County's indemnification obligation herein shall apply to City's "active" as well as "passive" negligence but does not apply to the City's "sole negligence" or "willful misconduct" within the meaning of Civil Code Section 2782.
 - a) In the event there is conflict between this clause and California Civil Code Section 2782, this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not relieve County from indemnifying the City to the fullest extent allowed by law.
 - b) With respect to any action or claim subject to indemnification herein by County, County shall, at their sole cost, have the right to use counsel of their own choice, subject to approval of City, which shall not be unreasonably withheld,

and shall have the right to adjust, settle, or compromise any such action or claim without the prior consent of City provided, however, that any such adjustment, settlement or compromise in no manner whatsoever limits or circumscribes County's indemnification to City as set forth herein. County's obligation to defend, indemnify and hold harmless City shall be subject to City having given written notice within a reasonable period of time of the claim, or of the commencement of the related action, as the case may be, and information and reasonable assistance, at City's expense, for the defense or settlement thereof. County's obligation hereunder shall be satisfied when County has provided to City the appropriate form of dismissal relieving City from an liability for the action or claim involved.

III. RECORDS

County agrees to maintain records and documentation of the Services rendered and supplies used pursuant to this MOU for a period of time consistent with the County's record retention policy. Such records or copies thereof shall be accessible to City for review upon reasonable notification by City without copying charges.

IV. AMENDMENTS

Any amendment, modification, or variation from the terms of this MOU shall be in writing and shall be effective only upon mutual approval by the authorized parties.

V. TERMINATION

Either City or County may terminate this MOU at any time by giving 30 calendar days written notice with or without cause to the designated contacts, but in no event sooner than County's completion of all Services related to the Yorba Villas Project. Upon receipt

of any notice of termination on the agreed upon effective date of termination, Services shall cease thereafter. Upon termination of this MOU, any inspection and permit requirements shall revert to the City. Termination of this MOU does not terminate the Parties' responsibility for payment of prior authorized Services rendered.

VI. COMPLETE MEMORANDUM OF UNDERSTANDING

This written MOU, including all writings specifically incorporated hereby in reference, shall constitute the complete MOU between the parties hereto. No oral agreement or representation not reduced to writing and specifically incorporated herein shall be of any force or effect, nor shall any such oral agreement or representation be binding upon the parties hereto. Any previous agreements between the City and County, whether oral or written, with regards to the activities outlined in this MOU, shall be supplanted by this MOU. Other agreements or contracts between the City and County shall be unaffected by this MOU.

VII. JURISDICTION/VENUE

This MOU shall be governed by, and construed in accordance with, the laws of the State of California. City and County agree and consent to the exclusive jurisdiction of the courts of the State of California for all purposes regarding this MOU, and further agrees that venue of any action brought hereunder shall be exclusively in the County of San Bernardino.

VIII. NOTICE

All written notices provided for in this MOU or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or by facsimile, or deposited in the United States mail, postage prepaid, and addressed to

the other party as follows:

City:
City of Chino
Attn: City Clerk
13220 Central Avenue
Chino, CA 91710

County:
San Bernardino County
Land Use Services Department
Attn: Director
385 North Arrowhead Avenue
San Bernardino, CA 92415

Notice shall be deemed communicated two business days from the time of mailing if mailed as provided in this paragraph.

IX. AUTHORITY TO EXECUTE MEMORANDUM OF UNDERSTANDING

Both City and County do covenant to each individual executing this MOU on behalf of each party is a person duly authorized. This MOU may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same MOU. The parties shall be entitled to sign and transmit an electronic signature of this MOU (whether by facsimile, PDF or other mail transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed MOU upon request.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties hereto have caused this MOU to be executed.

CITY OF CHINO

SAN BERNARDINO COUNTY

Linda Reich, City Manager

Dawn Rowe, Chair, Board of Supervisors

Dated: _____

Dated: _____

ATTEST:

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

Natalie Gonzaga, City Clerk

Lynna Monell, Clerk of the Board of Supervisors
San Bernardino County

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Tom Bunton
County Counsel

Fred Galante, City Attorney

Jason M. Searles
Supervising Deputy County Counsel

**MEMORANDUM
CITY OF CHINO
COMMUNITY SERVICES, PARKS & RECREATION DEPARTMENT**

CITY COUNCIL MEETING DATE: NOVEMBER 21, 2023

TO: LINDA REICH, CITY MANAGER

FROM: SILVIA AVALOS, DIRECTOR OF COMMUNITY SERVICES, PARKS & RECREATION

SUBJECT

Award of Contract – 7th Street Theater HVAC Replacement Project (IB249).

RECOMMENDATION

1) Award a construction contract in the amount of \$50,214 to C.E. Mechanical, Inc., Chino, CA, for the 7th Street Theater HVAC Replacement project; 2) authorize expenditures of up to \$7,532 for construction contingencies for a not-to-exceed construction contract amount of \$57,746; and 3) authorize the City Manager to execute all necessary documents on behalf of the City.

FISCAL IMPACT

Sufficient funds are included in the Fiscal Year 2023-24 Building Management Operating Budget.

CITY OF CHINO MISSION / VISION / VALUES / STRATEGIC ISSUES

The recommendation detailed above further the City’s values and strategic issues that serve as key pillars on which identified priorities, goals, and action plans are built, by fostering:

- Financial Stability
- Fiscal Responsibility
- Responsible Long-Range Planning

Revenue: Click or tap here to enter text.

Expenditure: 65083101-43650-IB249

Transfer In: Click or tap here to enter text.

Transfer Out: Click or tap here to enter text.

BACKGROUND

The Fiscal Year 2023-24 Building Management Fund budget provides funding for the 7th Street Theater HVAC Replacement project (IB249). The project scope of work includes removal of existing 15-ton unit and installing a new energy efficient unit. C.E. Mechanical, Inc. is an approved contractor that possesses the knowledge, certifications, and expertise to complete all aspects for maintenance, installation, and repair services.

During the past few years, the existing 15-ton unit has experienced several significant mechanical failures, likely due to its age (15+ years). Currently, the unit has fulfilled its life cycle and is experiencing several leaks throughout the duct work causing damage to the seating area. These leaks impact the Theater’s shows due to closing off areas affected by the leaks and limiting seating for scheduled productions.

ISSUES/ANALYSIS

Staff met with contractors on site to discuss the project’s scope of work and request proposals. The lowest proposal was submitted by C.E. Mechanical, Inc., Chino, CA. Staff is recommending that City Council authorize a construction contract in the amount of \$50,214 to C.E. Mechanical, Inc., Chino, CA for the 7th Street Theater HVAC Replacement project. In addition to the contract amount, staff is requesting up to \$7,532 in construction contingencies for unanticipated work, bringing the total potential construction contract to \$57,746.

	Company Name	Total Bid Amount
1	C.E. Mechanical, Inc.	\$50,214.00
2	Airite	\$57,150.00
3	Emcor Services Meza Energy	Declined to submit proposal.

Attachments: C.E. Mechanical, Inc. – Agreement and Proposal

Contract No.: _____
Approved: _____

AGREEMENT

“7TH STREET THEATER HVAC REPLACEMENT PROJECT”

THIS AGREEMENT is made and entered into this 21st day of November, 2023 by and between THE CITY OF CHINO, a municipal corporation, hereinafter called “**City,**” and C.E. MECHANICAL, INC., hereinafter called “**Contractor**”.

WITNESSETH, that the parties hereto mutually agree as follows:

ARTICLE I: For and in consideration of the payments and agreements hereinafter mentioned to be made and performed by City, Contractor agrees to perform and complete all of the work for the project entitled “**7th STREET THEATER HVAC REPLACEMENT PROJECT**” in a good and workmanlike manner in accordance with all plans and specifications therefor, to furnish at Contractor’s sole cost and expense all tools, equipment, labor, and materials necessary therefor, except such materials and equipment as are expressly stipulated to be furnished by City, and to do everything required by the Contract Documents.

ARTICLE II: Contractor shall be responsible for furnishing all labor, materials, equipment, tools, and services, furnishing and removing all plants, temporary structures, tools, and equipment, and doing everything required by this Agreement and by the Contract Documents. Contractor shall also be responsible for all losses and damages arising out of the performance of the Work, from the action of the elements, or from any unforeseen difficulties that may arise during the prosecution of the Work until its acceptance by City; for all risks of every description associated with the Work; and for all expenses resulting from the suspension or discontinuance of the Work. City shall pay Contractor, and Contractor shall receive, for completing the Work in accordance with the requirements of the Contract Documents and in full compensation therefor, the price named in the Bid Proposal. Subject to any additions or deductions that may be made by change order or amendment, and any penalties or damages that may be assessed against Contractor, Contractor shall receive a total contract amount of Fifty Thousand Two Hundred Fourteen Dollars and No Cents (\$50,214.00) for completion of the contract work.

ARTICLE III: The City hereby employs said Contractor to perform the work according to the terms of this Agreement for the above-mentioned price(s), and agrees to pay the same at the time, in the manner, and upon the conditions stipulated in the Contract Documents; and the said parties for themselves, their heirs, executors, administrators, successors and assignees, do hereby agree to the full performance of the covenants herein contained.

ARTICLE IV: Contractor shall begin work within five (5) calendar days after receiving a Notice to Proceed from the City and the work shall be completed within ten (10) working days from the date on which the work was started. If the work is not completed within said time period, liquidated damages shall apply.

ARTICLE V: The Notice Inviting Bids, the Summary of Work, the Instructions to Bidders, the Bid Documents, the Required Post-Bid Documents, the General Provisions, the Special Provisions, the Technical Specifications, and all other drawing, plans, or specifications for the Work (collectively, “**Contract Documents**”) are hereby incorporated into and made part of this

Agreement.

ARTICLE VI: Contractor shall indemnify, defend with legal counsel approved by City, and hold harmless City, its officers, officials, employees and volunteers from and against all liability, loss, damage, expense, cost (including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with Contractor's negligence, recklessness or willful misconduct in the performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which is caused by the sole or active negligence or willful misconduct of the City. In instances where City is shown to have been actively negligent and where City's active negligence accounts for only a percentage of the liability involved, the obligation of Contractor will be for that entire portion or percentage of liability not attributable to the active negligence of City. Should conflict of interest principles preclude a single legal counsel from representing both City and Contractor, or should City otherwise find Contractor's legal counsel unacceptable, then Contractor shall reimburse the City its costs of defense, including without limitation reasonable attorneys' fees, expert fees and all other costs and fees of litigation. The Contractor shall promptly pay any final judgment rendered against the City (and its officers, officials, employees and volunteers) with respect to claims determined by a trier of fact to have been the result of the Contractor's negligent, reckless or wrongful performance. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

ARTICLE VII: No officer or employee of the City shall have any financial interest in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which affects his financial interest or the financial interest of any corporation, partnership or association in which he is interested, in violation of any State statute or regulation. Similarly, Contractor warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

ARTICLE VIII: This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of San Bernardino, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in the County of San Bernardino, State of California.

ARTICLE IX: Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Contractor shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

ARTICLE X: No officer or employee of the City shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount which

may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

ARTICLE XI: The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

ARTICLE XII: In the course of its work under this Agreement, the Contractor, its agents and employees shall be bound by and comply with all applicable federal, state and local laws and requirements.

