CITY COUNCIL RESOLUTION NO. 2018-61

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRISBANE, CALIFORNIA, CERTIFYING THE FINAL ENVIRONMENTAL IMPACT REPORT (SCH NO. #2006022136) FOR THE BAYLANDS GENERAL PLAN AMENDMENT, AND ADOPTING CEQA FINDINGS, AND A MITIGATION MONITORING AND REPORTING PROGRAM

WHEREAS, an application was filed in 2005 with the City of Brisbane (City) by Universal Paragon Corporation (Applicant or UPC) requesting approval of a General Plan Amendment and Specific Plan for development of approximately 449 acres of the 684-acre portion of the City of Brisbane (City) commonly referred to as the Brisbane Baylands (Baylands) with a mix of commercial, office/institutional, and open space uses on 449 acres of the Baylands site located to the east of the Caltrain tracks (Phase I Specific Plan); and

WHEREAS, UPC's proposed Specific Plan also included a Concept Plan (referred to at the time as a framework plan) addressing basic parameters associated with circulation, land use, open space, infrastructure and utilities for future development of an approximately 659-acre area of the Baylands, including the Phase I Specific Plan area along with adjacent properties between the Caltrain rail line and Bayshore Boulevard; and

WHEREAS, the City determined that an Environmental Impact Report (EIR) was required to evaluate the proposed Specific Plan, including the Concept Plan pursuant to the requirements of the California Environmental Quality Act (CEQA) (Public Resources Code § 21000 *et seq.*) and the CEQA Guidelines (14 California Code of Regulations, Title 14 Chapter 3, Section 15000 *et seq.*); and

WHEREAS, the City issued a Notice of Preparation (NOP) for the Draft EIR on February 24, 2006, which was sent to each responsible and trustee agency and the Office of Planning and Research (OPR); and

WHEREAS, after issuance of the NOP, the City held five public scoping meetings (on March 2 and 21, April 27, and June 13 and 26, 2006) to solicit comments from individuals, organizations and agencies regarding the environmental analysis, mitigation measures and alternatives to be included in the Draft EIR; and

WHEREAS, prior to completion of the Draft EIR, in February 2011, UPC amended its application to include proposed General Plan Amendments and an expanded Specific Plan covering 684 acres of the Baylands; and

WHEREAS, UPC's revised application included two proposed development scenarios for the expanded Specific Plan area, referred to as the Developer Sponsored Plan (DSP) and the Developer Sponsored Plan–Entertainment Variant (DSP-V); and

WHEREAS, the DSP scenario proposes approximately 7 million square feet of office/retail/ industrial/institutional uses, 4,434 residential units, approximately 169.7 acres of "open space/ open area" and approximately 135.6 acres of "lagoon" area, totaling approximately 12.1 million square feet of building area within the 684-acre portion of the Baylands located in Brisbane; and

WHEREAS, the DSP-V scenario encompasses the same 684-acre area as the DSP scenario and is similar to the DSP scenario in its development intensity (approximately 12.0 million square feet of building area) and land use pattern, differing primarily by replacing the retail and office/research and development (R&D) uses proposed under the DSP scenario in the northeast portion of the site with entertainment-oriented uses, including a 17,000 to 20,000-seat sports arena, a 5,500 seat concert theater, a multiple-screen cinema, and more conference/exhibition space and hotel rooms than are proposed under the DSP scenario; and

WHEREAS, on July 20, 2009, the Brisbane City Council directed that the EIR be expanded to include analysis of two additional development scenarios, referred to as the Community Prepared Plan (CPP) scenario and the Community Prepared Plan-Recology Variant (CPP-V) scenario; and

WHEREAS, in addition to the 684-acre area included as part of the DSP scenario, the CPP and CPP-V scenarios include the 44.2-acre Recology site, which spans the cities of Brisbane and San Francisco, encompassing the Beatty Subarea as designated in the Brisbane General Plan and adjacent roadway rights-of-way; and

WHEREAS, the CPP scenario provides for approximately 7.7 million square feet of office, industrial, commercial and institutional uses, along with approximately 300 acres of open space/open area and the 135.6-acre lagoon; and

