

CITY OF MONTCLAIR

AGENDA FOR CITY COUNCIL, REDEVELOPMENT AGENCY, AND
MONTCLAIR HOUSING CORPORATION MEETINGS

To be held in the Council Chambers
5111 Benito Street, Montclair, California

August 3, 2009

7:00 p.m.

As a courtesy please silence your cell phones, pagers, and other electronic devices while the meeting is in session. Thank you.

The CC/RDA/MHC meetings are now available in audio format on the City's website at www.ci.montclair.ca.us and can be accessed the day following the meeting after 10:00 a.m.

Page No.

I. **CALL TO ORDER** - City Council, Redevelopment Agency, and Montclair Housing Corporation

II. **INVOCATION**

In keeping with our long-standing tradition of opening our Council meetings with an invocation, this City Council Meeting may include a nonsectarian invocation. Such invocations are not intended to proselytize or advance any faith or belief or to disparage any faith or belief. Neither the City nor the City Council endorse any particular religious belief or form of invocation.

III. **PLEDGE OF ALLEGIANCE**

IV. **ROLL CALL**

V. **PRESENTATIONS** - None

VI. **PUBLIC COMMENT**

This section is intended to provide members of the public with an opportunity to comment on any subject that does not appear on this agenda. Each speaker will be afforded five minutes to address the City Council Members and Redevelopment Agency and Montclair Housing Corporation Boards of Directors. (Government Code Section 54954.3)

Under the provisions of the Brown Act, the Council/Agency/ MHC is prohibited from taking action on items not listed on the agenda.

VII. **PUBLIC HEARINGS** - None

VIII. **CONSENT CALENDAR**

A. Approval of Minutes

1. Minutes of Regular Joint Council/Agency/MHC Meeting of July 20, 2009 [CC/RDA/MHC]

B. Administrative Reports

- | | |
|--|----|
| 1. Consider Authorization of a Cash Incentive for Service Credit Purchase Program to Promote Early Retirement [CC] | 4 |
| 2. Consider Ratification of the City Manger's Action Recommending Funding for Community Development Block Grant Projects Through the American Recovery and Reinvestment Act of 2009 (CDBG-R) for Fiscal Year 2009-10 [CC] | 13 |
| 3. Consider Approval of Filing of a Notice of Completion for Construction of the Amherst Avenue Improvement West Project; Reduction of Faithful Performance Bond to 10 Percent; and Retention of Payment Bond for Six Month [CC] | |
| Consider Release of Retention 30 Days After Recordation of Notice of Completion Project [CC] | 15 |
| 4. Consider Declaring Unclaimed Property in Police Custody as Surplus and Available for Auction [CC] | 17 |
| 5. Consider Approval of Warrant Register and Payroll Documentation [CC] | 20 |

C. Agreements

- | | |
|---|----|
| 1. Consider Approval of Agreement No. 09-63 with the City of West Covina for Mobile Data Computer Connectivity, Data Processing Equipment, Software, and Service of Computer-Aided Dispatch and Records Management System Programs [CC] | 21 |
| 2. Consider Approval of Agreement No. 09-64 with the Liquidation Company for the Public Sale of Surplus and Unclaimed Property [CC] | 35 |
| 3. Consider Approval of Agreement No. 09-65 with the County of San Bernardino for the Provision of Services and Supplies for the Evidentiary Breath Alcohol Analysis Instrument [CC] | 38 |
| 4. Consider Approval of Agreement No. 09-66 with Construction Testing and Engineering, Inc., for \$41,247 for Special Inspections and Materials Testing Services for the Montclair Senior Center Project [CC] | |
| Consider Authorizing the City Manager to Amend the Scope of Services as May be Necessary for a Total Increase Not to Exceed \$10,000 [CC] | 44 |
| 5. Consider Acceptance of Grants from the Inland Empire United Way to Fund the Artcorps and Case Management Programs [CC] | |
| Consider Approval of Agreement Nos. 09-68 and 09-69 with the Inland Empire United Way to Provide the ArtCorps and Case Management Programs [CC] | 61 |

D. Resolutions

- | | |
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| 1. Consider Adoption of Resolution No. 09-03, a Resolution of the City of Montclair Redevelopment Agency Approving Agreement No. 09-67, the First Amendment to Agreement No. 08-01, an Affordable Housing Agreement by and between the City of Montclair Redevelopment Agency and Mills Family Housing Partners, L.P. (National Community Renaissance of California) [RDA] | 69 |
| 2. Consider Adoption of Resolution No. 09-2810 Authorizing Placement of Assessments on Certain Properties for Delinquent Sewer and Trash Accounts [CC] | 76 |

IX. PULLED CONSENT CALENDAR ITEMS

X. RESPONSE - None

XI. COMMUNICATIONS

- | | |
|---|----|
| A. City Attorney/Agency Counsel | |
| B. City Manager/Executive Director | |
| C. Mayor/Chairman | |
| D. Council/Agency Board | |
| E. Committee Meeting Minutes <i>(For Informational Purposes Only)</i> | |
| 1. Minutes of the Code Enforcement Committee Meeting of July 20, 2009 | 87 |
| 2. Minutes of the Personnel Committee Meeting of July 20, 2009 | 89 |

XII. ADJOURNMENT OF CITY COUNCIL AND REDEVELOPMENT AGENCY AND MONTCLAIR HOUSING CORPORATION BOARDS OF DIRECTORS

The next regularly scheduled City Council, Redevelopment Agency, and Montclair Housing Corporation meetings will be held on Monday, August 17, 2009, at 7:00 p.m. in the Council Chambers.

Reports, backup materials, and additional materials related to any item on this Agenda distributed to the City Council, Redevelopment Agency Board, or Montclair Housing Corporation Board after distribution of the Agenda packet are available for public inspection in the Office of the City Clerk located at 5111 Benito Street, Montclair, California, between 7:00 a.m. and 6:00 p.m., Monday through Thursday.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk at (909) 625-9415. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title II)

I, Donna M. Jackson, City Clerk, hereby certify that I posted, or caused to be posted, a copy of this Agenda not less than 72 hours prior to this meeting on the bulletin board adjacent to the south door of Montclair City Hall on July 30, 2009.

AGENDA REPORT

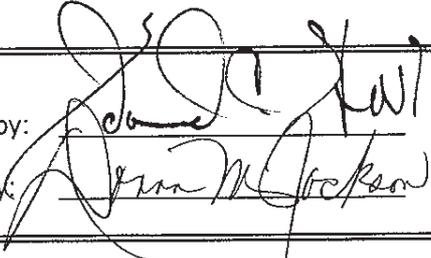
SUBJECT: CONSIDER AUTHORIZATION OF A CASH INCENTIVE FOR SERVICE CREDIT PURCHASE PROGRAM TO PROMOTE EARLY RETIREMENT	DATE: August 3, 2009 SECTION: ADMIN. REPORTS ITEM NO.: 1 FILE I.D.: PER592 DEPT.: ADMIN. SVCS.
BUSINESS PLAN: N/A	

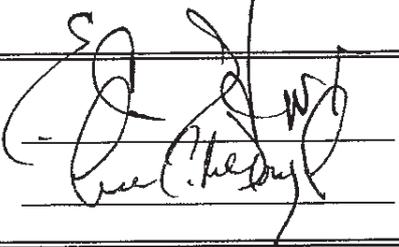
REASON FOR CONSIDERATION: The California Public Employees' Retirement System (CalPERS) allows for the purchase of service credit as an incentive for early retirement to assist local agencies with achieving personnel-related cost reductions. The primary program for this purpose is the CalPERS-sponsored Two Years Additional Service Credit benefit (Golden Handshake). City participation in the Golden Handshake benefit requires a contract amendment, two public hearings, and the presence of an actuary (Senate Bill 1123) to provide cost information. Contract amendments require approval by the City Council. As an alternative, City staff proposes for consideration a *Cash Incentive for Service Credit Purchase Program*—an abbreviated and less costly early retirement incentive program.

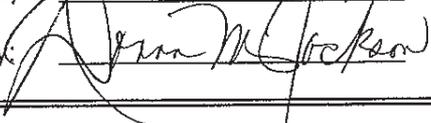
EXECUTIVE SUMMARY: A product of the current economic recession is declining tax revenues for local government agencies. To address this decline, many local governments in California are offering incentives for early retirement including cash incentives for service credit purchase or implementation of the CalPERS Two Years Additional Service Credit benefit, commonly referred to as the Golden Handshake.

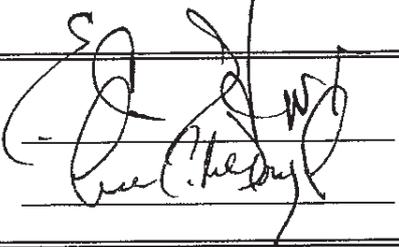
Given the gravity of Montclair's current financial outlook, it is in the interest of the City to consider a variety of cost-reduction measures (several of which have already been implemented) including continuation of hiring freezes in conjunction with an early retirement incentive program.

California Government Code Section 20903 authorizes Two Years Additional Service Credit (Golden Handshake benefit)—an optional benefit an agency may provide through contract amendment. This benefit allows members to retire during a designated window period because of impending mandatory transfer, layoff, personnel cost-reduction, or demotions and receive two additional years of service credit at no cost to the member. Offering the Golden Handshake benefit may create cost savings after the first year of implementation; however, such savings would ultimately be impacted by:

Prepared by: 

Reviewed and
Approved by: 

Proofed by: 

Presented by: 

1. The financial burden on future budgets to fund increases in the Employer Contribution Rates including:
 - (a) Actuarial increases in the City's Employer Contribution Rate to fund early retirements, blended over 20 years.
 - (b) Loss experience (early retirements may skew actuarial projections for retirements and could adversely affect the City's CalPERS employer rate).
 - (c) Compounded Employer Contribution Rate increases from future wage adjustments.
 - (d) Anticipated significant increases in Fiscal Year 2011-12 resulting from the current market turmoil that has seen CalPERS lose approximately 30 percent of its investment portfolio.
2. Limitations on flexibility in hiring since the CalPERS program requires that each vacated position (or one vacancy in any position in any department or other organizational unit) remain permanently unfilled.