ARTICLE XIII: The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

[SIGNATURES ON FOLLOWING PAGE]

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

Approved as to Form:

Approved as to Content:

City Attorney

Silvia Avalos, Director of Community Services, Parks & Recreation

Dated: _____

CONTRACTOR

By: _____
(Signature)

Name: _____
(Please Type or Print Name)

(Signature must be notarized)

Title: _____
(Please Type or Print Title)

Dated: _____

CITY OF CHINO

Linda Reich, City Manager

ATTEST:

Natalie Gonzaga, City Clerk

Date



QUOTE FOR REPAIRS

HVAC Equipment Up-grade

Quote# 2554 Version 4

PREPARED FOR:

Carolyn Baltzer

PREPARED BY:

Jason Witten

Date: Sep 26, 2023

CE Mechanical, Inc. ("Company")

13327 Elliot Ave.
Chino, CA 91710

(909) 548-0925

-and-

City of Chino ("Client")

13123 7th St, Chino, CA, 91710 Carolyn Baltzer

Project Location: 13123 7th St, Chino, CA, 91710

QUOTE FOR REPAIRS

Sep 26, 2023

Proposal Number: 2554 Version 4

Thank you for allowing C.E. Mechanical the opportunity to submit the following Proposal. C.E. Mechanical will perform the scope of work detailed below.

Location - 13123 7th St, Chino, CA, 91710

Scope of Work:

1. Theater 15-Ton Package Unit Replacement:

Isolate power at breaker for system
Recover refrigerant per SCAQMD rules
Disconnect drain, electrical, and controls
Provide and install (1) Carrier 15-Ton Heat pump package unit
Install (1) new title-24 economizer
Install (1) new title-24 thermostat
Install (1) new 3-phase 60amp disconnect
Install (3) new fuses
Install (1) curb adapter
Provide and install (1) new copper drain line
Rework electrical, drain, controls
Perform start-up and fill out start up paperwork
Test for proper operation of new equipment
Clean up work area
All work performed during normal business hours

Bid Clarifications:

1. One year material and labor warranty for new work installed by CE Mechanical


EXCLUSIONS

- Any scope not included in the above
- Plan check corrections
- Overtime
- Paint, patch, and repair
- Additional costs associated with lack of free area and clear access to job site for installation, material deliveries, and rigging
- Additional costs associated with delays caused by other trades
- Fire life safety
- DDC controls
- Bid and performance bonds
- Roof material or repairs
- Structural modifications
- Mechanical engineering

Agreement Amount: \$50,214.00

This Proposal is valid for 60 days and shall become an enforceable contract when Company and Customer have executed it. Thank you again for the opportunity to earn your business. All work is to be completed during regular business hours.

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Offered By: C.E. Mechanical, Inc., a California Corporation		Accepted By: City of Chino	
Name:	Nicholas Tickenoff	Name:	Martin Soto
Signature:		Signature:	
Its:	Service Manager	Its:	
Date:	Sep 28, 2023	Date:	

TERMS AND CONDITIONS

1. The Customer shall permit and provide the Company free, safe, and timely access to areas and equipment, and allow the Company to start and stop the equipment as necessary to perform required services. All planned work under this Proposal will be performed during the Company's normal working hours. Any additional equipment needed to provide service will be the responsibility of the Customer, unless otherwise stated in this Proposal. 2. In case of any failure to perform its obligations under this Proposal, the Company's liability shall be limited to repair or replacement, at its option, and such repair or replacement shall be the Customer's sole remedy. This warranty is conditioned upon proper operation and maintenance by the Customer and shall not apply if the failure is caused or contributed to by accident, alteration, abuse, or misuse, and shall not extend beyond the work performed pursuant to this Proposal. 3. The Proposal price is conditioned upon the system(s) covered being in a maintainable condition. If the initial inspection or initial seasonal start-up indicates repairs are required, a firm quotation will be submitted for the Customer's approval. Should the Customer not authorize the repairs, the Company may either remove the unacceptable system(s), component(s), or part(s) from its scope of responsibility, adjust the Proposal price accordingly or cancel this Proposal. 4. This Proposal price is subject to adjustment on each commencement anniversary to reflect increases in labor, material, and other costs. 5. The Customer shall be responsible for all taxes applicable to the services and/or materials hereunder including, but not limited to, increased refrigerant taxes, handling costs, and any government-imposed regulations. 6. The Customer shall promptly pay invoices within 30 days of mailing. Should a payment become 45 or more days delinquent, the Company may stop all work under this Proposal without notice and/or cancel this Proposal, at which point, the entire Proposal amount shall become due and payable immediately upon demand. 7. This Proposal applies only to the maintainable portions of the system(s). Repair or replacement of non-maintainable parts such as, but not limited to, duct work, boiler shell and tubes, cabinets, refractory material, heat exchangers, main power service, electrical disconnect, variable frequency drives and wiring, piping, tube bundles, valve bodies, coils, structural supports, oil storage tanks, casings, tower fill, and other similar items are excluded. 8. If any alteration to or deviation from this Proposal involves extra work, the cost of material or labor will become an extra charge (fixed-price amount to be negotiated or on a time-and-material basis at the Company's rate then in effect) over the sum stated in this Proposal. 9. The Company will not be required to move, replace, or alter any part of the building structure in the performance of this Proposal. 10. This Proposal does not include responsibility for design of the system, obsolescence, safety test, removal and reinstallation of valve bodies and dampers, repair or replacement necessitated by freezing weather, electrical power failure, power surges, low voltage, burned-out main or branch fuses, low water pressure, vandalism, misuse or abuse of the system(s), negligence of others (including the Customer), failure of the Customer to properly operate and/or maintain the system(s), requirements of governmental, regulatory or insurance agencies, or other cases beyond the Company's control. 11. If a trouble call is made at the Customer's request and the inspection indicates a condition which is not covered under this Proposal, the Company may charge the Customer at the rate then in effect for such services. 12. The Customer shall permit only Company personnel or its agents to perform the work included in the scope of this Proposal. Should anyone other than Company personnel perform such work, the Company may, at its option, cancel this Proposal or eliminate the involved item of equipment from inclusion in this Proposal. 13. Any legal action against the Company relating to this Proposal, or the breach thereof, shall be commenced within one year from the date of the work. 14. The Company shall not be liable for any delay, loss, or damage, caused by unavailability of machinery, equipment, or materials, delay of carriers, strikes, including those by the Company's employees, lockouts, civil military authority, priority regulations, insurrection, or riot, action of the elements, forces of nature, pandemics, epidemics, or by any cause beyond its control. 15. To the fullest extent permitted by law, the Customer shall indemnify and hold harmless Company, its agents and employees from and against all claims, damages, losses and expenses including, but not limited to, attorney's fees, arising out of or resulting from the performance of work hereunder, provided that such claim, damage, loss or expense is caused in whole or in part by an active or passive act or omission of the Customer, anyone directly or indirectly employed by the Customer, or anyone for whose acts the Customer may be liable, regardless of whether it is caused in part by the negligence of the Company. 16. The Customer shall make available to Company personnel, all pertinent Material Safety Data Sheets (MSDS) pursuant to OSHA's Hazard Communication Standard Regulations. 17. The Company's obligation under this Proposal and any subsequent contract(s) does not include the identification, abatement, or removal of Asbestos or any other toxic or hazardous wastes or hazardous materials. In the event such substances, wastes or materials are encountered, the Customer's obligation will be to notify the Company of its existence. The Company shall have the right, thereafter, to suspend its work until such substances, wastes or materials and the resultant hazards are removed. The time for completion of the work shall be extended as a result of the suspension and the contract price equitably adjusted. 18. MEDIATION: These parties shall mediate any dispute or claim arising between them out of this Proposal, or any resulting transaction, before resorting to binding arbitration. Mediation shall be conducted (i) within 60 days after any party requests same in writing, (ii) by a retired Judge at either JAMS (Judicial Arbitration Mediation Service), Judicate West or ADR Services, Inc. The mediation shall be conducted in San Bernardino County. Mediation fees shall be divided equally among the parties involved. If either party (a) commences an arbitration without first attempting to resolve the matter through mediation, or (b) before commencement of arbitration, refuses to cooperate in the selection of a Mediator and/or the scheduling and conduct of the mediation, after a mediation request has been made, then that party shall not be entitled to recover any attorney's fees, even if they would otherwise be available to that party in any such arbitration. 19. ARBITRATION: Any dispute arising out of or related to the performance of the work or the interpretation of this Proposal, which has not been resolved by mediation, shall be decided by binding arbitration through JAMS, Judicate West or ADR Services, Inc. A final judgment may be entered on the arbitration award. Any party, without waiving the right to arbitrate, may apply to the court for provisional relief, writs, attachments, or injunctions that may not otherwise be available in arbitration. The Arbitrator may award reasonable attorney's fees and costs to the prevailing party. Additionally, the Arbitrator may award any interlocutory and permanent relief that could be awarded by a court.

UNDER NO CIRCUMSTANCES, WHETHER ARISING IN CONTRACT, TORT (INCLUDING NEGLIGENCE), EQUITY OR OTHERWISE, WILL THE COMPANY BE RESPONSIBLE FOR LOSS OF USE, LOST OR DIMINISHED PROFITS, INCREASED OPERATING EXPENSES, CLAIMS OF THE CUSTOMER'S TENANTS OR CUSTOMERS, OR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES.

**MEMORANDUM
CITY OF CHINO
HUMAN RESOURCES DEPARTMENT**

CITY COUNCIL MEETING DATE: NOVEMBER 21, 2023

TO: LINDA REICH, CITY MANAGER

**FROM: GERIANN KINGSLAN, DIRECTOR OF HUMAN RESOURCES/RISK
MANAGEMENT**

SUBJECT

Classification and Compensation Adjustments to Classifications and Salaries for American Federation of State, County and Municipal Employees (AFSCME).

RECOMMENDATION

1) Adopt Resolution No. 2023-073 approving Classification and Salary Schedule adjustments and title changes for job classifications represented by the American Federation of State, County and Municipal Employees (AFSCME); 2) approve an estimated total appropriation in the amount of \$382,184, and/or the actual amount, if not significantly higher, to the various funds listed in the Fiscal Impact section below; and 3) authorize the City Manager to execute all necessary documents on behalf of the City.

FISCAL IMPACT

Requires an estimated appropriation from the funds listed: General Fund 100 \$534; Transportation Fund 320 \$34,597; CDBG Fund 350 \$103; Landscape and Lighting Fund 360 \$37,829; Assessment District Fund 361 \$7,934.00; Water Fund 520 \$183,335; Sewer Fund \$4,905; Storm Drain Fund \$6,699; Sanitation Fund \$467; Employees Services Fund 640 \$49,218; Building Management Fund 650 \$46,524; and Equipment Management Fund 660 \$10,039 for a total amount of \$382,184. There are sufficient reserves of fund balance in each of the funds mentioned above to cover the cost of the recommended adjustments.

CITY OF CHINO MISSION / VISION / VALUES / STRATEGIC ISSUES

The recommendation detailed above further the City's values and strategic issues that serve as key pillars on which identified priorities, goals, and action plans are built, by fostering:

- Positive City Image
- Financial Stability
- Responsible Long-Range Planning
- Exemplary Leadership

Revenue: Click or tap here to enter text.	Expenditure: Various program accounts
Transfer In: Click or tap here to enter text.	Transfer Out: Click or tap here to enter text.