WHEREAS, the CPP-V scenario differs from the CPP scenario in that it proposes consolidating Recology's existing offsite recycling and corporation yard facilities into its existing Tunnel Avenue facility in the northeast portion of the Baylands by expanding the facility within Brisbane, which would increase Recology's total area from 44.2 acres to a 65.5 acres, and increase Recology's building area from 260,000 square feet to 1,011,000 square feet, resulting in a total building area under the CPP-V scenario of approximately 8.1 million square feet; and

WHEREAS, on December 10, 2010, a revised NOP was published and circulated to each responsible and trustee agency and OPR for a 30-day review period to reflect changes in the EIR's project description, including UPC's proposed General Plan Amendment and revisions to

its Specific Plan and the DSP and DSP-V scenarios, and the City Council's identification of the CPP and CPP-V scenarios; and

WHEREAS, a subsequent NOP was published and circulated to each responsible and trustee agency and OPR on October 22, 2012 for a 30-day public review period to provide notice that a proposed water transfer agreement between the City and the Oakdale Irrigation District to supply water to the Baylands would also be analyzed in the Draft EIR; and

WHEREAS, the Draft EIR was prepared in conformance with CEQA and the CEQA Guidelines to evaluate the environmental effects of the proposed development of the Baylands; and

WHEREAS, the Draft EIR analyzed five alternatives to proposed Baylands development as reflected in the DSP, DSP-V, CPP and CPP-V scenarios, including a Renewable Energy Generation Alternative based on a proposal by the Committee for Renewable Energy for the Baylands (CREBL) to develop utility-scale renewable energy generation at the Baylands, as well as No Project-No Build, No Project-Existing General Plan, Reduced Intensity Mixed Use, and Reduced Intensity Non-Residential alternatives; and

WHEREAS, the Draft EIR was circulated for public review for 227 days, from June 11, 2013 to January 24, 2014; and

WHEREAS, a Final EIR was prepared consisting of (a) the Draft EIR and proposed revisions to the Draft EIR; (b) comments received on the Draft EIR during the public review period; (c) a list of persons, organizations, and public agencies commenting on the Draft EIR; (d) the City's responses to the significant environmental issues raised in these comments; and (e) a Mitigation Monitoring and Reporting Program; and

WHEREAS, the Final EIR was released for public review on June 1, 2015; and

WHEREAS, on September 10 and 24, 2015, the Planning Commission conducted two public workshops regarding proposed Baylands development and the Baylands EIR, at which time interested persons and organizations had the opportunity to testify and provide comments; and

WHEREAS, in 2015, the Planning Commission conducted a series of public hearings on proposed Baylands development and the Baylands EIR, at which time interested persons and organizations had an opportunity to testify and provide comments; and

WHEREAS, after closing the public hearing on December 10, 2015, the Planning Commission held a series of deliberations meetings on proposed Baylands development and the Baylands EIR in 2016; and

WHEREAS, on July 28, 2016 the Planning Commission reopened the public hearing to consider its recommendations to the City Council regarding proposed Baylands development and the Baylands EIR, including its recommendation regarding UPC's proposed General Plan Amendment and Specific Plan; and

WHEREAS, the Planning Commission reviewed and considered the General Plan Amendments and Specific Plan proposed by UPC, which includes the DSP and DSP-V scenarios, the CPP and CPP-V scenarios presented in the EIR, and the five development alternatives analyzed in the EIR; and

WHEREAS, the Planning Commission reviewed and considered all of the information set forth in staff reports and presentations provided at the Commission's public workshops, public hearings, and deliberations meetings, including the testimony and comments provided by the public, as well as presentations by the Applicant and other organizations; and

WHEREAS, the Planning Commission reviewed and considered the EIR for the Baylands as required by CEQA Guidelines Section 15025(c); and

WHEREAS, the Planning Commission reviewed and considered the significant unavoidable impacts set forth in the EIR, including significant unavoidable impacts in relation to aesthetics, air quality, biological resources, noise, population, traffic, and utilities and service systems and concluded that, given the extent of existing development within the Baylands and the large number of significant unavoidable impacts that would result from the proposed development analyzed in the Final EIR, including cumulative traffic impacts, it would be appropriate to minimize the amount of new development permitted in the Baylands to reduce and avoid these impacts; and