As an alternative to the Golden Handshake benefit, City staff recommends consideration of a *Cash Incentive for Service Credit Purchase Program* in which retirement-eligible (or near retirement-eligible) employees are offered a cash incentive to purchase CalPERS service credit and retire immediately. A City-sponsored retirement incentive program offers greater flexibility and control over various impacts including personnel management, cost, savings, effectiveness, and timeliness; the City program would also permit eligible employees to purchase less than two years of service credit and, in some instances, monthly increments. Funding for the program would come from the balance of funding in the current budget for each vacated position. If approved by the City Council, City staff recommends allowing the program to expire at the end of Fiscal Year 2009-10.

The primary advantage of a *Cash Incentive for Service Credit Purchase Program* is the lack of fiscal impact on future employer rates. Under the proposal designed herein, the purchase of up to two years of service credit is funded immediately, with monetary responsibility distributed equally between the employee and employer—there is no future impact on the employer rate. Furthermore, the employee is fully responsible for obtaining the actuarial and completing all necessary forms. The agency's only responsibility is to provide its financial contribution for the purchase of up to one year of service credit. In contrast, under the terms of the Golden Handshake benefit, the City would experience a 20-year impact on its employer rate. Because there is no future impact on the employer rate or the need to amend the contract with CalPERS, an actuarial study is not required.

Conditions of the proposed *Cash Incentive for Service Credit Purchase Program* include the following:

1. Public safety members: The eligible employee must be at least fifty years of age, with approximately 28 years of CalPERS service credit; provided, however, the purchase of service credit under this program cannot increase total CalPERS service credit beyond 30 years. A public safety member with 30-plus years vested with CalPERS is ineligible to participate in this program—at 30 years of service, a public

safety employee reaches his/her maximum retirement benefit. Establishing the age and service credit requirements as contained herein would reduce the potential for loss experience and its corresponding effect on future CalPERS employer rates for the City.

2. Miscellaneous members: The eligible employee must be at least fifty years of age, with approximately 28 years of CalPERS service credit. Establishing the age and service credit requirements as contained herein would reduce the potential for loss experience and its corresponding effect on future CalPERS employer rates for the City.
3. Based on actuarial estimates, the City will provide a cash incentive equal to the purchase value of up to one year of service credit—the City's contribution shall not exceed the amount necessary to purchase one year of service credit for the participating employee. The City's contribution for service credit purchase shall match the employee's contribution; *i.e.*, if the employee elects, for example, to purchase two years of service credit at an actualized cost of \$50,000 the employee shall pay for one year of service credit (\$25,000) either out of pocket, through a 457 distribution, or both; and the City will match the employee's contribution by providing a cash incentive (\$25,000), as outlined herein, for the purchase of an additional one year of service credit. The advantage of this type of program is that wages and benefit-related costs remain static—provided the number of retirements does not create a loss experience that exceeds CalPERS' actuarial assumptions.
4. As a general rule, the City contribution shall be deposited into the employee's Great West 457 deferred compensation plan account, provided the employee is eligible under IRS regulations to receive catch-up contributions; otherwise, the City would issue a cash payment, minus appropriate taxes to the participant, provided the employee furnishes to the City appropriate CalPERS-related documentation as specified herein.

BACKGROUND: In November 2007 overextension of credit to consumers, collapse of the subprime mortgage market, rising unemployment, declining property values, and a crash on Wall Street triggered the nation's worst economic recession since 1938. A product of the current economic recession is declining tax revenues for local government agencies. To address this decline, many local governments in California are offering incentives for early retirement including cash incentives for service credit purchase or implementation of the CalPERS Two Years Additional Service Credit benefit, commonly referred to as the Golden Handshake.

Given the gravity of Montclair's current financial outlook, it is in the interest of the City to consider a variety of cost-reduction measures (several of which have already been implemented) including continuation of hiring freezes in conjunction with an early retirement incentive program.

Golden Handshake: Certain optional benefits may be added to the City's contract with CalPERS by amendment. California Government Code Section 20903 authorizes Two Years Additional Service Credit (Golden Handshake benefit)—an optional benefit an agency may provide through contract amendment. This benefit allows members to retire during a designated window period because of impending mandatory transfer, layoff, personnel cost reductions, or demotions and receive two additional years of service credit at no cost to the member.

The Golden Handshake benefit is typically used as a way of encouraging retirement-eligible employees to retire so as to help create cost savings and avoid or minimize layoffs. If the City were to offer the benefit, it may encourage employees who are at or near retirement to take advantage of the benefit, and may create some short-term cost savings. However, it would also result in an increase to the City's retirement costs for future budgets and would limit flexibility in filling the vacated positions since the CalPERS program requires that positions vacated through the Golden Handshake benefit (or one vacancy in any position in any department or other organizational unit) remain permanently unfilled.

A proscribed process required by CalPERS makes it unlikely that any budget savings would be realized any sooner than six to nine months from the date the City first initiates the Golden Handshake benefit option—preliminary preparation to the offering of the Golden Handshake benefit is expected to take approximately three months, followed by a window of opportunity period that lasts from 90 to 180 days, suggesting that the first early retirements would come no sooner than February 2010.

Amending the City's contract with CalPERS to offer the Golden Handshake benefit to a retiring member would require the City to take the following steps:

1. Designate the specific classifications or work groups that would be eligible.
2. Identify a period between 90 and 180 days during which an eligible employee may retire.
3. Advertise and conduct a public hearing in which costs associated with the program are presented:
 - (a) An actuary must be hired and required to attend the public hearing for adoption of the Golden Handshake benefit to provide fiscal impact information.
 - (b) The City Manager must acknowledge, in writing, that he understands the current and future cost of the retirement benefit as determined by an actuary.
 - (c) The CalPERS contract amendment cannot be placed on the Consent Calendar.
 - (d) An actuary must be conducted defining "future and annual costs" related to the contract amendment including "normal cost and any change in accrued liability."
4. Certify to CalPERS, by City Council Resolution, that the program will be of benefit to the City and is due to necessary budgetary and staffing reductions.
5. Wait for approval from CalPERS including an effective introduction date.

Offering the Golden Handshake benefit as a retirement incentive could potentially reduce the City's staffing costs while minimizing the potential for layoffs and give employees a voluntary means of participating in the City's budget reduction strategies. This does not, however, mean that offering the Golden Handshake benefit carries little to no fiscal burden for the offering agency. In fact, offering the benefit would result in increased costs because it has a direct impact on the Employer Contribution Rate paid by the City to CalPERS.

If the City were to offer the Golden Handshake benefit, the added cost to the retirement fund for all eligible employees who retire during the designated period would be included in the City's Employer Contribution Rate commencing with the fiscal year starting two years after the end of the designated period. A higher Employer Contribution Rate would be applied over 20 years to amortize the cost of funding the retirement benefits of the employees who opt to take advantage of the Golden Handshake benefit—therefore, offering the Golden Handshake benefit would burden future City budgets.

Furthermore, since the City's payroll is likely to increase over time, the employer rate would increase proportionately, adding to the amortized cost of the Golden Handshake benefit. However, the actual cost of offering the benefit can only be calculated after a specific plan is developed and approved by the City Council and an actuarial is obtained from CalPERS.

There may also be an additional cost associated with any retirement incentive program if there is a surge in retirements ("loss experience") and the total number of retirements exceeds CalPERS actuarial assumptions for the City (or pool) in a fiscal year. In the event of a retirement surge, CalPERS would increase the City's Employer Contribution Rate in addition to the rate increase resulting from the Golden Handshake benefit. According to CalPERS, loss experience often occurs when the Golden Handshake benefit is offered because some members retire who would have otherwise waited until later years.

A review of the *CalPERS Employer Report of Member Statements for Fiscal Year July 1, 2007, to June 30, 2008* indicates that approximately ten employees (one miscellaneous employee and nine safety employees) may be eligible/demonstrate interest in an early retirement-incentive program. Of these ten employees, five employees meet the minimum age and 30-year/3 percent service requirements for retirement, three employees meet the minimum age requirement and are within two years of meeting the 30-year/3 percent service requirement for retirement, and two employees meet the minimum age requirement and are within 2.8 years of meeting the 30-year/3 percent service requirement for retirement. If each of these members participated in an early retirement incentive program, the City's loss experience may be adversely impacted.

Age, not service credit, is typically the defining factor as to when an employee decides to retire. A safety member needs to be 50 years of age to achieve the maximum 3 percent of final compensation; a miscellaneous member needs to be 60 to achieve the maximum 3 percent of final compensation. In practice an32d application, the Golden Handshake benefit is essentially an enhancement for employees who need no encouragement for early retirement.

One other CalPERS-related cost factor of note is the fact that the City's CalPERS employee rate will increase in Fiscal Years 2009-10 and 2010-11, followed by a significant increase in Fiscal Year 2011-12. CalPERS' employer pension rate adjustments are reflected in the following bullets:

- *Fiscal Year 2009-10.* A maximum 1 percent employer rate adjustment for Miscellaneous, Police, and Fire second tier (3% @ 55) members for Fiscal Year 2009-10; and a maximum 4.3 percent employer rate adjustment for Fire first tier (3% @ 50) members for Fiscal Year 2009-10.