BACKGROUND

The City initiated a Classification and Compensation Study using the firm Koff & Associates in compliance with an agreement contained in a Memorandum of Understanding between the City of Chino and AFSCME entered into in fiscal year 2019-2020. Initiation of the Study experienced a substantial delay primarily due to a contract with Koff & Associates that was amended twice to reflect the direction of the City Council. The process of conducting the study is extensive and calls for affected employees to complete a detailed and comprehensive Position Description Questionnaires; individual and group interviews held with Koff & Associates representatives; followed by months of negotiations between City management and AFSCME representatives on the comparators used, accuracy of the survey data, position titles and contents of job descriptions. Agreement between the parties was reached on November 9, 2023, and the findings are shown in Resolution No. 2023-073.

ISSUES/ANALYSIS

As previously referenced, the Classification and Compensation Study is complex and time intensive. Completion of Position Description Questionnaires typically requires an employee a minimum of 5 hours to complete. This is followed by a review by the employee's supervisor for input and then an interview with an expert from Koff & Associates.

Thereafter, Koff & Associates takes the information and writes a Job Description for each position, which is provided to the employee, their supervisor/department director, and Human Resources staff for review and approval. The essential duties of each job description are relied upon to ensure that City of Chino position classifications are correctly compared with our 11 established survey cities to obtain a job match. This is a critical component of the Study.

When the job classifications are in final form, compensation data is then sought to place our positions at the midpoint of all comparable agencies. The survey, which includes job descriptions, titles, and salaries, in this case, went to vote by AFSCME for acceptance as the study had been incorporated into their Memorandum of Understanding, which provided for a completion date in June 2021. Therefore, in compliance with the City's obligation to implement the findings of a Classification and Compensation Study in July 2021, AFSCME members who the study found were not paid at or above the median are eligible for retroactive pay adjustments to July 2021.

Also included with this Study as a method of agreeing to retain his employment with the City is a title and salary adjustment for the current Water Utilities Supervisor.

Providing an actual cost for the implementation of the Classification and Salary adjustment requires retroactive payroll calculations back to July 1, of 2021. These calculations will require additional time to determine the exact amounts owed to employees. Therefore, staff is recommending that City Council approve the estimated amount of \$382,184 and/or the actual amount, if not significantly higher.

The following summarizes the request:

<u>CURRENT TITLE</u>	<u>PROPOSED TITLE</u>	<u>SALARY ADJ</u>
Building Maintenance Supervisor	Facilities Maintenance Supervisor	13.7%
Building Maintenance Worker	Facilities Maintenance Technician	5.5%
Customer Service Representative	Water Meter Technician	7.2%
Customer Service Lead Rep.	Water Meter Lead Technician	17.5%
Equipment Mechanic	Equipment Mechanic	0.0%
Equipment Lead Mechanic	Equipment Lead Mechanic	4.6%
Facilities Worker	Facilities Worker	0.0%
Maintenance Worker	Grounds Maintenance Worker	0.0%
Maintenance Worker	Streets Maintenance Worker	0.0%
Maintenance Worker	Wastewater Maintenance Worker	0.3%
Maintenance Lead Worker	Grounds Maintenance Lead Worker	4.5%
Maintenance Lead Worker	Streets Maintenance Lead Worker	4.5%
Maintenance Lead Worker	Wastewater Maintenance Lead Worker	4.8%
Maintenance Lead Worker	Maintenance Coordinator	8.5%
Recycled Water Coordinator	Cross Connection Specialist	4.6%
Water Quality Technician	Cross Connection Specialist	4.6%
Water Distribution Operator	Water Distribution Operator	11.1%
Water Distribution Lead Operator	Water Distribution Lead Operator	4.8%
Water Systems Operator	Water Treatment Operator	8.9%
Water Systems Lead Operator	Water Treatment Lead Operator	2.8%
Water Utilities Supervisor	Water Utilities Superintendent	16.1%

If adopted, Resolution 2023-073 will provide a Classification and Salary Schedule that reflects all proposed adjustments to position titles and salary ranges.

Attachment: Resolution 2023-073

RESOLUTION NO. 2023-073

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHINO, CALIFORNIA, AMENDING CERTAIN PORTIONS OF THE IDENTIFIED RESOLUTIONS LISTED ADDRESSING THE CITY'S CLASSIFICATION AND SALARY SCHEDULE

WHEREAS, the City Council of the City of Chino has the authority to create and maintain position classifications; and

WHEREAS, greater flexibility is desired to meet changing conditions and better serve general organizational needs; and

WHEREAS, the City Council of the City of Chino has historically adopted resolutions to establish salaries, benefits, and terms and conditions of employment for City employees, including, but not limited to, Resolution Nos. 85-52 and 85-54, and subsequent resolutions to establish changes to salaries, benefits, and terms and conditions of employment for City employees as well as resolutions adopting memoranda of understanding with represented employees; and

WHEREAS, job titles and salaries will be adjusted as a result of the classification and compensation study performed; and

WHEREAS, the City Council of the City of Chino authorizes an amendment be made to salaries adopted in Resolutions listed; and

NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Chino does hereby adopt the changes below. All provisions apply only to those individuals who are employed by the City of Chino on the day following adoption of this Resolution.

1. The following job classifications are proposed for title changes:

CURRENT TITLE

Building Maintenance Supervisor
Building Maintenance Worker
Customer Service Representative
Customer Service Lead Representative
Maintenance Worker
Maintenance Worker
Maintenance Worker
Maintenance Lead Worker
Maintenance Lead Worker
Maintenance Lead Worker
Maintenance Lead Worker
Recycled Water Coordinator
Water Quality Technician
Water Systems Operator
Water Systems Lead Operator
Water Utilities Supervisor

PROPOSED TITLE

Facilities Maintenance Supervisor
Facilities Maintenance Technician
Water Meter Technician
Water Meter Lead Technician
Grounds Maintenance Worker
Streets Maintenance Worker
Wastewater Maintenance Worker
Grounds Maintenance Lead Worker
Streets Maintenance Lead Worker
Wastewater Maintenance Lead Worker
Maintenance Coordinator
Cross Connection Specialist
Cross Connection Specialist
Water Treatment Operator
Water Treatment Lead Operator
Water Utilities Superintendent

2. Resolution Nos. 2023-051, 2023-052, 2023-060 and 2023-061 of the City's Classification and Salary Schedule are revised to establish the following changes to the salary schedule:

The salaries below are effective with the pay period which includes July 1, 2023:

Non-Management Classifications (monthly salary amounts):

	Step A	Step B	Step C	Step D	Step E
Facilities Maintenance Supervisor	\$6,992	\$7,342	\$7,709	\$8,094	\$8,499
Facilities Maintenance Technician	\$4,508	\$4,733	\$4,970	\$5,218	\$5,479
Water Meter Technician	\$4,582	\$4,812	\$5,052	\$5,305	\$5,570
Water Meter Lead Technician	\$5,270	\$5,534	\$5,810	\$6,101	\$6,406
Equipment Lead Mechanic	\$5,819	\$6,110	\$6,415	\$6,736	\$7,073
Grounds Maintenance Worker	\$4,273	\$4,488	\$4,711	\$4,946	\$5,195
Streets Maintenance Worker	\$4,273	\$4,488	\$4,711	\$4,946	\$5,195
Wastewater Maintenance Worker	\$4,287	\$4,501	\$4,727	\$4,963	\$5,211
Grounds Maintenance Lead Worker	\$4,916	\$5,161	\$5,420	\$5,690	\$5,975
Streets Maintenance Lead Worker	\$4,916	\$5,161	\$5,420	\$5,690	\$5,975
Wastewater Maintenance Lead Worker	\$4,930	\$5,177	\$5,436	\$5,708	\$5,993
Maintenance Coordinator	\$5,101	\$5,356	\$5,624	\$5,905	\$6,200
Cross Connection Specialist	\$5,653	\$5,935	\$6,232	\$6,544	\$6,871
Water Distribution Operator	\$4,916	\$5,161	\$5,420	\$5,690	\$5,975
Water Distribution Lead Operator	\$5,653	\$5,935	\$6,232	\$6,544	\$6,871
Water Treatment Operator	\$5,514	\$5,789	\$6,079	\$6,383	\$6,702
Water Treatment Lead Operator	\$6,341	\$6,658	\$6,990	\$7,340	\$7,707

Non-Sworn Management Classification (monthly salary amounts)

	Base	22.5%	Maximum
Water Utilities Superintendent	\$8,682	\$10,635	\$11,287

Part-time Classifications (hourly salary amounts):

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9
Facilities Maintenance Technician	\$26.01	\$26.66	\$27.31	\$27.99	\$28.67	\$29.39	\$30.10	\$30.86	\$31.61
Water Meter Technician	\$26.44	\$27.10	\$27.76	\$28.45	\$29.15	\$29.88	\$30.60	\$31.37	\$32.13
Grounds Maintenance Worker	\$24.66	\$25.27	\$25.89	\$26.54	\$27.18	\$27.86	\$28.54	\$29.26	\$29.97
Streets Maintenance Worker	\$24.66	\$25.27	\$25.89	\$26.54	\$27.18	\$27.86	\$28.54	\$29.26	\$29.97
Wastewater Maintenance Worker	\$24.73	\$25.35	\$25.97	\$26.62	\$27.27	\$27.95	\$28.63	\$29.35	\$30.06

Except as so modified, Resolution Nos. 2023-051, 2023-052, 2023-060 and 2023-061 of the City's Classification and Salary Schedule shall remain unmodified and in full force and effect.

3. Resolution Nos. 2022-044, 2022-045, 2022-046, 2022-054, 2022-061, 2022-088, 2023-004, 2023-005, 2023-011, 2023-012 and 2023-034 of the City's Classification and Salary Schedule are revised to establish the following changes to the salary schedule:

The salaries below are effective with the pay period which includes July 1, 2022:

Non-Management Classifications (monthly salary amounts):

	Step A	Step B	Step C	Step D	Step E
Facilities Maintenance Supervisor	\$6,756	\$7,094	\$7,449	\$7,821	\$8,212
Facilities Maintenance Technician	\$4,343	\$4,560	\$4,788	\$5,028	\$5,279
Water Meter Technician	\$4,418	\$4,639	\$4,871	\$5,114	\$5,370
Water Meter Lead Technician	\$5,097	\$5,352	\$5,620	\$5,901	\$6,196
Equipment Lead Mechanic	\$5,605	\$5,885	\$6,180	\$6,489	\$6,813
Grounds Maintenance Worker	\$4,109	\$4,315	\$4,530	\$4,756	\$4,995
Streets Maintenance Worker	\$4,109	\$4,315	\$4,530	\$4,756	\$4,995
Wastewater Maintenance Worker	\$4,123	\$4,329	\$4,545	\$4,772	\$5,011
Grounds Maintenance Lead Worker	\$4,734	\$4,971	\$5,219	\$5,480	\$5,754
Streets Maintenance Lead Worker	\$4,734	\$4,971	\$5,219	\$5,480	\$5,754
Wastewater Maintenance Lead Worker	\$4,749	\$4,987	\$5,236	\$5,498	\$5,773
Maintenance Coordinator	\$4,920	\$5,166	\$5,424	\$5,695	\$5,980
Cross Connection Specialist	\$5,445	\$5,718	\$6,004	\$6,304	\$6,619
Water Distribution Operator	\$4,745	\$4,983	\$5,121	\$5,493	\$5,768
Water Distribution Lead Operator	\$5,445	\$5,718	\$6,004	\$6,304	\$6,619
Water Treatment Operator	\$5,319	\$5,585	\$5,864	\$6,157	\$6,465
Water Treatment Lead Operator	\$6,104	\$6,409	\$6,729	\$7,066	\$7,419

Part-time Classifications (hourly salary amounts):

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9
Facilities Maintenance Technician	\$25.06	\$25.68	\$26.31	\$26.97	\$27.62	\$28.31	\$29.01	\$29.73	\$30.46
Water Meter Technician	\$25.49	\$26.13	\$26.76	\$27.43	\$28.10	\$28.80	\$29.51	\$30.24	\$30.98
Grounds Maintenance Worker	\$23.71	\$24.30	\$24.89	\$25.52	\$26.14	\$26.79	\$27.45	\$28.13	\$28.82
Streets Maintenance Worker	\$23.71	\$24.30	\$24.89	\$25.52	\$26.14	\$26.79	\$27.45	\$28.13	\$28.82
Wastewater Maintenance Worker	\$23.78	\$24.38	\$24.97	\$25.60	\$26.22	\$26.88	\$27.53	\$28.22	\$28.91

Except as so modified, Resolution Nos. 2022-044, 2022-045, 2022-046, 2022-054, 2022-061, 2022-088, 2023-004, 2023-005, 2023-011, 2023-012 and 2023-034 of the City's Classification and Salary Schedule shall remain unmodified and in full force and effect.