WHEREAS, the Planning Commission recommended that the City Council deny the General Plan Amendment and Specific Plan proposed for the Baylands by the Applicant, Universal Paragon Corporation and approve a General Plan Amendment for a maximum 1-2 million square foot net increase in building area; and

WHEREAS, the Planning Commission determined that the EIR was prepared in accordance with CEQA and adequately addressed the Planning Commission's recommended land use for the Baylands, land use; and

WHEREAS, the Planning Commission recommended that the City Council certify the EIR as having been prepared in accordance with CEQA;

WHEREAS, on September 29, 2016, and June 15, 2017, the City Council conducted public workshops regarding proposed Baylands development and the Baylands EIR, at which time interested persons and organizations had the opportunity to testify and provide comments; and

WHEREAS, the City Council conducted eight public hearings on proposed Baylands development and the Baylands EIR on November 17 and December 15, 2016, January 24, February 16, April 8, May 4, May 23, and June 7, 2017, at which time interested persons and organizations had an opportunity to testify and provide comments; and

WHEREAS, after closing the public hearing on June 7, 2017, the City Council met on June 19, 2017 to discuss the deliberation process for the Baylands proposed land use and EIR; and

WHEREAS, the City Council began its deliberations on proposed Baylands development and the Baylands EIR in 2017; and

WHEREAS, the City Council conducted deliberations meetings on June 13, July 24, and August 7, 2017, and January 16, March 22,; and

WHEREAS, although the public hearing had been formally closed, the City Council afforded interested persons and organizations an opportunity to provide additional public comment at each of its deliberations meetings; and

WHEREAS, the City Council reopened the public hearing on June 7, 2018, and then continued the re-opened public hearing to July 12, 2018 and July 19, 2018 to consider its proposed action regarding Baylands development and the Baylands EIR, and

WHEREAS, notice of the time and place of all workshops, public hearings, and deliberations meetings where proposed Baylands development and the Baylands EIR were considered by the City Council was given pursuant to State law and the City's Municipal Code by mailing notices to all property owners within a 300-foot radius of the Baylands site, all organizations, entities, and individuals who commented on the Draft EIR, adjacent jurisdictions, responsible and trustee agencies, and all interested parties on record in the project file maintained by the City of Brisbane Community Development Department, by publication of hearing notices on the City's website, and by posting of the hearing notices at the three official city posting locations as set forth in the Brisbane Municipal Code Section 1.12.010; and

WHEREAS, the City Council has reviewed and considered the General Plan Amendment and Specific Plan proposed by UPC, which includes the DSP and DSP-V scenarios, the CPP and CPP-V scenarios presented in the EIR, and five development additional alternatives analyzed in the EIR; and

WHEREAS, the City Council has reviewed and considered all of the information set forth in staff reports and presentations provided at the City Council's public workshops, public hearings, and deliberations meetings, including the testimony and comments provided by the public, as well as presentations by the Applicant and other organizations; and

WHEREAS, the City Council has reviewed and considered the significant unavoidable impacts set forth in the EIR, including significant unavoidable impacts in relation to aesthetics, air quality, biological resources, noise, population, traffic, and utilities and service systems; and

WHEREAS, the City Council has reviewed and considered the Planning Commission's recommendations regarding the Baylands EIR; and

WHEREAS, the City Council has reviewed and considered the Planning Commission's recommendations regarding the General Plan Amendment and Specific Plan requested by UPC; and

WHEREAS, on March 22, 2018, the City Council directed City staff to draft for its consideration a General Plan Amendment covering the Baylands area, including a range of 1,800 to 2,200 dwelling units and up to 4 million square feet of additional non-residential use, along with changes to General Plan policies affecting the Baylands, Northeast Bayshore, and Beatty Subareas, collectively and hereinafter described as the "Baylands General Plan Amendment;" and

WHEREAS, the City Council determined that the Baylands General Plan Amendment should be revised to include a range of 1,800-2,200 dwelling units, up to 6.5 million square feet of non-residential use, and an additional 500,000 square feet of hotel use, along with changes to General Plan policies affecting the Baylands, Northeast Bayshore, and Beatty Subareas; and

WHEREAS, the land uses and residential and commercial development intensity contemplated by the Baylands General Plan Amendment are within the range of other development scenarios and alternatives analyzed in the Final EIR; and