- *Fiscal Year 2010–11.* Stability in the employer rate for Miscellaneous, Police, and Fire second tier (3% @ 55) members for Fiscal Year 2010–11; and a maximum 0.5 percent employer rate adjustment for Fire first tier (3% @ 50) members for Fiscal Year 2010–11.
- *Fiscal Year 2011–12.* A projected 4 percent employer rate adjustment for Miscellaneous, Police, and Fire second tier (3% @ 55) members for Fiscal Year 2011–12; and a projected 7.5 percent employer rate adjustment for Fire first tier (3% @ 50) members for Fiscal Year 2011–12. Final determination on the Fiscal Year 2011–12 employer rate adjustment will be based on the negative performance of the CalPERS portfolio for the current valuation period and the decision by the CalPERS Board of Directors to smooth Fiscal Year 2011–12 rate adjustments over a 30-year period, not the typical 20-year rate smoothing process in place since 2002.

In summary, offering the Golden Handshake benefit may create cost savings after the first year of implementation; however, such savings would ultimately be impacted by:

1. The financial burden on future budgets to fund increases in the Employer Contribution Rates including:
 - (a) Actuarial increases in the City's Employer Contribution Rate to fund early retirements, blended over 20 years.
 - (b) Loss experience.
 - (c) Compounded Employer Contribution Rate increases from future wage adjustments.
 - (d) Anticipated significant increases in Fiscal Year 2011–12 resulting from the current market turmoil that has seen CalPERS lose approximately 30 percent of its investment portfolio.
2. Limitations on flexibility in hiring since the CalPERS program requires that each vacated position (or one vacancy in any position in any department or other organizational unit) remain permanently unfilled.

Cash Incentive for Service Credit Purchase: As an alternative to the CalPERS Golden Handshake, City staff recommends consideration of a *Cash Incentive for Service Credit Purchase Program* in which retirement-eligible (or near retirement-eligible) employees are offered a cash incentive to purchase CalPERS service credit and retire immediately. A City-sponsored retirement incentive program offers greater flexibility and control over various impacts including personnel management, cost, savings, effectiveness, and timeliness; the City program would also permit eligible employees to purchase less than two years of service credit and, in some instances, monthly increments. Funding for the program would come from the balance of funding in the current budget for each vacated position. If approved by the City Council, City staff recommends allowing the program to expire at the end of Fiscal Year 2009–10.

The primary advantage of a *Cash Incentive for Service Credit Purchase Program* is the lack of fiscal impact on future employer rates. Under the proposal designed herein, the purchase of up to two years of service credit is funded immediately, with monetary responsibility distributed equally between the employee and employer—there is no future

impact on the employer rate. Furthermore, the employee is fully responsible for obtaining the actuarial and completing all necessary forms. The agency's only responsibility is to provide its financial contribution for the purchase of up to one year of service credit. In contrast, under the terms of the Golden Handshake benefit, the City would experience a 20-year impact on its employer rate. Because there is no future impact on the employer rate or the need to amend the contract with CalPERS, an actuarial study is not required.

Conditions of the proposed *Cash Incentive for Service Credit Purchase Program* include the following:

1. Public safety members: The eligible employee must be at least 50 years of age, with approximately 28 years of CalPERS service credit; provided, however, the purchase of service credit under this program cannot increase total CalPERS service credit beyond 30 years. A public safety member with 30-plus years vested with CalPERS is ineligible to participate in this program—at 30 years of service, a public safety employee reaches his/her maximum retirement benefit. Establishing the age and service credit requirements as contained herein would reduce the potential for loss experience and its corresponding effect on future CalPERS employer rates for the City.
2. Miscellaneous members: The eligible employee must be at least 50 years of age, with approximately 28 years of CalPERS service credit. Establishing the age and service credit requirements as contained herein would reduce the potential for loss experience and its corresponding effect on future CalPERS employer rates for the City.
3. Additional eligibility criteria for all participating employees:
 - (a) The employee shall initiate and request from CalPERS an actuarial for purchase of up to two years of service credit—CalPERS website calculator worksheets are not acceptable. Service credit purchase may include the following: (1) repurchase of service credit (previous service credit); (2) military service credit; or (3) airtime.
 - (b) Each participating employee will provide to the Administrative Services Department the following completed documentation: (1) a copy of the CalPERS actuarial worksheet for service credit purchase; (2) CalPERS form PERS01M0026, *Election to Purchase ARSC*, indicating "Lump Sum Payment Option"; (3) CalPERS Form PERS-MSD-354B, *Certification Form: Plan-to-Plan Transfers and Direct Rollovers*, indicating the transfer amount inclusive of employee and employer contribution; and (4) Great West Retirement Service (GWRS) Form 11, *Distribution/Direct Rollover/Transfer Request*, indicating the distribution reason as "Purchase of Service Credit."
 - (c) Based on actuarial estimates, the City will provide a cash incentive equal to the purchase value of up to one year of service credit—the City's contribution shall not exceed the amount necessary to purchase one year of service credit for the participating employee. The City's contribution for service credit purchase shall match the employee's contribution; *i.e.*, if the employee elects, for example, to purchase two years of service credit at an actualized cost of \$50,000, the employee shall pay for one year of service credit (\$25,000) either out of pocket, through a 457 distribution, or both; and the City will match the employee's contribution by providing a cash incentive (\$25,000), as outlined herein, for the

purchase of an additional one year of service credit. The advantage of this type of program is that wages and benefit-related costs remain static—provided the number of retirements does not create a loss experience that exceeds CalPERS' actuarial assumptions.

- (d) The City contribution shall be deposited into the employee's Great West 457 deferred compensation plan account, provided the employee is eligible under IRS regulations to receive catch-up contributions under the following catch-up provisions.
- (1) Age 50 Catch-Up. The Age 50 catch-up provision allows participants reaching age 50 or older to contribute an additional amount annually to the employee's deferred compensation account. The ability to take advantage of the Age 50 catch-up provision is not dependent on the employee's prior year's deferrals to a qualified deferred compensation plan. The additional contribution amount may exceed the normal maximum contribution limit of \$16,500 in effect for 2009, but the combined contribution limit may not exceed \$22,500 (the catch-up limit will increase by \$500 in January 2010).
 - (2) Preretirement Catch-Up. The Preretirement catch-up provision allows participants to make up for eligible contributions not deferred in prior years, permitting contributions up to double the normal maximum in effect for the year. The employee may catch up for any years employed at the City of Montclair back to January 1, 1979. The contribution limit is determined by subtracting the actual amount already contributed during the three years prior to retirement from the maximum amount allowed by law.

The Age 50 and Preretirement catch-up provisions may not both be used in the same calendar year.

- (e) In the event that an employee participating in the *Cash Incentive for Service Credit Purchase Program* is not eligible to participate in either of the GWRS catch-up programs, or in the event that the City's contribution would be in excess of the available catch-up provision amount for the eligible employee, the City would issue a cash payment, minus appropriate taxes, to the participant provided the employee furnishes to the City appropriate CalPERS-related documentation as specified herein.
- (f) Except as otherwise required by terms of labor agreements with bargaining groups, the department may be required, on a case-by-case basis, to keep the position vacant for approximately two years—the department head must agree that the position could remain vacant for the required time. If the position cannot remain vacant because of job necessity, the employee may be ineligible to participate in the City's *Cash Incentive for Service Credit Purchase Program*. In any event, the City may expect to recover funds contributed toward service credit purchase through the normal delay in the recruitment process that keeps a position vacant for a brief period of time and by recruiting a candidate at a pay-step rate lower than the person who vacated the position.

- (g) To assist an employee with the purchase of his/her share of service credit, the employee may be offered the opportunity for cash-out of accrued leave time pursuant to the terms of the applicable Memorandum of Understanding.
- (h) An employee participating in the *Cash Incentive for Service Credit Purchase Program* must provide a *Notice of Intent to Retire* to the City's Personnel Committee with an effective date of retirement no later than 30 days after the City Personnel Committee authorizes issuing a cash incentive for service credit purchase and provided such disbursement occurs.

FISCAL IMPACT:

1. Unknown. Minimum cost—\$100,000; maximum cost—\$350,000. Average estimated cost to City per employee—approximately \$28,000.
2. Estimated savings to City will be based on the annual wage and benefit earnings for each participating employee, minus the cost to participate in the *Cash Incentive for Service Credit Purchase Program*, and the period of time for which the position remains vacated; *e.g.*, for a position with annual wage and benefits equal to \$80,000, the City may expect to see an annual net savings of approximately \$55,000, presuming the position is vacant for a 12-month period.
3. Actual cost will be based on a variety of factors including number of participants, age of each participant at time of retirement, service credit purchased by each participant, highest 12 months of wage earnings for each participant, and each participant's total years of vesting with CalPERS. Annual net savings would also be affected by labor agreements and necessity that may impact the period of time for which a position remains vacated.
4. Estimated number of participants: Five to ten employees—based on eligibility criteria and the number of employees within two years of reaching normal retirement age under applicable retirement formulas.

RECOMMENDATION: Staff recommends the City Council authorize a *Cash-Incentive for Service Credit Purchase Program* as outlined herein to promote early retirement, with an expiration date of June 30, 2010.