- Resolution Nos. 2021-060, 2021-064, 2021-070, 2021-071, 2021-077, 2021-075, 2021-081, 2021-082, 2021-087, 2022-005, 2022-014, 2022-017 and 2022-023 of the City's Classification and Salary Schedule are revised to establish the following changes to the salary schedule:

The salaries below are effective with the pay period which includes July 1, 2021:

Non-Management Classifications (monthly salary amounts):

	Step A	Step B	Step C	Step D	Step E
Facilities Maintenance Supervisor	\$6,640	\$6,972	\$7,321	\$7,687	\$8,071
Facilities Maintenance Technician	\$4,262	\$4,476	\$4,699	\$4,934	\$5,181
Water Meter Technician	\$4,337	\$4,554	\$4,782	\$5,021	\$5,272
Water Meter Lead Technician	\$5,013	\$5,263	\$5,527	\$5,803	\$6,093
Equipment Lead Mechanic	\$5,501	\$5,776	\$6,064	\$6,368	\$6,686

Grounds Maintenance Worker	\$4,028	\$4,230	\$4,441	\$4,663	\$4,897
Streets Maintenance Worker	\$4,028	\$4,230	\$4,441	\$4,663	\$4,897
Wastewater Maintenance Worker	\$4,042	\$4,244	\$4,456	\$4,679	\$4,913
Grounds Maintenance Lead Worker	\$4,645	\$4,877	\$5,121	\$5,377	\$5,646
Streets Maintenance Lead Worker	\$4,645	\$4,877	\$5,121	\$5,377	\$5,646
Wastewater Maintenance Lead Worker	\$4,661	\$4,894	\$5,138	\$5,395	\$5,665
Maintenance Coordinator	\$4,831	\$5,072	\$5,326	\$5,592	\$5,872
Cross Connection Specialist	\$5,343	\$5,611	\$5,891	\$6,186	\$6,495
Water Distribution Operator	\$4,662	\$4,895	\$5,140	\$5,397	\$5,667
Water Distribution Lead Operator	\$5,343	\$5,611	\$5,891	\$6,186	\$6,495
Water Treatment Operator	\$5,223	\$5,485	\$5,759	\$6,047	\$6,349
Water Treatment Lead Operator	\$5,986	\$6,285	\$6,600	\$6,930	\$7,276

Part-time Classifications (hourly salary amounts):

	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	Step 9
Facilities Maintenance Technician	\$24.59	\$25.21	\$25.82	\$26.47	\$27.11	\$27.79	\$28.47	\$29.18	\$29.89
Water Meter Technician	\$25.02	\$25.65	\$26.27	\$26.93	\$27.59	\$28.28	\$28.97	\$29.69	\$30.42
Grounds Maintenance Worker	\$23.24	\$23.82	\$24.41	\$25.02	\$25.63	\$26.27	\$26.91	\$27.58	\$28.25
Streets Maintenance Worker	\$23.24	\$23.82	\$24.41	\$25.02	\$25.63	\$26.27	\$26.91	\$27.58	\$28.25
Wastewater Maintenance Worker	\$23.32	\$23.90	\$24.48	\$25.10	\$25.71	\$26.35	\$26.99	\$27.67	\$28.34

Except as so modified, Resolution Nos. 2021-060, 2021-064, 2021-070, 2021-071, 2021-077, 2021-075, 2021-081, 2021-082, 2021-087, 2022-005, 2022-014, 2022-017 and 2022-023 of the City's Classification and Salary Schedule shall remain unmodified and in full force and effect.

- SAVINGS CLAUSE - Should any portion of this Resolution be held invalid by law and/or a court of competent jurisdiction, or entity with legal standing, then only that clause will be stricken and the remainder of the Resolution will be in full force and effect. The City and the affected employee association will immediately commence to negotiate for the purpose of replacing any invalid or illegal provision. However, no such replacement is mandated.

APPROVED AND ADOPTED THIS 21st day of November, 2023.

EUNICE M. ULLOA, MAYOR

ATTEST:

NATALIE GONZAGA, CITY CLERK
CITY OF CHINO

State of California)
County of San Bernardino)ss.
City of Chino)

I, Natalie Gonzaga, City Clerk of the City of Chino, do hereby certify that the forgoing Resolution was duly adopted by the City Council at a regular meeting held on the 21st day of November 2023, by the following votes:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

NATALIE GONZAGA, CITY CLERK

**MEMORANDUM
CITY OF CHINO
PUBLIC WORKS DEPARTMENT**

CITY COUNCIL MEETING DATE: NOVEMBER 21, 2023

TO: LINDA REICH, CITY MANAGER
FROM: HYE JIN LEE, DIRECTOR OF PUBLIC WORKS

SUBJECT

California Department of Resources Recycling and Recovery (CalRecycle) Local Assistance Grant Programs.

RECOMMENDATION

Approve Resolution No. 2023-069 authorizing applications to the California Department of Resources Recycling and Recovery (CalRecycle) for local assistance grant programs; and authorize the Director of Public Works to execute all necessary documents on behalf of the City.

FISCAL IMPACT

Approving this resolution will have no fiscal impact on the City

CITY OF CHINO MISSION / VISION / VALUES / STRATEGIC ISSUES

The recommendation detailed above further the City's values and strategic issues that serve as key pillars on which identified priorities, goals, and action plans are built, by fostering:

- Positive City Image
- Financial Stability
- Responsible Long-Range Planning
- Public Service Excellence through Internal and External Partnerships

Revenue:	Expenditure:
Transfer In: Click or tap here to enter text.	Transfer Out: Click or tap here to enter text.

BACKGROUND

CalRecycle awards annual payments to cities and counties for the City/County Payment Program, Used Oil Payment Program and has recently added the SB1383 Local Assistance Grant Program.

The Local Assistance Grant program is a non-competitive grant program that provides funding to local jurisdictions to assist with the implementation of regulation requirements associated with SB 1383. The funds awarded to eligible cities and counties are specifically for recycling activities and implementing projects to assist CalRecycle in reaching and maintaining their recycling goals.

ISSUES/ANALYSIS

On October 5, 2023, CalRecycle announced that all jurisdictions applying for Local Assistance Grant Program funds must provide an approved resolution authorizing their submittal of an annual application to CalRecycle for these funds. The current Local Assistance grant program provides funding to local jurisdictions to assist with the implementation of regulation requirements associated with SB1383, including but not limited to:

- Capacity Planning
- Collection
- Edible Food Recovery
- Education and Outreach
- Enforcement
- Inspection
- Program Evaluation/Gap Analysis
- Procurement Requirements
- Record keeping

The funding estimate for the City of Chino is \$171,753.00. Grants will be awarded March 2024 and the grant term ends April 1, 2026.

Therefore, staff is recommending approval of Resolution No. 2023-069, authorizing the ongoing submittal of applications to CalRecycle for payment programs. The resolution will approve staff's submittal of all eligible CalRecycle grant applications and authorize the City Manager to execute all required documents related to the grant programs.

Attachment: Resolution 2023-069

RESOLUTION NO. 2023-069

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHINO, CALIFORNIA, AUTHORIZING SUBMITTAL OF INDIVIDUAL GRANT APPLICATIONS TO THE CALIFORNIA DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE) FOR ALL GRANT PROGRAMS FOR WHICH THE CITY OF CHINO IS ELIGIBLE

WHEREAS, Public Resources Code sections 48000 et seq. authorize the Department of Resources Recycling and Recovery (CalRecycle) to administer various grant programs (grants) in furtherance of the State of California's (State) efforts to reduce, recycle, and reuse solid waste generated in the state thereby preserving landfill capacity and protecting public health and safety and the environment; and

WHEREAS, in furtherance of this authority CalRecycle is required to establish procedures governing the application, awarding, and management of the grants; and

WHEREAS, CalRecycle grant application procedures require, among other things, an applicant's governing body to declare by resolution certain authorizations related to the administration of CalRecycle grants.

NOW, THEREFORE, BE IT RESOLVED that the City of Chino authorizes the submittal of applications to CalRecycle for all grants for which the City of Chino is eligible; and

BE IT FURTHER RESOLVED that the Director of Public Works, or their designee, is hereby authorized and empowered to execute in the name of the City of Chino all grant documents, including but not limited to, applications, agreements, amendments, and requests for payment, necessary to secure grant funds and implement the approved grant project; and

BE IT FURTHER RESOLVED that this authorization is effective for five years from the date of adoption.

APPROVED AND ADOPTED THIS 21st DAY OF NOVEMBER 2023.

EUNICE ULLOA, MAYOR

ATTEST:

NATALIE GONZAGA, CITY CLERK

State of California)
County of San Bernardino)ss.
City of Chino)

I, Natalie Gonzaga, City Clerk of the City of Chino, do hereby certify that the foregoing Resolution was duly adopted by the City Council at a regular meeting held on the 21st day of November 2023, by the following votes:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

NATALIE GONZAGA, CITY CLERK

**MEMORANDUM
CITY OF CHINO
ADMINISTRATION DEPARTMENT**

CITY COUNCIL MEETING DATE: NOVEMBER 21, 2023

TO: MAYOR AND CITY COUNCIL MEMBERS, CITY OF CHINO

FROM: LINDA REICH, CITY MANAGER

SUBJECT

City of Chino Public Safety, Roads, Essential Services Measure.

