

Contract No.: 2021056 A1

Approved: 11/5/2024

**FIRST AMENDMENT
TO
SUBDIVISION IMPROVEMENT AGREEMENT
PARCEL MAP NO. 19756**

THIS FIRST AMENDMENT TO SUBDIVISION IMPROVEMENT AGREEMENT ("Amendment No. 1") is made and entered into this 5th day of November 2024 ("Effective Date"), by and between the CITY OF CHINO, a municipal corporation, organized and existing in the County of San Bernardino ("CITY"), and RICHLAND VENTURES, INC., a California corporation ("DEVELOPER"). CITY and DEVELOPER are hereinafter referred to individually as "Party" and hereinafter referred to collectively as the "Parties."

RECITALS

WHEREAS, the Parties entered into a Subdivision Improvement Agreement dated May 19, 2020 (the "Agreement") for Parcel Map No. 19756, as presented by DEVELOPER. This Agreement pertains to a 1.2 million-square-foot light industrial business center located on 72.77 acres within the Airport Related land-use designation of The Preserve Specific Plan area, generally situated in The Preserve on the east and west sides of Quality Way, between Kimball and Bickmore Avenues (the "Project"); and

WHEREAS, as part of the conditions of approval, DEVELOPER is required to design and construct public improvements, including but not limited to storm drain, street, water, and sewer improvements on Kimball and Bickmore Avenues and Quality Way; and

WHEREAS, the Parties wish to amend the Agreement to extend the warranty period for certain public improvements due to unforeseen issues that have arisen during the Project; and

WHEREAS, the warranty period for improvements on Quality Way and Bickmore Avenue, due to sinkholes located on these streets, will be extended to three years commencing from the final acceptance of the public improvements; and

WHEREAS, the warranty period for the storm drain pump located on Quality Way is hereby extended by an additional three years, in the event the pump requires replacement, starting from the final acceptance of the public improvements; and

WHEREAS, the existing warranty bond currently in effect for the Project shall remain unchanged until the one-year anniversary of the Project's final acceptance date. At that time, the CITY will process a bond reduction for the extended warranty items for the remaining two-year period.

TERMS

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Parties agree to amend the Agreement as follows:

1. CONTRACT CHANGES.

- (a) Section 4.1(b) of the Agreement is hereby amended and replaced in its entirety with:
 - i. Warranty Period for Street Improvements: The warranty period for the public improvements on Quality Way and Bickmore Avenue, specifically addressing issues related to sinkholes located on these streets, shall be extended to three years, commencing from the final acceptance of the public improvements.
 - ii. Warranty Period for Storm Drain Pump: The warranty period for the storm drain pump located on Quality Way is hereby extended by an additional three years, applicable in the event that the pump requires replacement, starting from the final acceptance of the public improvements.
 - iii. Security Instrument: The Subdivider shall provide a Security Instrument equal to 10% of the estimated construction cost set forth in Section 1.1, to be submitted prior to the City Council's acceptance of the Works of Improvement and the recordation of a Notice of Completion. The Security Instrument shall be in the amount of \$1,188,900.
 - iv. Warranty Bond Terms: The warranty bond will be in effect for one year from the date of final acceptance. The DEVELOPER will be notified of any required repairs or replacements within this one-year warranty period. If no repairs or replacements are necessary, the CITY will process a bond reduction for the extended warranty items, covering the remaining two-year period. The bond will remain in effect and will not be released prior to November 5, 2027.

2. WARRANTY RE ABSENCE OF DEFAULTS. DEVELOPER represents and warrants to CITY that, as of the Effective Date of this Amendment No. 1, CITY is not in default of any material term of the Agreement, and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement by the Successor Agency.

3. CONTINUING EFFECT OF AGREEMENT. Except as amended by this Amendment No. 1, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment, whenever the term "Agreement" appears in the Agreement, it shall mean the Agreement, as amended by this Amendment to the Agreement.

4. COUNTERPARTS. This Amendment No. 1 may be executed in multiple identical counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.

5. AUTHORITY. 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, CITY has caused this Amendment No. 1 to be executed in its behalf by its City Manager and duly attested by its City Clerk, and DEVELOPER has executed this Amendment No. 1, as of this day and year first above written.

APPROVED AS TO FORM:



Fred Galante, City Attorney

APPROVED AS TO CONTENT:



Hye Jim Lee, P.E.
Director of Public Works

RICHLAND VENTURES, INC:

Dated: 11/19/2024

By:



(Signature)

Name: CRAG CRISTINA, VICE PRESIDENT
(Please Print or Type Name)

Dated: 11/19/2024

CITY OF CHINO



Dr. Linda Reich, City Manager

ATTEST:



Natalie Gonzaga, City Clerk

CALIFORNIA 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.

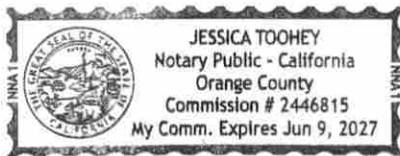
State of California

County of Orange }

On November 5, 2024 before me, Jessica Toohey, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Craig Cristina
Name(s) of Signer(s)

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



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

WITNESS my hand and official seal.