AGENDA REPORT

SUBJECT: CONSIDER RATIFICATION OF THE CITY MANAGER'S ACTION RECOMMENDING FUNDING FOR COMMUNITY DEVELOPMENT BLOCK GRANT PROJECTS THROUGH THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (CDBG-R) FOR FISCAL YEAR 2009-10	DATE: August 3, 2009 SECTION: ADMIN. REPORTS ITEM NO.: 2 FILE I.D.: GRT050 DEPT.: COMMUNITY DEV.
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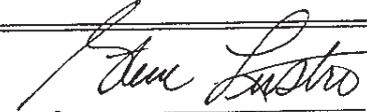
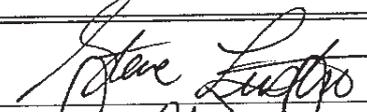
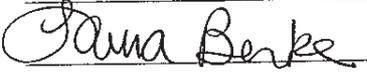
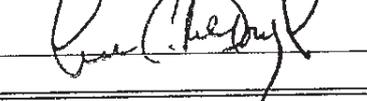
**BUSINESS
PLAN:** N/A

REASON FOR CONSIDERATION: In May 2009, staff was informed by the County of San Bernardino Department of Community Development and Housing (CDH) that the City was eligible for stimulus funding for Community Development Block Grant (CDBG) projects. Because of the short turnaround (less than one week) required to meet the funding deadline, City Manager McDougal signed the funding request on May 13, 2009; and staff submitted it to the County for consideration. The Department of Housing and Urban Development (HUD) requires that the City Council ratify the City Manager's action in order to receive this funding.

BACKGROUND: On May 8, 2009, staff was informed via email by CDH that HUD had announced the County was eligible to receive nearly \$2 million through the CDBG program under the American Recovery and Reinvestment Act of 2009 (CDBG-R). Of the \$2 million CDBG-R total, Montclair was eligible for \$116,798. Like other stimulus funding being funneled to local agencies, certain restrictions apply to the use of the funds. Priority is placed on the creation of jobs, use of the funds for hard development costs associated with infrastructure activities, and the ability to move quickly to implement projects.

Based on these criteria, staff recommended that the \$116,798 of CDBG-R funds be used to supplement a capital project that had previously been submitted for Fiscal Year 2009-10 but that is not fully funded. The subject project involves the reconstruction of approximately 1,300 lineal feet of alleyway east of Mills Avenue between Evert Street and Pradera Avenue within one of the City's CDBG target areas. One of the requirements of the CDBG-R funding, similar to other stimulus funding from the federal government, is that projects be "shovel-ready"; in other words, projects that can begin quickly. In the case of CDBG-R funding, contracts must be awarded no later than October 13, 2009.

FISCAL IMPACT: There would be no cost to the City should the City Council ratify the City Manager's action on the CDBG-R funding.

Prepared by: 	Reviewed and Approved by:	
Proofed by: 	Presented by:	

RECOMMENDATION: Staff recommends the City Council ratify the City Manager's action recommending funding for Community Development Block Grant projects through the American Recovery and Reinvestment Act of 2009 (CDBG-R) for Fiscal Year 2009-10.

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF FILING OF A NOTICE OF COMPLETION FOR CONSTRUCTION OF THE AMHERST AVENUE IMPROVEMENT WEST PROJECT; REDUCTION OF FAITHFUL PERFORMANCE BOND TO 10 PERCENT; AND RETENTION OF PAYMENT BOND FOR SIX MONTHS	DATE: August 3, 2009
	SECTION: ADMIN. REPORTS
	ITEM NO.: 3
	FILE I.D.: STA650
CONSIDER RELEASE OF RETENTION 30 DAYS AFTER RECORDATION OF NOTICE OF COMPLETION	DEPT.: PUBLIC WORKS

BUSINESS

PLAN: STRATEGIC PRIORITY NO. 3, GOAL 3

REASON FOR CONSIDERATION: State law requires Notices of Completion to be recorded with the County Recorder upon acceptance of a public works project. Notices of Completion require City Council approval.

BACKGROUND: On March 2, 2009, Desert Ranger Construction was awarded a contract for construction of the Amherst Avenue Improvement West Project and entered into Agreement No. 09-17. All work required under Agreement No. 09-17 has been satisfactorily completed. Work included interior demolition and reconstruction of drywall, kitchens, bathrooms, and flooring and replacement of windows with energy-efficient models. Exterior improvements included new stucco, roofs, trash enclosures, balcony replacements, concrete courtyards, and irrigation and landscape enhancements.

FISCAL IMPACT: During the course of construction, it was necessary to adjust a few quantities as well as modify the project Scope of Services through construction change orders. The changes ultimately increased the total construction cost from the awarded amount of \$966,324.00 to the final cost of \$1,057,257.47, a \$90,933.47 increase.

RECOMMENDATION: Staff recommends the City Council take the following actions related to completion of the Amherst Avenue Improvement West Project:

1. Approve the filing of a Notice of Completion with the Office of the County Recorder.
2. Reduce the Faithful Performance Bond to 10 percent.
3. Retain the Payment Bond for six months.

Prepared by: _____

M. S. ...

Reviewed and Approved by: _____

M. STAAZ

Proofed by: _____

Alle ...

Presented by: _____

...

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Montclair, City Clerk's Office
5111 Benito Street/P. O. Box 2308
Montclair, CA 91763

APN NO. : N/A

(Space above this line for Recorder's Use)

NOTICE OF COMPLETION

NOTICE is hereby given that:

The undersigned is the owner of an interest of estate in the hereinafter described property, the nature of which said interest or estate is: fee

The full name and address of the undersigned is Michael C. Hudson, City Engineer
City of Montclair
5111 Benito Street
Montclair, CA 91763

The work was completed on that certain work known as Amherst Avenue Improvement West Project

for the undersigned City of Montclair, a Municipal Corporation, on the 3rd day of August, 2009

The City accepted the job on the 30th day of July, 2009

The Contractor on said job was Desert Ranger Construction
23 Dartmouth Dr.
Rancho Mirage, CA. 92270

The improvement consisted of Low income housing renovations

The property upon which said work of improvement was completed is described as: 10330, 10380,
10390 and 10410
Amherst Avenue

VERIFICATION

I, the undersigned, say that I am agent for the owner of the aforesaid interest or estate in the property described in the above notice.

I have read the foregoing notice and know and understand the contents thereof, and the facts stated herein are true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: _____ at 5111 Benito Street, Montclair, California

City Engineer, City of Montclair

AGENDA REPORT

SUBJECT: CONSIDER DECLARING UNCLAIMED
PROPERTY IN POLICE CUSTODY AS SURPLUS
AND AVAILABLE FOR AUCTION

DATE: August 3, 2009

SECTION: ADMIN. REPORTS

ITEM NO.: 4

FILE I.D.: EQS051/052

**BUSINESS
PLAN:** N/A

DEPT.: POLICE

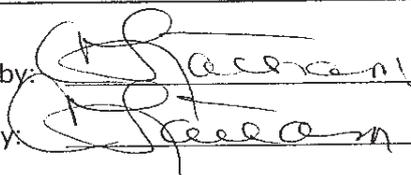
REASON FOR CONSIDERATION: The City Council is requested to declare unclaimed property in police custody as surplus so that it may be made available for auction.

BACKGROUND: The items included on the attached list are considered unclaimed property in police custody. Upon being declared as surplus by the City Council, the property would be available for auction.

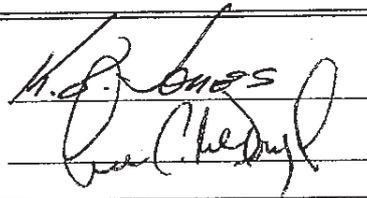
FISCAL IMPACT: There is no estimation as to the proceeds to be received through auction of these items.

RECOMMENDATION: Staff recommends the City Council declare unclaimed property in police custody as surplus and available for auction.

Prepared by:



Reviewed and
Approved by:



Proofed by:

Presented by:

**CITY OF MONTCLAIR
SURPLUS PROPERTY LIST
AUGUST 2009**

Montclair Police Department

<i>Tag No.</i>	<i>Quantity</i>	<i>Description</i>	<i>Serial No.</i>	<i>CR#</i>	<i>Notation</i>
1	1	RCA MP3 PLAYER	RD2011RDA	08-2829	1129-000200
2	1	TRUTECH CD & STEREO BOOM BOX	J07R04450	08-3949	1129-000201
3	1	BLACK COACH PURSE		08-3219	1129-000202
4	1	BROWN & GOLD COACH PURSE		08-3219	1129-000203
5	1	LIZ CLAIBORNE BLACK LEATHER PURSE		08-2176	1129-000204
6	3	WHITE SOCKS (4 PAIRS PER PKG) / SIZE 9-11		08-4449	1129-000205
7	3	BLACK SOCKS (4 PAIRS PER PKG) / SIZE 9-11		08-4449	1129-000206
8	2	PRO CLUB WHITE T-SHIRT / SIZE M		08-4449	1129-000207
9	2	PRO CLUB WHITE T-SHIRT / SIZE L		08-4449	1129-000208
10	1	PAIR OF CLEAR STONE EARRINGS		09-0116	1129-000209
11	1	22" PINNACLE CHROME TIRE RIM		08-6315	1129-000210
12	1	22" PINNACLE CHROME TIRE RIM		08-6315	1129-000211
13	1	22" PINNACLE CHROME TIRE RIM		08-6315	1129-000212
14	1	22" PINNACLE CHROME TIRE RIM		08-6315	1129-000213
15	1	18" CHROME (5 SPOKE) TIRE RIM		08-6315	1129-000214
16	1	18" CHROME (5 SPOKE) TIRE RIM		08-6315	1129-000215
17	1	18" CHROME (5 SPOKE) TIRE RIM		08-6315	1129-000216
18	1	18" ALLOY TIRE RIM		08-6315	1129-000217
19	1	18" ALLOY TIRE RIM		08-6315	1129-000218
20	1	18" CHROME (5 SPOKE) TIRE RIM		08-6315	1129-000219
21	1	18" ALLOY TIRE RIM		08-6315	1129-000220
22	1	18" ALLOY TIRE RIM		08-6315	1129-000221
23	1	18" CHROME (5 SPOKE) TIRE RIM		08-6315	1129-000222
24	1	18" NISSAN TIRE RIM		08-6315	1129-000223