RECOMMENDATION

1. Adopt Resolution 2023-071, declaring a fiscal emergency due to the projected severe deficits in future City budgets.
2. Adopt Resolution 2023-072, to approve the following:
 - a. Call and give notice of a Special Municipal Election for the purpose of submitting to the City's qualified voters the "City of Chino Public Safety, Roads, Essential Services Measure," which enacts the "City of Chino Transactions and Use Tax Ordinance" that establishes a general-purpose one percent retail transactions and use tax measure subject to majority voter approval;
 - b. Request the Board of Supervisors of the County of San Bernardino to consolidate the Special Municipal Election with the Statewide Primary Election to be held on Tuesday, March 5, 2024;
 - c. Provide and set the rules for the filing of arguments for and against the measure and rebuttal arguments;
 - d. Direct the City Attorney to prepare the impartial analysis of the ballot measure; and
 - e. Provide for other election matters as required by law.
3. Conduct first reading of Ordinance to be submitted to City's voters entitled, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHINO, CALIFORNIA, ESTABLISHING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION," reading by title only and waiving further reading.
4. Authorize the Mayor, on behalf of the City Council, to prepare and file a written argument in favor of the proposed measure.
5. Authorize the City Manager to execute all the necessary documents on behalf of the City.
6. Approve an appropriation of \$318,000 from General Fund reserves to fund the sales tax measure special election, voter information activities, and the assessment to administer the new local sales tax.

FISCAL IMPACT

Subject to approval by Chino voters on the March 5, 2024 Special Municipal Election, a 1% local transactions and use tax (sales tax) would take effect pursuant to the timeline specified in

Revenue and Taxation Code §7265, projected to be July 1, 2024. Staff estimates that a 1% local sales tax would generate additional annual revenues for the City of Chino of approximately \$28 million (based on FY 2023-24 sales tax projections). Should voters approve the proposed sales tax measure, amendments to the adopted FY 2023-25 City budget will be brought to the City Council for consideration.

Under Revenue and Taxation Code § 7272, the California Department of Tax and Fee Administration (CDTFA) will assess the City charges to administer the new local sales tax based on actual costs, with a statutory maximum not to exceed \$175,000.

San Bernardino County will incur additional costs by consolidating elections as requested by the City of Chino. The City would be required to reimburse the County for the City's share of the applicable costs, estimated to be \$40,000 based on past elections.

Additionally, the City will need to develop and make available to residents information about the proposed measure, resulting in costs related to public outreach and education, estimated to be \$103,000.

The FY 2023-2025 Budget would be adjusted as follows:

Account	Description	From	To
100	General Fund Reserves	\$318,000	
1002030-43650	City Clerk – Other Contractual		\$ 40,000
1002040-43320	Community Promotion – Training/ Education/ Meetings		\$ 25,000
1002040-43650	Community Promotion – Other Contractual		\$ 78,000
1003000-43515	Fiscal Services –		\$175,000
		<i>\$318,000</i>	<i>\$318,000</i>

CITY OF CHINO MISSION / VISION / VALUES / STRATEGIC ISSUES

The recommendation detailed above further the City's values and strategic issues that serve as key pillars on which identified priorities, goals, and action plans are built, by fostering:

- Positive City Image
- Financial Stability
- Responsible Long-Range Planning

Revenue:	Expenditure:
Transfer In:	Transfer Out:

BACKGROUND

Summary

The Chino City Council will vote on whether to place a measure on the March 5, 2024 ballot to provide Chino voters the option of enacting a secure, locally generated general fund revenue source. The measure for consideration by Chino voters would increase the City's sales tax by 1% to provide an estimated \$28 million annually to maintain essential City services for residents and businesses, including police, 911 emergency medical response, street repair, clean local drinking water, clean and safe public areas, while addressing homelessness, and maintaining senior, veteran, and youth programming. For the proposed measure to pass, a majority +1 vote is required.

City of Chino Budget

The City of Chino receives revenue from numerous sources, including sales tax, property tax, user fees, and development revenue, with the major revenue sources being sales tax and property tax, which account for 67% and 67.5% of total General Fund revenues, respectively, in Fiscal Years 2023-2024 and 2024-2025.

Over time, the City's revenues have increased, and there have been significant infusions of one-time revenues over the last three years. However, while City revenues have increased over time and are expected to continue to do so, it is anticipated that expenditures will outpace revenues yearly for the next 10-year period and beyond. Revenue increases are being absorbed by the escalating operational costs of services, materials, and labor, and increased inflation, which impact the City's ability to provide essential services to the community. Operational costs will "crowd out" capital investments and other strategic opportunities. Additionally, to remain financially sound in the future, City expenditures should be based on ongoing revenues as much as possible.

Over the years, the Chino City Council has taken a fiscally prudent approach to balancing the City budget. During and after the 2008 recession and the COVID-19 pandemic, the City undertook a financially responsible approach to address budget challenges, which included reducing the City's workforce, eliminating programs, and deferring repairs and maintenance. By taking these actions, the City was able to approve operationally balanced budgets.

Consistent with this approach, the City has historically maintained a healthy General Fund reserve with the goal of maintaining adequate reserve levels to mitigate future risks (e.g., revenue shortfalls and unanticipated expenditures).

This method allowed the City to adopt operationally balanced budgets while continuing to provide quality services to its residents and businesses through the recession and COVID-19, but the impact of rising costs associated with providing essential services to residents and businesses, along with the costs to complete deferred maintenance and projects, is projected to result in structural budget deficits in the near future.

General Fund Forecast

On June 20, 2023, the Chino City Council adopted a two-year budget, covering Fiscal Years 2023-2024 and 2024-2025, that anticipates the City of Chino will be operating in a deficit during this period. The City is projecting a structural deficit averaging \$15 million annually starting in FY

2024-2025. This fiscal year, the City's shortfall is projected to be \$5.7 million, with reserves covering the difference.

While the operating deficits will initially be covered by the City's existing General Fund reserves, long-term operating deficits are projected to exhaust General Fund reserves by FY 2028-2029. The City will face significant challenges that may force crucial City services and programs to be reduced or eliminated in the coming years unless additional sources of revenue for the General Fund are secured. Protecting Chino's long-term financial stability is key to maintaining essential City services for residents and businesses, including police, 911 emergency medical response, street repair, clean local drinking water, clean and safe public areas, while addressing homelessness, and maintaining senior, veteran, and youth programming.



The persistent structural budget imbalance is projected to deplete the \$73 million currently in the City's reserves, making the City increasingly vulnerable to emergencies and other unanticipated factors, and threatening its ability to provide essential services.

ISSUES/ANALYSIS

Options to Achieve a Structurally Balanced City Budget

Considering the gravity and severity of the anticipated fiscal crisis, staff was directed to evaluate potential expenditure reductions as well as existing and potential revenue sources to ensure a City budget that is both operationally and structurally balanced.

Should the City remain in the status quo, it will become more difficult to protect the City's valued quality-of-life programs and maintain vital services. To address higher costs, the City Council will be required to prioritize the mandatory services needed to operate the City and may have to drastically reduce, eliminate, or choose among essential functions and services.

Revenue Options

To protect Chino's future and maintain the current standard of service, the City has explored different approaches to generate revenue, with the goal of securing a stable, reliable source of general-purpose funding.

The revenue sources considered include:

- **User Fees** – A city-wide cost-of-service study was recently conducted, and fees were adjusted. However, user fees are designed to cover the cost of providing a particular service and do not provide for general operating revenues.
- **Grants** – The City identifies and pursues a wide variety of grants to fund projects and services. Most grants, however, provide only one-time funds for specific purposes.
- **Fines and Penalties** – The levying and collection of fines and penalties is labor-intensive and costly, reducing the benefits of potential increases for purposes of increasing revenues.
- **Investment Earnings** – The City invests to maximize interest earnings; however, investment earnings are subject to market environments and cannot be relied upon to cover operations.
- **Taxes** – Property and parcel taxes are subject to 2/3 voter approval. A transient occupancy tax, also known as hotel tax, would not provide a significant revenue source in Chino.

A balanced mix of revenues contributes to the long-term financial sustainability of the City and allows the City to plan for the future, invest in infrastructure improvements, and address emerging challenges without relying solely on short-term fixes.

Expenditure Reductions

Without significant additional revenues, the City will have to make drastic cuts in those critical areas where it has the flexibility to do so, resulting in potential impacts to:

- **Public Safety** – Inability to staff needed police officer positions; increase in emergency response times; reduced capability to keep gangs and criminals out of Chino.
- **Infrastructure** – Inability to replace aging parks, equipment, and facilities; and maintain street infrastructure.
- **Community Services** – Reduce or eliminate programs and events such as youth programming, senior services, mental health services, social services, and special events.
- **Maintenance and Facilities** – Reduce the maintenance schedule for parks and facilities; reduce streets rehabilitation schedule.

Without additional general revenues, the City would be forced to prioritize basic and mandated services that do not provide for enhancing the quality of life or maintenance of the community.

Road, parks, and facilities maintenance expenditures are among those projected to have the most significant negative impact on the City's General Fund reserves. However, based on the needs identified in the recently completed Pavement Management Plan and Parks & Facilities Master Plan, continuing to defer maintenance puts these valuable assets at risk of accelerated deterioration and needed replacement, in addition to negatively impacting the residents and businesses that rely on these facilities.

Recommendation – Increase Revenues through Sales Tax

Given the limited options for increasing revenues to the levels needed to keep up with inflation and the exponentially increasing costs of materials, labor, utilities, and other operational factors, a local sales tax increase provides the best available option to ensure dedicated annual revenue to address the City's fiscal emergency and ensure that Chino can continue to provide critical essential services. Additionally, a local sales tax measure guarantees that local funds remain in Chino.

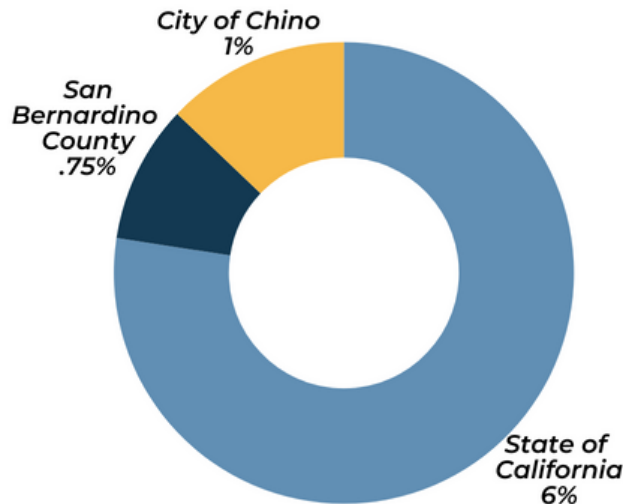
Transactions and Use Tax (Sales Tax)

The California Department of Tax and Fee Administration (CDTFA) collects the sales and use tax from local retailers selling tangible personal property or from the users of tangible personal property purchased from retailers outside of the State of California. California cities currently receive 1% of the total sales tax rate within its jurisdiction, which is known as the Bradley-Burns Uniform Local Sales & Use Tax.

Chino's sales tax rate is currently 7.75%, of which the City receives 1%. The State of California receives 6%, and San Bernardino County receives the remaining 0.75%. The current 1% local Bradley-Burns rate is a general tax and is allocated to all cities in California. It is unrestricted and received into the General Fund for general city services.

CURRENT BREAKDOWN OF CHINO SALES TAX

Sales Tax Breakdown with **Current 7.75%** Rate



State law authorizes city and county residents to adopt local transactions and use taxes in addition to the basic Bradley Burns tax. The local portion of the sales tax that a county and a city within that county can levy together is capped at 2%.

The San Bernardino County Transportation Authority (SBCTA) currently collects 0.75% per dollar of sales, of which 0.5% has been approved by the voters of San Bernardino, leaving 1.5% available for other local sales taxes.