Place Notary Seal and/or Stamp Above

Signature Jessica Toohey
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

☐ 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: _____

**MEMORANDUM
CITY OF CHINO
PUBLIC WORKS DEPARTMENT**

CITY COUNCIL MEETING DATE: NOVEMBER 5, 2024

TO: LINDA REICH, CITY MANAGER

FROM: HYE JIN LEE, PE, DIRECTOR OF PUBLIC WORKS

SUBJECT

Final Acceptance of Public Improvements for Parcel Map No. 19756 for the Altitude Business Center Located South of Kimball Avenue on the East and West Sides of Quality Way.

RECOMMENDATION

1) Accept public improvements as complete for Parcel Map No. 19756; 2) authorize the release of the performance bond and initiate the warranty bond period; 3) approve an amendment to the Subdivision Improvement Agreement for Parcel Map No. 19756 to extend the warranty period by an additional two years, totaling three years, for the storm drain pump and pavement on Quality Way and Bickmore Avenue; 4) approve a Public Improvement Agreement with Richland Ventures, Inc. for the Kimball Avenue Median Landscape; and 5) authorize the City Manager to execute the necessary documents on behalf of the City.

FISCAL IMPACT

There is no current fiscal impact to the City at this time by accepting the improvements for Parcel Map No. 19756, due the one year warranty bond period, and an additional two years being requested.

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:

- Positive City Image
- 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.

BACKGROUND

Parcel Map 19756, as presented by Richland Ventures, Inc. ("Richland") initially consisted of a 1.2 million- square foot light industrial business center located on 72.77 acres of land within the Airport Related (AR) land-use designation of The Preserve Specific Plan. This project is generally located in The Preserve on the east and west sides of Quality Way (formerly Mayhew Avenue), between Kimball and Bickmore Avenues (Exhibit A). Tentative Parcel Map No. 19756, processed by Richland Communities, was conditionally approved by the City of Chino Planning Commission on October 7, 2019.

The Engineering Conditions of Approval ("COA") for Parcel Map No. 19756 required the developer, Chino Preserve Development Corporation, to design and construct certain backbone public and improvements including, but not limited to, potable water lines; street improvements; sewer improvements; and storm drain improvements in/on Kimball, Mayhew and Bickmore Avenues. The public improvements completed by the developer necessitated the execution of a Subdivision Improvement Agreement and posting securities that the City Council approved on May 19, 2020 (Exhibit B). It should be noted that the costs associated with the design and construction of the required public improvements are completely offset by the applicant. There is no direct fiscal impact on the City.

The public improvements have been completed to the satisfaction of the City Engineer, meeting all City standards and accessibility requirements. While the project encountered delays, these were not attributable to the review process; engineering plans were submitted and largely approved between March 2020 and June 2021. Construction commenced in October 2020, beginning with utility work at Bickmore Avenue and Quality Way. Improvements on Kimball Avenue included the installation of storm drains and water utility lines, alongside roadway reconstruction.

To facilitate construction, a prolonged road closure on Kimball Avenue was necessary due to inadequate space for safe two-way traffic movement. City staff approved this closure to enhance safety and expedite the improvements. Although the developer requested the closure in July 2021, it was postponed minimizing disruptions from other ongoing closures in The Preserve.

During the closure, conflicts emerged between the proposed utilities in their engineering plans and existing underground lines. The engineering plans did not accurately represent the existing utilities layouts and those of other agencies, such as Southern California Gas Company. This discrepancy required the developer to collaborate with City staff to find solutions and adjust the alignment of the new utilities, resulting in further delays. The closure, originally anticipated to last about 40 working days, extended through February 2022 due to these utility conflicts and wet weather.

Major construction activities took place from October 2020 to September 2023. Following this period, City staff provided the developer with a punch list of items that needed to be addressed prior to the City accepting the public improvements as complete.

A significant factor contributing to the extended timeline was the discovery of sinkholes at the southern end of the project site along Quality Way and Bickmore in January and March 2023. While the exact cause remains unconfirmed, it is believed it was from inadequate soil compaction during the installation of underground utilities or shallow groundwater issues. The contractor implemented repairs in February and June 2023, following guidance from their

geotechnical consultant, which included the installation of geogrid material for soil reinforcement. Since these repairs, no additional sinkholes have been reported.

Another major public improvement was the construction of a segment of Storm Drain Line H, a master-planned City storm drain that collects water from Chino Airport and surrounding areas. This storm drain features a pipe with a diameter of up to 96 inches, running along Quality Way before discharging south of Pine Avenue into the Prado Lake area. The developer was responsible for constructing most of the northern half of this storm drain, extending from Kimball Avenue to approximately 900 feet south of Bickmore Avenue.

Due to the underground location of the storm drain, the developer was required to install an interim pump facility to manage water removal after rain events. This facility will be owned and maintained by the City until the remainder of Storm Drain Line H is constructed as part of either a future private land development project or a City capital improvement project.