**CITY OF MONTCLAIR
SURPLUS PROPERTY LIST
AUGUST 2009**

Montclair Police Department

<i>Tag No.</i>	<i>Quantity</i>	<i>Description</i>	<i>Serial No.</i>	<i>CR#</i>	<i>Notation</i>
25	1	18" NISSAN TIRE RIM		08-6315	1129-000224
26	1	18" NISSAN TIRE RIM		08-6315	1129-000225
27	1	18" NISSAN TIRE RIM		08-6315	1129-000226
28	1	18" ENKEI CHROME TIRE RIM		08-6315	1129-000227
29	1	18" ENKEI CHROME TIRE RIM		08-6315	1129-000228
30	1	18" ENKEI CHROME TIRE RIM		08-6315	1129-000229
31	1	18" CHROME (5 SPOKE) TIRE RIM		08-6315	1129-000230
32	1	WEDDING FIGURINE		07-2787	1129-000231
33	1	MUSICAL PORCELAIN FIGURINE		07-2787	1129-000232
34	1	BANANA REPUBLIC SWEATER / SIZE XL		08-5725	1129-000233
35	1	GAP BLACK CAPRI'S / SIZE M		08-5725	1129-000234
36	2	BICYCLE SAFETY FLASHER LIGHT		08-6640	1129-000235
37	1	CARTERS BABY ONESIE / SIZE 9 MONTHS		09-0883	1129-000236
38	1	DISNEY WASHABLE COLORING BOOK		09-0883	1129-000237
39	1	BLACK SHIRT / WOMEN'S SIZE L		08-5850	1129-000238
40	1	LEOPARD PRINT LEGGINGS / GIRL'S SIZE L		08-5850	1129-000239
41	1	BLACK LEGGINGS / GIRL'S SIZE L		08-5850	1129-000240
42	29	HOT WHEELS TOY CAR		09-1253	1129-000241
43	4	MATCHBOX TOY CAR		09-1253	1129-000242
44	2	INDIAN TOY MOTORCYCLE		09-1253	1129-000243
45	2	PRO RODZ TOY CAR		09-1253	1129-000244
46	1	JOHNNY LIGHTNING TOY CAR		09-1253	1129-000245
47	1	MUSCLE MACHINES TOY CAR		09-1253	1129-000246
48	1	RACING CHAMPIONS TOY CAR		09-1253	1129-000247

AGENDA REPORT

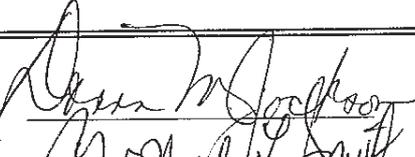
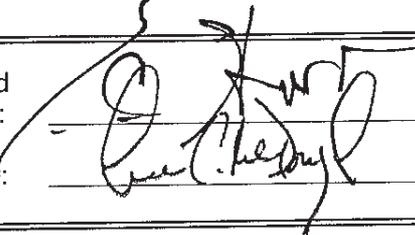
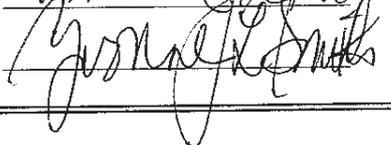
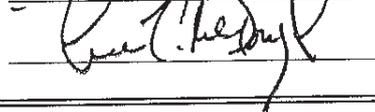
SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION	DATE: August 3, 2009
	SECTION: ADMIN. REPORT
	ITEM NO.: 5
BUSINESS PLAN: N/A	FILE I.D.: FIN540
	DEPT.: ADMIN. SVCS.

REASON FOR CONSIDERATION: The City Council is requested to consider approval of the Warrant Register and Payroll Documentation.

BACKGROUND: Mayor Pro Tem Dutrey has examined the Warrant Register dated August 3, 2009, and Payroll Documentation dated May 24, 2009, finds them to be in order and recommends their approval.

FISCAL IMPACT: The Warrant Register dated August 3, 2009, totals \$1,290,872.04. The Payroll Documentation dated May 24, 2009, totals \$609,847.20, with \$465,118.28 being the total cash disbursement.

RECOMMENDATION: Staff recommends the above-referenced Warrant Register and Payroll Documentation be approved as presented.

Prepared by: 	Reviewed and Approved by: 
Proofed by: 	Presented by: 

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 09-63 WITH THE CITY OF WEST COVINA FOR MOBILE DATA COMPUTER CONNECTIV- ITY, DATA PROCESSING EQUIPMENT, SOFT- WARE, AND SERVICE OF COMPUTER-AIDED DISPATCH AND RECORDS MANAGEMENT SYSTEM PROGRAMS	DATE: August 3, 2009 SECTION: AGREEMENTS ITEM NO.: 1 FILE I.D.: PDT260 DEPT.: POLICE
BUSINESS PLAN: N/A	

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 09-63 with the City of West Covina (West Covina) for Mobile Data Computer (MDC) connectivity, data processing equipment, software, and service of Computer-Aided Dispatch (CAD) and Records Management System (RMS) Programs, all of which are administered through the West Covina Police Department.

BACKGROUND: For many years, the Montclair Police Department has relied on the services of West Covina for data processing equipment, software, and support for the Police Department's CAD and RMS programs as well as MDC connectivity.

The services provided by West Covina offers the Police Department access to a comprehensive public safety information system without the day-to-day responsibility of system management and ongoing maintenance.

The CAD system is a computer-based module for accepting Police calls for service, dispatching public safety personnel, and tracking the status of available resources. The CAD system includes interfaces to the RMS, MDCs, emergency telephone systems (E-911), and all available external law enforcement databases.

Multiple open windows allow dispatchers to perform varied tasks while still being aware of changes that take place with field units.

The CAD software is fully integrated into the MDC system, which allows for extensive information availability to field officers. The CAD is fully integrated into the RMS Program from which all available information is immediately transferred. Response time analysis, officer productivity, and free-time analysis reports are all based on the CAD data and provide an immediate and timely overview of efficiency.

From within the CAD, dispatchers have full access to county databases, California Law Enforcement Telecommunications Systems (CLETS), and the National Crime Information Center (NCIC).

Prepared by: <u><i>J. Judy B.</i></u>	Reviewed and Approved by: <u><i>[Signature]</i></u>		
Proofed by: <u><i>Sharon [Signature]</i></u>	Presented by: <u><i>[Signature]</i></u>		

The RMS Program is a computer-based module that allows for easy data entry and retrieval of crime-related records, citation information, field interview information, registrant information, and CAD information associated with crime and other incidents reported to the Communications Center. The RMS Program also encompasses a crime analysis system with the capability of generating statistical reports, a useful tool in crime analysis. Both facets of the program are designed to assist law enforcement in effectively handling criminal investigations.

FISCAL IMPACT: West Covina has implemented a 5 percent rate increase for Fiscal Year 2009-10. The total cost of services proposed to be provided by the City of West Covina in Agreement No. 09-63 during Fiscal Year 2009-10 is \$72,410, of which \$62,910 was allocated in the Police Department's Fiscal Year 2009-10 Budget. MDC interface maintenance fees in the amount of \$5,500 were inadvertently omitted from the Information Technology Division's Fiscal Year 2009-10 Budget. Likewise, annual CLETS access fees in the amount of \$4,000 were inadvertently omitted from the Police Department's Fiscal Year 2009-10 Budget. The Police Department is, therefore, requesting the balance of \$9,500 be transferred from the Contingency Account to the Police Department Administration Program Account (1001-4421-52450-400) to compensate for the funding shortfall.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 09-63 with the City of West Covina for Mobile Data Computer connectivity, data processing equipment, software, and service of Computer-Aided Dispatch and Records Management System Programs.

AGREEMENT NO. 09-63

DATA PROCESSING EQUIPMENT AND SERVICES AGREEMENT

This DATA PROCESSING EQUIPMENT AND SERVICES AGREEMENT is made this 4th day of August, 2009 by and between the City of West Covina, through its Police Department, an entity organized under the laws of the State of California ("West Covina Police") and the Montclair Police Department, organized under the laws of the State of California ("Client Agency").

Recitals

- A. Client Agency has requested to lease the West Covina application software.
- B. Client Agency desires to implement and use a comprehensive public safety information system without the responsibility for day-to-day central computer system management and West Covina Police has the available central computer system capacity, implementation, and system management skills and ability to implement such a system and to provide ongoing support and maintenance.

In consideration of an initial processing establishment fee and annual processing and software usage/support/maintenance fees to be paid by Client Agency to the West Covina Police, the parties agree as follows:

1. Sale of Equipment and Right to Use Software. Subject to the terms and conditions hereof, West Covina Police agrees to sell to Client Agency, and Client Agency agrees to purchase from West Covina Police, the equipment and the right to use the software products described herein (collectively referred to as the "System"). West Covina Police shall obtain for delivery at the address designated for Client Agency's use of the System (the "Installation Site"), the equipment, parts, and supplies identified in Attachment 1 hereto (the "Network Equipment").

Client Agency's right to use the system software products may not be transferred, leased, assigned, or sublicensed without West Covina Police's prior written consent, except for a transfer of the right-to-use in its entirety to a successor in interest of Client Agency's entire organization who assumes the obligations of this Agreement.