If the County or other local districts or agencies pass additional local sales tax measures, those would also apply toward the cap. Once the 2% cap is met in Chino, Chino voters would no longer be able to implement a local sales tax measure to support local City services. The City of Chino would, instead, become part of the County funding pool and receive only a portion of those taxes to support its programs.

If Chino voters approve a local 1% sales tax measure, which is still under the 2% cap, all the tax dollars from that measure will be allocated locally to Chino to support its services.

Comparison of Local Sales Tax Rates

The proposed 1% measure will keep Chino competitive with other cities in the region, many of which already have local sales tax rates equal to or higher than what is being proposed for Chino (8.75%). The additional revenue generated by these cities has allowed them to make important investments in their communities. Ontario, for example, is receiving approximately \$100 million more a year as a result of its local sales tax measure.

In 2022 alone, 70 cities in California pursued sales tax increases to generate revenues for their communities, with many others expected to consider tax increases in the future.

SALES TAX RATES IN NEIGHBORING CITIES

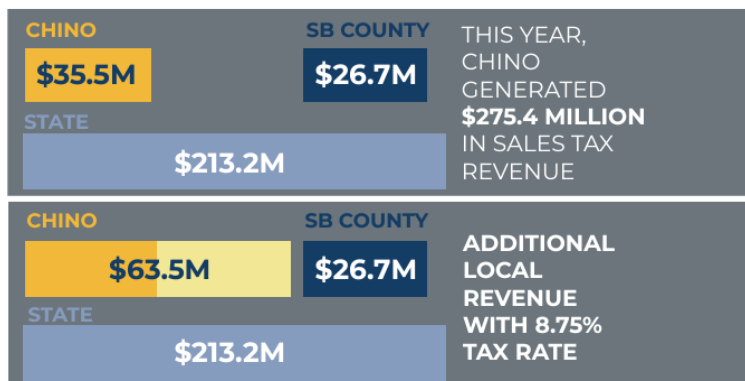
- Ontario 8.75%
- Corona 8.75%
- Redlands 8.75%
- San Bernardino 8.75%
- Montclair 9.0%
- Claremont 9.5%
- Riverside 8.75%
- Murrieta 8.75%
- Pomona 10.25%

Sales Tax Break Down with Local Sales Tax Increase

The funds from the proposed Chino sales tax measure would be locally generated and, therefore, safe from seizure by the State or other entities. These funds would additionally enable the City to invest in services and infrastructure of priority to the Chino community and help support and maintain the quality of life for Chino residents and businesses. Increasing locally controlled revenue funds will help stabilize Chino’s finances and will allow the City to continue to provide necessary services essential to the safety and quality of life of the community.

LOCAL REVENUE

Currently, Chino’s local sales tax is 7.75%, but the City only receives a small portion of the sales tax revenue generated.



Next steps

To provide Chino voters the option of approving a 1% sales tax increase to fund critical City services, the Chino City Council must unanimously approve Resolution No. 2023-071 declaring a fiscal emergency. This allows the City Council to proceed to call for a Special Municipal Election on March 5, 2024, to allow Chino voters to consider a general tax measure to address the fiscal emergency.

By adopting Resolution No. 2023-072, the City Council calls for the Special Municipal Election on March 5, 2024 and requests its consolidation with the Statewide Primary Election. It also approves the ordinance enacting the 1% sales tax increase, subject to voter approval at the election. The resolution directs the City Attorney to prepare an impartial analysis of the measure and authorizes the Mayor on behalf of the City Council to prepare an argument in favor of the measure and a rebuttal of an argument filed against the measure if required.

A two-thirds (i.e., 4 Councilmembers) vote of all members of the City Council (Gov. Code Section 53724(b); Rev. & Taxation Code Section 7285.9) will be required to pass Resolution No. 2023-72 to order the submission of the proposed sales tax ordinance to the voters.

On March 5, 2024, City of Chino qualified voters would vote on the following ballot question:

City of Chino Public Safety, Roads, Essential Services Measure	
<i>Shall the measure providing Chino funding for general government use, such as maintaining 911 response, police/fire protection; recruiting/retaining well-trained police officers; preventing crime; repairing streets/potholes; protecting local drinking water sources; addressing homelessness; maintaining veterans/senior/youth/ afterschool programs by enacting a 1¢ sales tax providing approximately \$28,000,000 annually until ended by voters; requiring audits/public spending disclosure/all funds benefitting Chino residents, be adopted?</i>	YES
	NO

Impact and Applicability

Should the majority of qualified voters (50% + 1) vote “Yes” on the proposed measure, a 1% increase to the City of Chino sales tax will be enacted, generating approximately \$28 million annually in General Fund revenue.

For those making applicable purchases in the City of Chino, the sales tax will cost an additional .01¢ per \$1.00 spent on taxable goods or .10¢ for every \$10.00 spent. The proposed sales tax

excludes groceries, medical and dental services, real estate, rent, utilities, education, personal services, and labor.

AN 8.75% TAX RATE MEANS...

AN ADDITIONAL ONE PENNY PER \$1 SPENT ON QUALIFYING PURCHASES

AND THE SALES TAX DOES NOT APPLY TO THE FOLLOWING:

- EDUCATION
- MEDICINE
- GROCERIES
- LABOR
- HOUSING

Additionally, a portion of the City's sales tax revenues are generated by non-residents, thus providing an opportunity for non-Chino residents to contribute their fair share to the community while enjoying the City's amenities.

Increasing the sales tax by 1% is not likely to push residents and non-residents to shop in nearby cities instead of Chino, as many cities adjacent to and nearby Chino already have higher sales tax rates than Chino, as previously noted.

Unfunded Infrastructure and Neighborhood Improvement Projects

To support the preservation of the City's existing quality of life services and allow for the City to begin addressing \$260 million in unfunded infrastructure and neighborhood improvement projects over the next 5 years, new revenue is required. It is important to secure the needed revenues as soon as possible, given that the costs of these projects continue to rise over time, further exacerbating the budget deficits and the severity of the City's fiscal emergency. Many of these unfunded projects are necessary for the well-being of the Chino community as they support safe neighborhoods, quality infrastructure, and reliable, high-quality services that attract businesses and residents. Funding these infrastructure and neighborhood improvement projects invests in Chino's future.

By enacting a 1% sales tax, the City will be able to address the budget imbalance and fiscal emergency as well as ***start to fund important infrastructure projects the City hopes to complete within the next 5 years***, such as:

- **Public Safety - \$9.9 MILLION** for a Police substation, Fire station repairs and improvements, and maintaining 911 emergency response times.
- **Homeless Intervention & Mental Health Services - \$6.3 MILLION** to provide support for individuals and families with children.
- **Parks, Recreation, & Community Beautification - \$45.8 MILLION** for maintenance, lighting and safety improvements; and restroom, ballfield, and court improvements.
- **Local Drinking Water & Improving Flood Control - \$120.3 MILLION** for improvements to Chino's drinking water and to purify and reclaim wastewater to help Chino withstand droughts.
- **City-Wide Fiber Internet Services - \$3.2 MILLION** for community-wide fiber and internet services.

- **Streets & Sidewalks - \$38 MILLION** for repairs, construction, and safety improvements to enhance traffic flow.

Accountability

The City of Chino Public Safety, Roads, Essential Services Measure includes numerous accountability provisions, such as public disclosure of all spending and annual independent financial audits, ensuring that funds from this measure will be used efficiently, effectively, and as intended. The City is required to publicly report on the expenditure of revenues, including the revenues generated by the proposed sales tax measure.

Importantly, the revenues generated by the measure will be under local control to provide general local services and will be spent on quality-of-life services and programs benefitting Chino residents and businesses. By law, the State and County cannot take this funding away.

Overview of the City of Chino Public Safety, Roads, Essential Services Measure

The ballot measure proposed for voter consideration:

- Enacts a 1% local sales tax for general City purposes
- Generates approximately \$28 million annually
- Places all funds generated by the measure in the City's General Fund for maintaining essential city services for residents and businesses, including police, 911 emergency medical response, street repair, clean local drinking water, clean and safe public areas, while addressing homelessness, and maintaining senior, veteran, and youth programming, as determined each year by the City Council through the budget approval process
- Includes the funds generated by the sales tax in the City's annual independent audit
- Is subject to the City Council's annual review and report on expenditures
- Ensures that these locally generated revenues remain in Chino

Attachments:

1. Resolution No. 2023-071 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHINO, CALIFORNIA, UNANIMOUSLY DECLARING A FISCAL EMERGENCY.
2. Resolution No. 2023-072 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHINO, CALIFORNIA, CALLING AND GIVING NOTICE OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, MARCH 5, 2024.

RESOLUTION NO. 2023-071

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHINO, CALIFORNIA, UNANIMOUSLY DECLARING A FISCAL EMERGENCY PURSUANT TO ARTICLE XIII C SECTION 2(b) OF THE CALIFORNIA CONSTITUTION

WHEREAS, pursuant to Article XIII C, Section 2(b) of the California State Constitution, an election to impose a general tax is required to be consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by unanimous vote of the governing body; and

WHEREAS, the City Council may act to submit to the voters at the special municipal election to be held on March 5, 2024 (an election which does not include the election of a person to membership on the City Council) a question related to the imposition of a general tax, if a fiscal emergency is declared; and

WHEREAS, the City of Chino ("City") faces severe budget pressures due to continued increases in operating expenditures significantly outpacing increases in revenue; and

WHEREAS, protecting the City's long-term financial stability is key to maintaining essential city services for residents and businesses, including police, 911 emergency medical response, street repair, clean local drinking water, clean and safe public areas, while addressing homelessness, and maintaining senior, veteran, and youth programming; and

WHEREAS, the City is facing a financial crisis. In Fiscal Year 2023-2024, the City shortfall is projected to be \$5.7 million, with reserves covering the difference. Starting in Fiscal Year 2024-2025, the City is projecting a structural deficit of \$15 million on average annually; and

WHEREAS, after reviewing the Fiscal Year (FY) 2023-2025 budget, which outlines \$118 million and \$118.7 million in expenditures for 2023-2024 and 2024-2025 budgets, respectively, it is estimated that the City's current needs require an additional \$15 million on average annually, which would deplete the \$73 million currently in reserves by FY 2028-29; and

WHEREAS, the City Council wishes to declare a fiscal emergency as that term is used in Article XIII C, section 2(b) of the California State Constitution; and

WHEREAS, the City Council undertook a financially responsible approach to overcoming hurdles in the years during and after the recession and COVID-19 to balance the budget, which included reducing the City's workforce, eliminating programs, and deferring repairs and maintenance; and

WHEREAS, while having an operationally balanced budget, the City has approximately \$260 million in unfunded infrastructure and neighborhood improvement projects that, over time, will become more expensive to address; and

WHEREAS, unless addressed, the City will be facing challenges that may force essential City services and programs to be reduced or eliminated in the coming years if additional sources of revenue for the General Fund are not identified; and

WHEREAS, it will become more difficult to protect the City's valued quality of life

programs and maintain essential City services including police, 911 emergency medical response, street repair, clean local drinking water, clean and safe public areas, while addressing homelessness, and maintaining senior, veteran, and youth programming; and

WHEREAS, additional locally controlled funding is needed to address service priorities including police, 911 emergency medical response, street repair, clean local drinking water, clean and safe public areas, while addressing homelessness, and maintaining senior, veteran, and youth programming; and

WHEREAS, local control over taxpayer dollars will help to ensure more money stays in the City for essential local services and help to maintain the level of service residents expect and deserve; and

WHEREAS, despite the City's sound management and disciplined control of its financial health, the City's ability to sustain local services in the future is seriously threatened by the fiscal crisis the City faces; and

WHEREAS, even with these fiscal difficulties, the City seeks to continue to maintain the same level of essential City services for the benefit of its residents, including police, 911 emergency medical response, street repair, clean local drinking water, clean and safe public areas, while addressing homelessness, and maintaining senior, veteran, and youth programming; and

WHEREAS, it is in the best interests of the public welfare of the residents and businesses of the City to avoid future cuts to essential City services; and

WHEREAS, the City's fiscal crisis herein described is of sufficient gravity and severity that the City Council may propose that the electorate approve a one cent (1¢) Transaction and Use Tax, increasing the overall combined (state, county, district, and local) tax rate in the City from 7.75% to 8.75%, to be in effect until ended by the voters.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CHINO, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. That the foregoing recitals are true and correct, and are incorporated herein by reference.