During the 2023/2024 wet season, City inspection staff discovered that one of the storm drain pumps at the new facility was non-operational due to sediment buildup from upstream water quality basins along Kimball Avenue, which are maintained by the County for Chino Airport. This issue prompted the developer to order a replacement pump, contributing to further delays in project completion. Although these issues have been addressed to the City's satisfaction, concerns regarding potential future problems persist.

ISSUES/ANALYSIS

There was an outstanding item identified by staff regarding the installation of landscaping in the new median constructed east of Euclid, in front of the AM/PM commercial property and the McBride RV storage facility. This median was inadvertently omitted from the developer's landscape design, and the oversight was not caught during the landscape plan review. The developer has submitted revised landscaping plans, which are nearing approval, and the contractor intends to install the landscaping after the City completes a new westbound left turn pocket for the AM/PM property.

Additionally, the parkway on the south side of Kimball Avenue, fronting the Chino Airport basin, remains without landscaping. While the developer was required to construct certain street improvements on the south side of Kimball Avenue, including a new multipurpose trail, landscaping was not mandated in this area as it is east of their project site and does not directly abut their property. However, staff anticipates that landscaping improvements will be included in a proposed project by In-N-Out, which is currently undergoing administrative approval. This project involves expanding their parking area onto adjacent County land. Staff has communicated the City's intention to condition the project to include landscaping improvements, and In-N-Out has agreed to comply.

All these items, including the previously mentioned sinkholes on Quality Way and Bickmore Avenue, as well as the storm drain pump, were presented to the Infrastructure Streets Committee on October 8, 2024, to gather feedback before scheduling the final acceptance of public improvements for City Council consideration. During the Infrastructure Streets Committee meeting, staff recommended the following actions:

1. Accept the public improvements as complete and authorize the release of the developer's performance bond, triggering the beginning of a warranty period during which the developer is responsible for addressing any defects in the public improvements.

2. Amend the public improvement agreement to extend the warranty period by an additional two years, resulting in a total warranty period of three years. This extension aims to specifically ensure the roadway pavement and storm drain pumps are free of defects (Exhibit C).
3. Approve a new Public Improvement Agreement and associated security with the developer, ensuring the completion of the pending landscape improvements within the Kimball Avenue median (Exhibit D).

The Infrastructure Streets Committee supported staff's decision to proceed with the final acceptance of the public improvements for the Altitude Business Park.

The public improvements that are being accepted by the City of Chino include domestic and recycled water, street, sewer, and storm drain improvements as shown on Exhibit E. The public improvements completed have been constructed in compliance with the City's standards/specifications, and accessibility requirements, and to the satisfaction of the Public Works Inspector and City Engineer. All public improvements that were part of the COA for these tracts were fully funded by the developer.

Additionally, some of the public improvements are master-planned facilities detailed in the City's Development Impact Fee and Nexus Calculation Report. These facilities are eligible for credit or reimbursement under the City's Municipal Code Chapter 3.45 and in accordance with the construction credit and reimbursement agreement approved by the City Council on May 19, 2020 (Exhibit F). Following the review and approval of the final "as-built" plans, specifications, and supporting documentation by staff, a reconciliation of the actual costs will be presented to the City Council at a subsequent meeting.

Security for a one-year warranty period has been submitted to the City. The warranty bond will be in effect for one year from the date of final acceptance. The developer will be notified of any required repairs or replacements within this one-year warranty period. If no repairs or replacements are necessary, the City will process a bond reduction for the extended warranty items, covering the remaining two-year period. The bond will remain in effect and will not be released prior to November 5, 2027.

Also, upon completion and final acceptance, the public improvements shall become the sole exclusive property of the City to operate and maintain.

The following maintenance obligations will commence following acceptance of the public improvements on Kimball Avenue, Bickmore Avenue and Quality Way, please refer to the infrastructure exhibits attachments.

Domestic Water:	By the City
Recycled Water:	By the City
Public Sewer:	By the City
Storm Drain:	By the City
Public Street Sweeping:	By the City
Public Streetlights:	By the Owner/HOA
Public Landscape:	By the Owner/HOA

CITY COUNCIL MEETING DATE: NOVEMBER 5, 2024

TITLE: FINAL ACCEPTANCE OF PUBLIC IMPROVEMENTS FOR PARCEL MAP NO. 19756
FOR THE ALTITUDE BUSINESS CENTER LOCATED SOUTH OF KIMBALL AVENUE ON
THE EAST AND WEST SIDES OF QUALITY WAY.

PAGE: 5

Attachments: Exhibit A - Location Map - Parcel Map No. 19756
Exhibit B - Subdivision Improvement Agreement
Exhibit C - Amendment Subdivision Improvement Agreement (Extended
Warranty)
Exhibit D - Public Improvement Agreement (Kimball Median)
Exhibit E - Infrastructure Atlas
Exhibit F - DIF Construction Credit & Reimbursement Agreement