2. Network Equipment Installation. West Covina Police shall be responsible for complete installation of the System and Network Equipment identified in Attachment 1 hereto.

3. Training. Client Agency shall select personnel suitable to operate and use the System and confirm that such personnel demonstrate the competence necessary to manage and operate the System. West Covina Police shall, upon Client Agency's request, provide Client Agency's personnel with training and instruction concerning the operation and use of the System by conducting a training session(s) at a mutually convenient time at Client Agency's facility. The cost and terms of payment for providing training at Client Agency's facility is contained in Attachment 1 of this Agreement.

4. Remote Computing Services. The West Covina Police shall provide Client Agency with the data processing services described in the Processing Schedule contained in Attachment 1. The Processing Schedule sets forth standards and procedures, including form of source data, programs to be used in processing, procedures for data storage, and form of return data and output, for such services. The West Covina Police may provide remote computing services to sort and analyze such data in order to produce the return data and output. Such data, as sorted and analyzed, shall be stored in a custom database file for Client Agency to access on a confidential, "password-restricted" basis through the West Covina Police's online communications network. The Processing Schedule also sets forth the equipment and computer programs provided for Client Agency's use, the quantity of data storage space reserved the communication protocols and terminal specifications for equipment on Client Agency's premises, and user identification and security procedures to be employed.

5. Processing. The West Covina Police will process work in a timely manner according to the processing schedule, including computer network availability times and scheduled downtime arrangements, to be developed from time to time by Client Agency and West Covina Police and documented in additions to the Processing Schedule signed by both parties hereto. West Covina Police acknowledges that maximum availability of the computer network so undertaken is necessary for Client Agency to meet Client Agency's internal operating requirements; but West Covina Police shall not be responsible for unscheduled computer network outages attributable to causes beyond its reasonable control including, but not limited to, limitations on the availability of telephone transmission facilities, failures of other communications equipment, or Client Agency's failure to prepare data properly for input into equipment of West Covina Police.

6. Backup Services. If West Covina handles Client processing, West Covina Police shall maintain adequate backup arrangements and equipment in order to maintain services hereunder in the event of the failure of West Covina Police's equipment. West Covina Police shall, at a minimum, perform daily incremental and weekly comprehensive backups of Client Agency's database files and shall rotate a current backup copy offsite from West Covina Police's premises weekly.

7. Priority Processing. West Covina Police shall afford priority to all data processing services provided with respect to public safety information systems and shall undertake all reasonable efforts to maximize computer network availability for such data processing for Client Agency prior to any nonpriority processing.

8. Ownership of Systems, Materials, and Database. All systems, programs, operating instructions, and other documentation prepared by West Covina Police shall be, and remain, the property of West Covina Police. All data and source documents provided by Client Agency and all output shall be, and remain, Client Agency's property. Upon termination of this Agreement, all of Client Agency's information retained by West Covina Police in Client Agency's custom database files shall be made available to Client Agency on computer readable media of a type suitable for use on the specified equipment; and West Covina Police shall return to Client Agency all documents and written records of transactions belonging to Client Agency. Client Agency's custom database files shall be supplied in either native West Covina application system format or in a flat file format with all data fields unpacked or not in computational or binary form. Costs to cover such

final servicing and handling of materials and custom database files are deemed to be included in the processing establishment fee.

9. Duty of Care. West Covina Police agrees to employ due care and attention in maintaining Client Agency's custom database files. Client Agency acknowledges that data processing entails the likelihood of some human and machine errors, omissions, delays, and losses including inadvertent loss of data or damage to media, which may give rise to loss or damage.

Operation of the System and use of the products and services identified in this Agreement are the sole responsibility of Client Agency. West Covina's sole undertaking is limited to providing the products and services outlined herein in accordance with the terms and conditions of this Agreement. The provision of products sold or leased and services performed by West Covina to Client Agency shall not be interpreted, construed, or regarded, either expressly or implied, as being for the benefit of or creating any obligation toward any third party or legal entity outside of West Covina and Client Agency; West Covina's obligations under this Agreement extend solely to Client Agency.

Client Agency is responsible for adopting reasonable measures to limit Client Agency's exposure with respect to such potential losses and damages, including (without limitation) examination and confirmation of results prior to use thereof, provision for identification and correction of errors and omissions, preparation and storage of backup data, replacement of lost or damaged data or media, and reconstruction of data. Client Agency agrees to maintain at all times alternative methods capable of substitution for West Covina Police's performance under this Agreement. Client Agency is also responsible for complying with all local, state, and federal laws including those pertaining to the use and disclosure of any data.

10. Confidential Treatment of Information. West Covina Police shall maintain in confidence, and shall not disclose to any third party, unless directed to do so in writing by Client Agency's Chief of Police, or designee, all data and materials furnished by Client Agency for processing hereunder, and West Covina Police agrees that such information shall not be used by West Covina Police for any purposes other than the provision of processing services pursuant to this Agreement. West Covina Police's obligation under this Paragraph 11 is limited to diligent compliance with the same methods and procedures that West Covina Police uses to protect its own confidential information from disclosure. West Covina Police further agrees to restrict access to the custom database files created for the output of its processing of Client Agency's data. West Covina Police shall furnish Client Agency with a description of such restrictions upon Client Agency's request, BUT CLIENT AGENCY ACKNOWLEDGES THAT ACCESS RESTRICTIONS, BY THEIR NATURE, ARE CAPABLE OF BYPASS; AND WEST COVINA POLICE DOES NOT AND CANNOT GUARANTEE THAT SUCH OUTPUT CANNOT BE ACCESSED BY UNAUTHORIZED PERSONS CAPABLE OF OVERCOMING SUCH RESTRICTIONS.

11. Audits and Governmental Examination. West Covina Police agrees to permit auditors or consultants retained by Client Agency to audit or review the procedures for handling and processing of data hereunder upon reasonable notice and compliance with West Covina Police's security procedures. The parties also acknowledge that certain federal and state agencies may require access to facilities of West Covina Police to audit

the performance of the services by West Covina Police for Client Agency under this Agreement, and West Covina Police will cooperate with respect to all such governmental audits. West Covina Police shall provide an annual financial accounting and report of data processing operations in writing to Client Agency.

12. Modification of Procedures. West Covina Police may make changes from time to time in its standards and procedures for performing data processing services, but no substantial changes will be implemented by West Covina Police until it has furnished Client Agency with written notice thereof and a reasonable opportunity to adapt Client Agency's operations to accommodate such changes. Substantial changes are those that would force Client Agency to make significant modifications to their standard operating procedures.

13. West Covina Maintenance. West Covina Police shall maintain the application software used by Client Agency at the time of the execution of this Agreement. West Covina Police shall use its best efforts to correct any reproducible error. Response to downed systems generally will be within four hours. Suspected error conditions will be investigated and corrected by West Covina Police personnel at West Covina offices to the extent possible although visits to the Client Agency's site shall be made when necessary pursuant to Paragraph 18 of this Agreement. West Covina Police may provide Client Agency with use of unsolicited error corrections or changes to the software that West Covina Police determines are necessary for proper operation of the software.

14. New Releases. West Covina Police is continually working on improvements to application software modules. During the term of this Agreement, as these improvements are released, Client Agency will receive the right-to-use these improvements. West Covina Police reserves the right to make final determination as to whether or not newly completed or acquired enhancements, modules, and/or applications are deemed separately priced products or are to be included as no-cost enhancement/new releases for the maintenance-paying Client Agency.

15. Pricing. Network Equipment Costs, Processing Establishment, Installation, and Training Fees shall be paid on a one-time only basis according to the payment schedule contained in Attachment 1 of this Agreement. Processing, Software Support and Usage and Maintenance fees are billed annually and are due and payable by July 1 of each year. The amount of these annual recurring fees is presented in Attachment 1. West Covina Police may increase the amount of the annual recurring fees each year, based upon budget requirements, to a maximum of 5 percent in any year. Client Agency will be notified of such annual recurring fees increases by April 1 of each year.

16. Taxes. Client Agency shall report and pay all applicable federal, state, and local taxes designated, levied, or based (1) upon the Purchase Price, Service Establishment, Processing Fees, or any other amounts payable under this Agreement; (2) on account of this Agreement; or (3) with respect to the System, the Network Equipment, or the use by Client Agency of the System or the Network Equipment.

Client Agency shall indemnify and hold harmless West Covina Police from all claims and liability resulting from Client Agency's failure to report or pay such amounts.

17. Delivery. West Covina shall deliver all equipment outlined in Attachment 1 to Client Agency's facility.

18. Onsite Assistance and Billing. If a problem cannot be resolved using remote diagnostics, with the Client Agency's authorization, West Covina Police shall send a specialist to the Client Agency's site under the following terms and conditions: (1) If the problem lies solely with Client Agency's equipment, Client Agency will be responsible for all expenses associated with the resolution of the problem; and (2) if the problem is Client Agency generated, Client Agency may be responsible for all fees and expenses and will be automatically billed on a net 30 basis at West Covina Police's then-current service rate plus cost of materials. The current service rate is indicated in Attachment 1 of this Agreement.

Nonpayment of billed services shall constitute a breach of Agreement and all remote computing services and maintenance shall be withheld until such time as all back payments plus applicable late penalties and interest have been fully repaid. Client Agency generated problems include any and all hardware and/or network failures that were caused by improper use, tampering or by intentional damage to the Client Agency's Network Equipment.