Section 2. The City Council hereby makes the following written findings supporting the declaration of said fiscal emergency:

A. The City experienced a budget shortfall of \$5.7 million, with reserves covering the difference in Fiscal Year 2023-2024;

B. The City is projected to see a structural deficit of \$15 million on average annually starting in Fiscal Year 2024-2025;

C. The City is facing challenges that may force essential City services and programs to be reduced or eliminated in the coming years if additional sources of revenue for the General Fund are not identified;

D. The projected depletion of the \$73 million currently in reserves by Fiscal Year 2028-2029; and

E. The City Council has taken actions to eliminate programs and defer repairs and maintenance that did not affect services to the community, but reduced expenditures. However, to sustain the current levels of service, the City must consider additional revenue sources.

That based upon the foregoing, the City Council hereby unanimously finds and declares a fiscal emergency, as the term "emergency" is used in Article XIII C, Section 2(b) of the California Constitution, now exists in the City of Chino justifying calling for a special municipal election on March 5, 2024, in order that the City may propose, and the City voters may consider, adoption of a general tax measure intended to address that emergency by ensuring that the City has the resources necessary to preserve the public health, safety, and welfare in the future.

Section 3. That the City Clerk shall certify to the passage and adoption of this Resolution. This Resolution shall be effective immediately upon passage and adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Chino, California, at a regular meeting held on the 21st day of November, 2023.

EUNICE M. ULLOA, MAYOR

ATTEST:

NATALIE GONZAGA, CITY CLERK

APPROVED AS TO FORM:

FRED GALANTE, CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) ss
CITY OF CHINO)

I, Natalie Gonzaga, City Clerk of the City of Chino, do hereby certify that the foregoing Resolution was duly adopted by the City Council at a regular meeting held on the 21st day of November 2023, by the following votes:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

NATALIE GONZAGA, CITY CLERK

RESOLUTION NO. 2023-072

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHINO, CALIFORNIA, CALLING AND GIVING NOTICE OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, MARCH 5, 2024, BY SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF CHINO TO CONSIDER APPROVAL OF THE CITY OF CHINO PUBLIC SAFETY, ROADS, AND ESSENTIAL SERVICES PROTECTION MEASURE, AN ORDINANCE OF THE CITY OF CHINO TO ADOPT A ONE CENT (1¢) TRANSACTION AND USE TAX, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BERNARDINO TO CONSOLIDATE THE CITY'S SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, MARCH 5, 2024, WITH THE STATEWIDE PRIMARY ELECTION TO BE HELD ON THAT DATE; AND OTHER ELECTION MATTERS AS REQUIRED BY LAW

WHEREAS, the City Council of the City of Chino wishes to submit the City of Chino Public Safety, Roads, & Essential Services Protection Measure to the voters at the March 5, 2024, Statewide Primary Election; and

WHEREAS, Section 9222 of the California Elections Code authorizes the City Council of the City of Chino to submit to the voters of the City of Chino, without a petition therefor, a proposition to enact any ordinance to be voted upon at any succeeding regular or special election, and if the proposition submitted receives a majority of the votes cast on it at the election, the ordinance shall be enacted accordingly; and

WHEREAS, it is desirable that the Special Municipal Election be consolidated with the Statewide Primary Election to be held on the same date and time and within the City precincts, polling places and election officers of the two elections be the same, and that the San Bernardino County Registrar of Voters canvass the returns of the Special Municipal Election and the election be held in all respects as if there were only one election; and

WHEREAS, in the course of conduct of the election it is necessary for the City to request that the Board of Supervisors of the County of San Bernardino permit the County Elections Official to provide services related to the Special Municipal Election to be held on March 5, 2024; and

WHEREAS, the Chino Public Safety, Roads, Essential Services Measure would raise the local sales tax by 1% and, if approved, would generate an estimated \$28,000,000 each year of new and local revenue, until ended by voters, to protect and maintain City services that directly benefit the residents and businesses of Chino; and

WHEREAS, on this November 21, 2023 date, by unanimous approval, the City Council adopted Resolution No. 2023-071, declaring a fiscal emergency due to the severe future budget deficits projected.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CHINO, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. Pursuant to the laws of the State of California relating to elections, a special municipal election is hereby called and ordered to be held in the City of Chino, California, on Tuesday, March 5, 2024, for the purpose of submitting to the City's qualified voters the attached tax ordinance which shall be operative if a majority of the electors voting on the

measure vote to approve the imposition of the tax at an election called for that purpose.

Section 2. That the City Council of the City of Chino, pursuant to its right and authority, hereby orders submitted to the voters at a Special Municipal Election, to be consolidated with the Statewide Primary Election, to be held on Tuesday, March 5, 2024, the following question:

<p>“City of Chino Public Safety, Roads, Essential Services Measure Shall the measure providing Chino funding for general government use, such as maintaining 911 response, police/fire protection; recruiting/retaining well-trained police officers; preventing crime; repairing streets/potholes; protecting local drinking water sources; addressing homelessness; maintaining veterans/senior/youth/afterschool programs by enacting a 1¢ sales tax providing approximately \$28,000,000 annually until ended by voters; requiring audits/public spending disclosure/all funds benefitting Chino residents, be adopted?”</p>	YES
	NO

Section 3. The Ordinance submitted to the voters for enactment is attached hereto as Exhibit “A” and incorporated herewith. The City Clerk shall print the ordinance to be submitted to the voters of the City of Chino and shall make a copy thereof available to any voter upon request. The City Clerk is hereby authorized and directed to make any typographical, clerical, non-substantive corrections to the text of the attached Ordinance and this Resolution (including, but not limited to, the question to be submitted to the City's voters as provided in Section 2) as required to conform to any requirements of law.

Section 4. The Special Municipal Election for the ordinance to be submitted to the voters of the City of Chino is ordered to be held on Tuesday, March 5, 2024.

Section 5. The vote requirement for the measure to pass is a majority (50%+1) of the votes cast.

Section 6. The ballots to be used at the Special Municipal Election shall be in form and content as required by law.

Section 7. The City Council authorizes its City Clerk to administer the Special Municipal Election, consistent with the consolidation of the election.

Section 8. Pursuant to California Election Code Section 10242, the polls for the Special Municipal Election shall open at seven o'clock a.m. on the day of the election, and shall remain open continuously from that time until eight o'clock p.m. of the same day when the polls shall be closed, except as otherwise provided in California Election Code Section 14401.

Section 9. That notice of the time and place of holding the Special Municipal Election is

hereby given and the City's City Clerk is authorized, instructed and directed to give further or additional notice of the election, in the time, form and manner required by law.

Section 10. Pursuant to Sections 10402 and 10403 of the California Elections Code, the San Bernardino County Board of Supervisors is hereby requested to consent and agree to the consolidation of the submission of the aforementioned measure at the Special Municipal Election with the Statewide Primary Election conducted by San Bernardino County to be held on Tuesday, March 5, 2024. The City Council of the City of Chino further requests the Board of Supervisors of the County of San Bernardino to permit and to issue instructions to the County Elections Official to take the necessary steps to conduct the election and canvass the returns for the aforementioned measure to be submitted to the voters of the City of Chino at the Special Municipal Election to be held on Tuesday, March 5, 2024, and the City of Chino hereby agrees to reimburse the County of San Bernardino for the costs incurred because of this special municipal election.

Section 11. That in all particulars not recited in this Resolution, the Special Municipal Election shall be held and conducted in accordance with the provisions of law regulating municipal and statewide elections, including, but not limited to, Elections Code Section 10418.

Section 12. The San Bernardino County Registrar of Voters is authorized to canvass the returns of the Special Municipal Election. The Special Municipal Election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

Section 13. The City Clerk is hereby directed to file a certified copy of this Resolution, together with the attached Ordinance, with the Board of Supervisors and with the Elections Official of the County of San Bernardino.

Section 14. Pursuant to Sections 9280 through 9287 of the California Elections Code, arguments for or against the measure and rebuttal arguments shall be submitted and selected as follows:

a. Pursuant to California Elections Code Section 9282, the City Council or any member thereof authorized by the City Council may prepare and file a written argument in favor of the proposed measure, not to exceed three hundred (300) words, on behalf of the City Council. In the event that an argument is filed against the measure, the Mayor is authorized to prepare a rebuttal argument on behalf of the City Council, which may also be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote on the measure.

b. The last day for submission of primary arguments for or against the measure shall be December 11, 2023 at 5:30 p.m. pursuant to Election Code Section 9286 and shall be accompanied by Statement Form 9600 pursuant to Elections Code Section 9600. All primary arguments may be changed or withdrawn until and including the last day for submission of primary arguments, after which time no arguments for or against the aforementioned measure may be submitted to the City Clerk.

c. Primary arguments (1) shall not exceed three hundred (300) words; (2) shall be filed with the City Clerk; and (3) shall be accompanied by the printed name(s) and signature(s) of the person(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of the principal officers who is the author of the argument.

d. In the event that more than one argument for or against the measure is timely submitted, the City Clerk shall give preference and priority in the order set forth

at California Elections Code Section 9287.

e. Pursuant to California Elections Code Section 9285, when the City Clerk has selected the arguments for and against the measure, which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the primary arguments. Each rebuttal argument shall immediately follow the primary argument that it seeks to rebut.

f. The last day for submission of rebuttal arguments for or against the measure shall be December 21, 2023 at 5:30 p.m. pursuant to Election Code Section 9285 and shall be accompanied by Statement Form 9600 pursuant to Elections Code Section 9600.

g. Rebuttal arguments shall not exceed two hundred fifty (250) words and shall be signed by not more than five persons. The author or a majority of the authors of a primary argument relating to the aforementioned measure may prepare and submit a rebuttal argument. A rebuttal argument may not be signed by more than five (5) authors.

Section 15. The City Council hereby directs the City Clerk to transmit a copy of the aforementioned measure to the City Attorney. In accordance with California Elections Code Section 9280, the City Attorney is hereby directed to prepare an impartial analysis of the measure, not to exceed five hundred (500) words in length, showing the effect of the measure on the existing law and the operation of the measure. The analysis shall include a statement indicating whether the measure was placed on the ballot by a petition signed by the requisite number of voters or by the governing body of the city. In the event the entire text of the measure is not printed on the ballot, nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-point bold type, a legend substantially as follows: "The above statement is an impartial analysis of Ordinance or Measure ____ . If you desire a copy of the ordinance or measure, please call the elections official's office at (insert telephone number) and a copy will be mailed at no cost to you." The impartial analysis shall be filed with the City Clerk by December 11, 2023 at 5:30 p.m. for the submission of the impartial analysis in the voter's pamphlet materials.