WHEREAS, consistent with CEQA Guidelines Section 15132, the Final EIR is comprised of the Draft EIR, along with the comments and responses to comments on the Draft EIR and related technical appendices; and

WHEREAS, the Final EIR was posted and made available on the City's website on June 2, 2015, and updated revisions to the Final EIR along with updated mitigation measures and an updated General Plan Implementation/Mitigation Monitoring and Reporting Program reflecting the Baylands General Plan Amendment were posted on the City's website on July 6, 2018; and

WHEREAS, the Final EIR, including (1) the Draft EIR; (2) revisions to the Draft EIR that clarify information presented in the Draft EIR and do not create any new impacts, and would therefore not result in the need to recirculate the Draft EIR; and (3) a Mitigation Monitoring and Reporting Program reflecting the Baylands General Plan Amendment were distributed in accordance with Public Resources Code Section 21092.5 and CEQA Guidelines Section 15088; and

WHEREAS, the City Council held a duly noticed public hearing on the Final EIR and the Baylands General Plan Amendment on July 12 and July 19 , 2018; and

WHEREAS, the City Council has determined that the Baylands General Plan Amendment would better reflect multiple statewide, regional, and local interests, as well as community concerns while resulting in similar or lesser impacts than the DSP, DSP-V CPP, and CPP-V scenarios analyzed in the Draft EIR; and

WHEREAS, after reviewing the responses to comments, the revisions to the Draft EIR, and other information added to the Final EIR, the City Council has concluded that these responses, revisions and additional information merely clarify and amplify the analysis presented in the EIR, and do not constitute significant new information requiring recirculation of the Draft EIR under CEQA Guidelines Section 15088.5; and

WHEREAS, the City Council finds that, as required by CEQA, the Final EIR describes all feasible mitigation measures that could minimize the Baylands General Plan Amendment's significant effects; and

WHEREAS, the City Council finds that there are significant environmental effects arising from the Baylands General Plan Amendment that remain even after mitigation, but there are overriding considerations that outweigh those effects; and

WHEREAS, prior to approving the Baylands General Plan Amendment, the City Council must certify the Final EIR pursuant to CEQA Guidelines Section 15090, make findings pursuant to CEQA Guidelines Section 15091, adopt a Mitigation Monitoring and Reporting Program consistent with CEQA Guidelines Section 15097, and adopt a Statement of Overriding Considerations consistent with CEQA Guidelines Section 15093; and

WHEREAS, CEQA Findings, a Mitigation Monitoring and Reporting Program, and a Statement of Overriding Considerations have been prepared by the City and are included as Attachments #1 and #2, hereto; and

WHEREAS, a Statement of Overriding Considerations has been prepared and is included as Attachment #1 of Resolution No. 2018-62 approving the Baylands General Plan Amendment; and

WHEREAS, the documents, staff reports, technical studies, appendices, plans, and other materials that constitute the record of proceedings on which this Resolution is based are on file and available for public examination during normal business hours in the City of Brisbane Community Development Department and with the Director of Community Development, who serves as the custodian of these records.

NOW, THEREFORE, BE IT RESOLVED by the City Council that the above recitals are true and correct and are incorporated herein by reference as if set forth in full.

BE IT FURTHER RESOLVED that the City Council certifies that (1) the Final EIR has been completed in compliance with CEQA, (2) the Final EIR was presented to the City Council and the City Council has reviewed and considered the information contained in the Final EIR prior to considering its approval of the Baylands General Plan Amendment, and (3) the Final EIR reflects the City of Brisbane's independent judgment and analysis.

BE IT FURTHER RESOLVED that the City Council adopts the CEQA findings contained in Attachment #1.

BE IT FURTHER RESOLVED that the City Council adopts the Baylands General Plan Amendment Mitigation Monitoring and Reporting Program contained in Attachment #2.

W. Clarke Conway, Mayor

I hereby certify that the foregoing Resolution No. 2018-61 was duly and regularly adopted at the meeting of the Brisbane City Council on July 19, 2018 by the following vote:

AYES: Councilmembers Cunningham, Davis, Lentz, O'Connell, and Mayor Conway

NOES: None

ABSENT: None

Ingrid Padilla, City Clerk