19. West Covina Service Group (WCSG). Calls to WCSG will be accepted during regular business hours from 7:00 a.m. Pacific Standard Time to 5:00 p.m. Pacific Standard Time on Monday through Thursday excluding announced West Covina holidays. Responses from WCSG or other West Covina Police representatives would be provided during the same hours. West Covina Police will use its best efforts to resolve problems promptly. Client Agency will select no more than two (2) of its employees to serve as official representatives of Client Agency to use the WCSG hotline support. Client Agency may also appoint alternative representatives to act in place of the official representatives in their absence. The WCSG service is not to be considered a source of training or a source of consulting. It is Client Agency's responsibility to regulate and authorize the use of this service by its employees. All WCSG services shall be coordinated in advance with the West Covina Site Manager. Client Agency's representatives shall not call programming staff directly.

After-hours support services may be provided in coordination through the Site Manager. "After hours support services" means services between 5:00 p.m. and 7:00 a.m. Monday through Friday or on West Covina holidays or on weekends. Requests for emergency support services may originate only from the Client Agency's official representative(s). The charge for emergency services shall be on a time and materials basis at the rate indicated in Attachment 1 with a two (2) hour minimum.

West Covina shall designate a Site Manager under this Agreement.

20. Client Agency Responsibilities. Client Agency's responsibilities shall include the following:

(a) Client Agency, at its expense and prior to delivery and installation of the System at Client Agency's address, shall prepare the Installation Site in an appropriate manner and shall cause the Installation Site to conform to any utility, climate control, and

communication interface specifications that West Covina Police or the manufacturers or vendors of the Network Equipment may supply.

(b) Client Agency shall promptly inspect the Network Equipment upon its arrival at the Installation Site and shall notify West Covina Police if Client Agency finds any damage or defect in the Network Equipment.

(c) Client Agency shall provide West Covina Police personnel with the workspace necessary for the proper execution of its service obligations as necessary and required by West Covina Police.

(d) Client Agency will be responsible for maintaining the computer hardware, communications equipment, telephone lines, cabling, modems, and all other hardware equipment as necessary to operate efficiently and to industry standards.

(e) Client Agency will make available network access time for the testing and maintenance of software as necessary and required by West Covina Police.

21. Terms of Agreement. This Data Processing Equipment and Services Agreement shall be effective until terminated as set out in paragraph 22 subject to changes in terms and conditions set out herein.

22. Termination. Either party shall have the right to terminate this Agreement without cause upon not less than one hundred eighty (180) days advance written notice.

23. Warranties.

(a) West Covina Police warrants, for the benefit of Client Agency only, that at the time of completion of delivery and installation of the Network Equipment and Operating Programs at the Installation Site, the equipment shall be free of defects in materials or workmanship. West Covina Police's sole obligation, and Client Agency's exclusive remedy, for any defect or nonconformity in the Network Equipment and Operating Programs shall be to cooperate with Client Agency to provide it with the benefit, if any, of the warranty and support commitment of the third-party manufacturers and suppliers of Network Equipment and the Operating Programs. Client Agency may independently seek to obtain directly, from the manufacturers of the Network Equipment or the Operating Programs, maintenance or repair of the Network Equipment or the Operating Programs under any warranty or guarantee provided by such manufacturer. Client Agency acknowledges, unless Client Agency obtains separate service agreements with such manufacturers and suppliers or with a third-party maintenance vendor covering maintenance or repair of the Network Equipment and the Operating Programs at the Installation Site, that such manufacturers and suppliers may require Client Agency to deliver defective Network Equipment or Operating Programs to their authorized service centers for maintenance or repair.

(b) THE CLIENT AGENCY UNDERSTANDS AND AGREES THAT EXCEPT FOR THE FOREGOING WARRANTY, NO WARRANTIES, WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, SHALL APPLY TO THE SOFTWARE UNDER THIS AGREEMENT, WHICH

IS FOR MAINTENANCE AND SUPPORT ONLY. ALL IMPLIED WARRANTIES ARE HEREBY AND EXPRESSLY DISCLAIMED. West Covina's sole obligation for breach of this Agreement is limited to repairing and/or replacing, at Client Agency's option, the software components at West Covina's own expense, which shall be Client Agency's sole and exclusive remedy. The repair or replacement of any defective software under this warranty is conditioned upon the software not having been altered or repaired by any individual other than West Covina employees or agents, and West Covina shall not be responsible for any defects resulting from the mishandling, abuse, misuse, improper storage or improper operation, including use in conjunction with equipment which is electrically or mechanically incompatible with or of inferior quality to the System, as well as failure to maintain the environmental conditions specified by the manufacturer of the System.

24. Indemnification. Subject to the limitations set out herein, each party shall indemnify and hold harmless the other party from and against claims, losses, damages, liabilities, demands, and lawsuits to the extent they arise from, or are alleged to arise from, negligent acts solely in connection with a party's performance (or failure to perform) under this Agreement or a party's use of, or operation of, the Product(s) sold, installed, and maintained under this Agreement. This indemnity extends solely to claims and lawsuits for personal injury, death, or destruction of tangible property.

Notwithstanding any other provision in this Agreement, including without limitation Paragraphs 9, 23, and 24, West Covina Police shall defend, indemnify and hold harmless the Client Agency and its elected officials, officers, employees and agents from and against any claims, losses, damages, liabilities, demands and lawsuits, of whatsoever kind or nature, including, without limitation, patent and/or copyright infringement claims arising out of or relating to West Covina Police's ownership and/or ability or right to sell or lease the software and database which are the subject of this Agreement.

25. Security and Privacy. West Covina Police agrees that to the extent allowed by law, none of its officers or employees shall use or reveal any research or statistical information furnished by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained. Copies of such information shall not, without the prior written consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit or other judicial or administrative proceedings, unless ordered by a court of competent jurisdiction. Client Agency shall be notified immediately upon receipt of any such order of court, pertaining to production of such information.

26. Changes to files and/or hardware configuration. Any changes to files and/or hardware that may affect software performance including, but not limited to, changes to existing hardware configurations, network configurations, terminal and printer characteristics, or modems without the prior written consent of West Covina Police may void this Agreement. West Covina Police may provide requested support on a time and material basis only, until such time as the changes in configuration are resolved.

27. Independent Contractor. The parties hereto agree that West Covina Police Department and its employees, officers, and agents are independent contractors under this Agreement and shall not be construed for any purpose to be employees of Client Agency.

28. Notices. Any notices required or permitted under this Agreement shall be in writing and shall be effective when delivered in person or sent by registered or certified mail, return receipt requested, with proper postage affixed or by personal courier to the address set forth in this Agreement or any more recent address of which the sending party has been apprised.

29. Governing Law/Miscellaneous. This Agreement shall be governed by the laws of the State of California. It may be amended only in writing signed by both parties. No waiver of any term or condition of this Agreement shall be a continuing waiver thereof.

30. Entire Agreement. This Agreement including Attachment 1 hereto, which is hereby incorporated herein by this reference, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes any and all prior and contemporaneous representations, proposals, agreements, negotiations, advertisements, statements, or understandings, whether oral or written. No amendment to this Agreement shall be binding on either party unless such amendment is in writing and executed by authorized representatives of both parties to this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement by their duly authorized representatives.

CLIENT AGENCY:

CITY OF MONTCLAIR

By _____
Paul M. Eaton
Mayor

ATTEST:

Donna M. Jackson
City Clerk

Date _____

WEST COVINA POLICE:

CITY OF WEST COVINA

By _____
Frank J. Willis
Chief of Police

Date _____

DATA PROCESSING EQUIPMENT AND SERVICES AGREEMENT NETWORK EQUIPMENT AND PROCESSING SCHEDULE – Attachment 1

I. Description of Data Processing Services:

A. Maintenance and Repair of Data Communications Lines:

All data communication lines between Client Agency and West Covina are supplied by the local telephone service company. The maintenance and repair of those lines remain the responsibility of the provider.

B. Maintenance and Repair of E-911 Connections:

All 911 communication lines are supplied by the local telephone service company. The maintenance and repair of those lines remains the responsibility of the provider.

C. Maintenance and Repair of External System Interfaces:

All external interface communication lines between Client Agency and the County or State are supplied by the County or the State. The maintenance and repair of those lines remains the responsibility of the provider.

D. Maintenance and Repair of West Covina Police Supplied Third-Party Equipment:

All third-party equipment provided by West Covina to Client Agency will be the property of the Client Agency. The maintenance and repair of that equipment will be the responsibility of West Covina. Any West Covina personnel costs will be billed to Client Agency at a time and materials rate of \$150 per hour.

E. Maintenance and Repair of Third-Party Software Provided by West Covina Police:

All third party software provided by West Covina to Client Agency will be the property of the Client Agency. The maintenance and repair of that software will be the responsibility of West Covina. Any West Covina personnel costs will be billed to Client Agency at a time and materials rate of \$150 per hour.

F. Maintenance and Repair of West Covina Police Central Computer System:

West Covina will be responsible for all maintenance and repair of the Central Computer System with contracted maintenance coverage of 24 hours by seven days per week including holidays.

DATA PROCESSING EQUIPMENT AND SERVICES AGREEMENT NETWORK EQUIPMENT AND PROCESSING SCHEDULE - Attachment 1

G. Client Agency Copy of Database Backup:

At Client Agency direction, West Covina Police will rotate to Client Agency a comprehensive backup media on a monthly basis.

II. Standards and Procedures

A. Client Agency's Users' Group:

Client Agency will be a member of the West Covina User's Group and will be invited to attend all meetings of that group and will be asked to provide input into future software enhancements.

B. Procedures for Offsite Data Storage:

West Covina will make daily backups of the entire Client Agency system. If asked to do so, West Covina will each month provide Client Agency with a full backup media.

C. Network Availability Schedule:

24 hours daily, seven days per week.