Section 16. The City Clerk shall cause the City Attorney's Impartial Analysis, and duly selected arguments, to be printed and distributed to voters in accordance with State law regarding same.

Section 17. The City Clerk is directed to transmit this Resolution to the City Attorney. The City Attorney is hereby directed to prepare a synopsis of the Ordinance that shall be published in lieu of the proposed Ordinance with the Notice of Election as provided by section 36933 of the Government Code and section 12111 of the Elections Code.

Section 18. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

Section 19. The Ordinance is attached as Exhibit A and is made a part hereof.

Section 20. That this Resolution is effective on the day of its adoption.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Chino, California, at a regular meeting held on the 21st day of November, 2023.

EUNICE M. ULLOA, MAYOR

ATTEST:

NATALIE GONZAGA, CITY CLERK

APPROVED AS TO FORM:

FRED GALANTE, CITY ATTORNEY

Attachment: Exhibit A Ordinance 2024-____

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) ss
CITY OF CHINO)

I, Natalie Gonzaga, City Clerk of the City of Chino, do hereby certify that the foregoing Resolution was duly adopted by the City Council at a regular meeting held on the 21st day of November 2023, by the following votes:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

NATALIE GONZAGA, CITY CLERK

Exhibit "A"**ORDINANCE NO. 2024-____****AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHINO, CALIFORNIA, ESTABLISHING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION**

THE PEOPLE OF THE CITY OF CHINO DO HEREBY ORDAIN AS FOLLOWS:

WHEREAS, Article XIIC, Section 2 of the California Constitution authorizes a city to impose a general tax if approved by a majority vote of the qualified electors; and

WHEREAS, pursuant to Article XIIC, the general tax may be approved at a special election in cases of emergency with the unanimous approval of the governing body; and

WHEREAS, Part 1.6 (commencing with Section 7251) of Division 2 of the California Revenue and Taxation Code, and Section 7285.9 of the California Revenue and Taxation Code, authorizes a city to adopt a transactions and use (sales) tax ordinance, which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose; and

WHEREAS, the City of Chino ("City") faces severe budget pressures due to continued increases in operating expenditures significantly outpacing increases in revenue; and

WHEREAS, protecting the City's long-term financial stability is key to maintaining essential city services for residents and businesses, including police, 911 emergency medical response, street repair, clean local drinking water, clean and safe public areas, while addressing homelessness, and maintaining senior, veteran, and youth programming; and

WHEREAS, the City is facing a financial crisis. The City is projecting a structural deficit of \$15 million on average annually starting in fiscal year 2024-2025. In Fiscal Year 2023-2024, the City shortfall was \$5.7 million, with reserves covering the difference; and

WHEREAS, based on the current Fiscal Year (FY) 2023-2025 budget, which outlines \$118 million and \$118.7 million in expenditures for the FY 2023-2024 and FY 2024-2025 budgets, respectively, it is estimated that the City's current needs require an additional \$15 million on average annually, which would deplete the \$73 million currently in reserves today by FY 2028-29; and

WHEREAS, the City Council undertook a financially responsible approach to overcoming hurdles in the years during and after the recession and COVID-19 to balance the budget, which included reducing the City's workforce, eliminating programs, and deferring repairs and maintenance; and

WHEREAS, while having an operationally balanced budget, the City has approximately \$260 million in unfunded infrastructure and neighborhood improvement projects that, over time, will become more expensive to address; and

WHEREAS, unless addressed, the City will be facing challenges that may force essential City services and programs to be reduced or eliminated in the coming years if additional sources of revenue for the General Fund are not identified; and

WHEREAS, it will become more difficult to protect the City's valued quality of life programs and maintain essential City services including police, 911 emergency medical response, street repair, clean local drinking water, clean and safe public areas, while addressing homelessness, and maintaining senior, veteran, and youth programming; and

WHEREAS, additional locally controlled funding is needed to address service priorities including police, 911 emergency medical response, street repair, clean local drinking water, clean and safe public areas, while addressing homelessness, and maintaining senior, veteran, and youth programming; and

WHEREAS, local control over taxpayer dollars will help to ensure more money stays in the City for essential local services and help to maintain the level of service residents expect and deserve; and

WHEREAS, on November 21, 2023, by unanimous approval, the City Council of the City adopted Resolution No 2023-071, declaring a fiscal emergency due to the severe expected budget deficits in the City; and

WHEREAS, this Ordinance will maintain funding for vital City services and help implement the needs and plans of the City by establishing a general tax; and

WHEREAS, this Ordinance creates a locally-controlled funding source that can only be used for local services and address local priorities, which is legally-protected from being taken by the State; and

WHEREAS, this Ordinance requires strict fiscal accountability, such as public spending reports, and annual independent audits to ensure all funds are spent responsibly.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF CHINO AT THE MARCH 5, 2024 SPECIAL ELECTION DO RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. ADOPTION OF NEW CHAPTER. A new Chapter 3.18 is hereby added to the Chino Municipal Code to read as follows:

"Chapter 3.18
TRANSACTIONS AND USE TAX

3.18.010 Title.

This ordinance shall be known as the "City of Chino Transactions and Use Tax Ordinance." The City of Chino hereinafter shall be called "city." This ordinance shall be applicable in the incorporated territory of the city.

3.18.020 Operative date.

"Operative date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance by the electorate, the date of such adoption being as set forth below.

3.18.030 Purpose.

This ordinance is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the city to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter.

3.18.040 Contract with state.

Prior to the operative date, the city shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the city shall not have contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

3.18.050 Transactions tax rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the city at the rate of one cent per dollar (1%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of this ordinance.

3.18.060 Place of sale.

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the state or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

3.18.070 Use tax rate.

An excise tax is hereby imposed on the storage, use or other consumption in the city of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of one cent per dollar (1%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

3.18.080 Adoption of provisions of state law.

Except as otherwise provided in this chapter and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this chapter as though fully set forth herein.

3.18.090 Limitations on adoption of state law and collection of use taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this city shall be substituted therefor. However, the substitution shall not be made when:

1. The word "state" is used as a part of the title of the State Controller, State Treasurer, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this city or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this ordinance.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the state under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "city" shall be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 and in the definition of that phrase in Section 6203.

The words "A retailer engaged in business in the city" shall also include any retailer that, in the preceding calendar year or the current calendar year, has total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

3.18.100 Permit not required.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

3.18.110 Exemptions and exclusions.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the city which is shipped to a

point outside the city, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the city shall be satisfied:

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-city address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-city and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this city of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this

ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the city shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the city or participates within the city in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the city or through any representative, agent, canvasser, solicitor, subsidiary, or person in the city under the authority of the retailer or meets the requirements of a retailer engaged in business in the City Section 3.18.090(B).

7. "A retailer engaged in business in the city" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the city.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

3.18.120 Amendments.

All amendments subsequent to the effective date of this ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

3.18.130 Enjoining collection forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the state or the city, or against any officer of the state or the city, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

3.18.140 Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

3.18.150 Effective date.

This chapter levying the tax described herein shall be effective ten (10) days after the date on which the City Council has declared that the voters of the City of Chino have approved the ordinance by a vote of no less than a majority of the votes cast by the electors voting on the tax measure set forth in this chapter at that special municipal election to be held on March 5, 2024.

3.18.160 Termination date.

The authority to levy the tax imposed by this ordinance shall not expire unless terminated by lawful vote of the electorate or as required or authorized by law.”

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The people of the City of Chino hereby declare that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

SECTION 3. CEQA. The adoption of this ordinance is not a “project” subject to the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code Section §§ 21000 *et seq.*). CEQA Guideline § 15378(b)(4) provides that the creation of government funding mechanisms or other government fiscal activities that do not involve any commitment to a specific project that may result in a potentially significant physical impact on the environment are not projects subject to the requirements of CEQA.

SECTION 4. APPROPRIATIONS LIMIT. Pursuant to Article XIII B of the California Constitution, the appropriations limit for the City of Chino is increased to the maximum extent over the maximum period of time allowed under the law consistent with the revenues generated by this tax.

SECTION 5. EXECUTION. The Mayor shall sign this Ordinance and the City Clerk shall attest and certify to the approval thereof and cause same to be published at least once in a weekly newspaper of general circulation, published in the City of Chino, which newspaper is hereby designated for that purpose (GC § 40806). This Ordinance shall only be in effect following the approval of a majority of the voters at an election on March 5, 2024, as certified by the election official.

SECTION 6. CERTIFICATION. The City Clerk of the City of Chino shall certify that this ordinance was passed, approved and adopted by the People of the City of Chino, California, voting on the 5th day of March, 2024.

This Ordinance was approved by the City on November 21, 2023.

PASSED, APPROVED and ADOPTED this ___ day of _____, 2024.

By: _____
EUNICE M. ULLOA, MAYOR

ATTEST:

By: _____
NATALIE GONZAGA, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) §
CITY OF CHINO)

I, Natalia Gonzaga, City Clerk of the City of Chino do hereby certify that the foregoing Ordinance of the City of Chino was duly adopted by said City Council at a regular meeting held on the ___ day of _____ 2024 by the following vote:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

By: _____
NATALIE GONZAGA, CITY CLERK

**MEMORANDUM
CITY OF CHINO
ADMINISTRATION DEPARTMENT**

CITY COUNCIL MEETING DATE: NOVEMBER 21, 2023

TO: MAYOR AND CITY COUNCIL MEMBERS, CITY OF CHINO
FROM: COUNCIL MEMBER CHRISTOPHER FLORES

SUBJECT

Community Support Fund – Council Member Flores.

RECOMMENDATION

Approve community support fund contribution of \$500 to the Chino High School Sports Boosters Football Program.

FISCAL IMPACT

Sufficient funds have been included in the Fiscal Year 2023-24 Operating Budget.

CITY OF CHINO MISSION / VISION / VALUES / STRATEGIC ISSUES

The recommendation detailed above further the City’s values and strategic issues that serve as key pillars on which identified priorities, goals, and action plans are built, by fostering:

- Positive City Image
- Superior Customer Service
- Exemplary Leadership
- Public Service Excellence through Internal and External Partnerships

Revenue:	Expenditure: 1002000 43300 N2032
Transfer In:	Transfer Out:

BACKGROUND

The City of Chino is fortunate to have multiple non-profits and community groups dedicated to serving the public and preserving Chino's unique history. To assist in their ongoing efforts, the City Council from time to time authorizes expenditures from the City's community support fund. These expenditures serve a valid public purpose by helping to continue the outstanding services that these organizations provide to our community.

ISSUES/ANALYSIS

To continue this tradition, Council Member Flores recommends that the City Council approve a \$500 contribution to the Chino High School Sports Boosters for the football program. The Chino High School Sports Boosters works in conjunction with Chino High School to help promote and support the athletic programs with items such as uniforms, athletic equipment, special events, and scholarships.

By approving this contribution, the Chino High School Sports Boosters will be better equipped to provide services to our community and our youth. Therefore, as proposed by Council Member Flores, staff recommends that the City Council approve the community support contribution to the Chino High School Sports Boosters.