D. Scheduled Downtimes:

Downtimes are scheduled on an "as-needed" basis and West Covina Police will provide, in most instances, at least one (1) day advance notice. Less notice may be provided for emergency system maintenance downtime.

E. Security Procedures:

Client Agency will have full authority and responsibility to assign passwords, terminal timeouts, user clearances, and other related security functions to all of their users on the system.

F. Onsite Assistance and Emergency Service Fees:

Normal Onsite Assistance rate is \$150 hour.

Emergency Services rate is \$300 hour.

Client Agency shall be invoiced for these services fees as they are incurred. The invoice shall indicate the date services were provided, the individual providing the services, and amount of time incurred. Invoices are due and payable within 30 days.

DATA PROCESSING EQUIPMENT AND SERVICES AGREEMENT NETWORK EQUIPMENT AND PROCESSING SCHEDULE - Attachment 1

Client Agency shall be invoiced for any software or hardware purchases made on their behalf at the time of ordering. Invoices are due and payable within 30 days. Late payments are subject to a 3 percent monthly penalty.

The annual processing/usage fee is due and payable by July 1 of each year. The software support and maintenance fee is due and payable by July 1 of each year.

The software support and maintenance fee is due and payable by July 1 of each year.

DATA PROCESSING EQUIPMENT AND SERVICES AGREEMENT
NETWORK EQUIPMENT AND PROCESSING SCHEDULE - Attachment 1

ONGOING ANNUAL FEES (due July 1 of each year starting July 1, 2009)

ANNUAL CAD/RMS/EXTERNALS INTERFACE MAINTENANCE FEES	\$31,400
ANNUAL HOSTED LEASE/USAGE FEES	26,460
ANNUAL FRAME RELAY CONNECTION FEES	550
ANNUAL MDT INTERFACE MAINTENANCE FEES	5,500
ANNUAL CLETS FEES	4,000
ANNUAL PST RADCOM SERVER/CLIENT MAINTENANCE FEES	<u>4,500</u>
TOTAL WCSG ANNUAL FEES	<u>\$72,410</u>

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT
NO. 09-64 WITH THE LIQUIDATION
COMPANY FOR THE PUBLIC SALE OF
SURPLUS AND UNCLAIMED PROPERTY

DATE: August 3, 2009

SECTION: AGREEMENTS

ITEM NO.: 2

FILE I.D.: EQS051/052

**BUSINESS
PLAN:** N/A

DEPT.: POLICE

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 09-64 with The Liquidation Company to continue the Police Department's association with the auctioneer.

BACKGROUND: The Police Department has retained The Liquidation Company as an alternate auction source to dispose of surplus City property and unclaimed property in Police custody several times each year. The frequency of these auctions has significantly remedied issues related to the handling and storage of this property as well as curtailed Police and Finance personnel costs associated with inventorying, tagging, selling, and bookkeeping procedures. The auctioneer works with other public agencies in the auction of surplus and unclaimed property. The Liquidation Company periodically collects the City's surplus and unclaimed property and stores it until a combined agency auction can be held. Although auctions are held a number of times throughout the year, they are sizable enough to draw a wider turnout than the City could on its own.

Proposed Agreement No. 09-64 authorizes The Liquidation Company to administer the entire auction process once it takes possession of the property. The City would only be required to conduct an audit of the process, dramatically cutting personnel costs.

FISCAL IMPACT: The Liquidation Company is proposing a standard fee not to exceed 35 percent of the gross sales, which is the rate currently charged by the auctioneer. This fee should be offset by the savings in personnel costs for the City to conduct its own auction.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 09-64 with The Liquidation Company for the public sale of surplus and unclaimed property.

Prepared by: _____

Rudy Zh
Charon Benjamin

Reviewed and
Approved by: _____

P. J. Jones
Lee (The Day)

Proofed by: _____

Presented by: _____



The Liquidation Company
Est. 1994

AGREEMENT

This agreement dated the 1st day of July, 2009 in the County of San Bernardino, State of California, by and between **City of Montclair** hereinafter referred to as SELLER, and **The Liquidation Company** hereinafter referred to as AUCTIONEER.

This Agreement is to conduct an unreserved auction for the sale of all surplus property to the SELLER'S needs.

1. For all the services, which AUCTIONEER is obligated to perform under the terms of this Agreement, the SELLER shall pay to the AUCTIONEER a standard Seller's Fee of not to exceed 35 percent of the gross sales. AUCTIONEER shall provide a check made payable to **City of Montclair** of net proceeds of auction. The check shall be delivered to SELLER no later than thirty (30) working days after the sale and removal of sold items.
2. The duty of the AUCTIONEER shall be to serve as AUCTIONEER and to provide the necessary additional team members to solicit and receive bids on property offered for sale and to award said property to the highest qualified bidder. AUCTIONEER has a security bond on file with the State of California and shall provide proof of such bonding upon SELLERS request. AUCTIONEER is also licensed by the State of California as a collector of electronic waste. AUCTIONEER shall perform all other duties in regards to such sales, including but not limited to advertising, telemarketing, cashiering, pick up surplus items, DMV paperwork, bookkeeping, clerking, set-up, tagging, inventorying, and other related functions.
3. AUCTIONEER shall be an independent contractor retained by the SELLER for the aforementioned purpose. Employees of the AUCTIONEER will not be considered for any reason to be employees of the SELLER.
4. It shall be the responsibility of the AUCTIONEER to obtain, at the AUCTIONEER'S expense, all required licenses and permits necessary to perform under this Agreement. SELLER warrants that they are the owner of and has merchantable title to the items of surplus property offered for sale as set forth in this agreement, and grants to the AUCTIONEER the right to convey a merchantable title to that property to the successful buyer at the auction. SELLER shall offer all board approved surplus property to AUCTIONEER, a listing of which shall be made an integral part of this Agreement as Exhibit "A". No items shall be removed from Exhibit "A" less than four days prior to the scheduled auction date.

5. The AUCTIONEER shall comply with all Federal, State, and County safety, environmental, and sanitation laws and regulations.

6. In the case of dispute, the laws of the State of California and the County of San Bernardino shall apply.

7. Non-discrimination in the performance of the terms of this Agreement: AUCTIONEER agrees that he will not engage in or permit subcontractors where applicable, as he may employ, from engaging in discrimination in employment of persons because of race, color, sex, religion, ancestry, or national origin.

8. AUCTIONEER shall have the right but not the obligation to charge buyers a "BUYERS PREMIUM" or surcharge not to exceed thirteen percent (13%), the full amount of which AUCTIONEER will be entitled.

9. AUCTIONEER shall provide SELLER the selling price for each lot consigned and sold.

10. The term of this agreement shall be for a period of one year ending on the 30th day of June, 2010.

The parties hereto have executed this Agreement on 1st day of July, 2009.

BY: _____

DATE: _____
The Liquidation Company

BY: _____

DATE: _____

ATTEST:

BY: _____

DATE: _____

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 09-65 WITH THE COUNTY OF SAN BERNARDINO FOR THE PROVISION OF SERVICES AND SUPPLIES FOR THE EVIDENTIARY BREATH ALCOHOL ANALYSIS INSTRUMENT	DATE: August 3, 2009 SECTION: AGREEMENTS ITEM NO.: 3 FILE I.D.: SBC275/SUB050/PDT425
BUSINESS PLAN: N/A	DEPT.: POLICE

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 09-65 with the County of San Bernardino to provide services and supplies necessary to maintain an evidentiary breath alcohol analysis instrument.

BACKGROUND: The County of San Bernardino, through the Sheriff's Scientific Investigations Division, has provided services and supplies necessary for the maintenance and operation of the Police Department's Drager Alcotest evidentiary breath alcohol analysis instrument for many years. Among the services provided through the County is expert witness testimony regarding the device and operator training. The device measures breath alcohol concentration in the body.

San Bernardino County has notified the Police Department of a \$1,200 rate increase that would be evenly distributed over the course of the three-year Agreement. The contract would be effective July 1, 2009, through June 30, 2012, at a rate of \$2,400 per fiscal year.

FISCAL IMPACT: The total cost of proposed Agreement No. 09-65 over the course of three years would be \$7,200. An annual allocation of \$2,400 would be included in the Police Department Fiscal Year Budget through June 30, 2012.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 09-65 with the County of San Bernardino for the provision of services and supplies for the evidentiary breath alcohol analysis instrument.

Prepared by: <i>[Signature]</i>	Reviewed and Approved by:	<i>[Signature]</i>
Proofed by: <i>[Signature]</i>	Presented by:	<i>[Signature]</i>

FOR COUNTY USE ONLY



County of San Bernardino

F A S

STANDARD CONTRACT

<input checked="" type="checkbox"/> New	Vendor Code	SC	Dept. SHR	A	Contract Number	
<input type="checkbox"/> Change					Contractor's License No.	
<input type="checkbox"/> Cancel					Total Contract Amount	
County Department SHERIFF			Dept. SHR	Orgn. SHR		
County Department Contract Representative DENNIS J. CASEY			Telephone (909) 387-0640		\$7,200	
Contract Type						
<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input type="checkbox"/> Other:						
If not encumbered or revenue contract type, provide reason:						
Commodity Code		Contract Start Date	Contract End Date	Original Amount	Amendment Amount	
		07-01-09	06-30-12	\$7,200		
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No	Amount
AAA	SHR	SHR		9800	INTOXMT	\$7,200
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount
Project Name			Estimated Payment Total by Fiscal Year			
Breath Alcohol Analysis			FY	Amount	I/D	FY
Instrument Supplies & Services						
Contract Type 1						

THIS CONTRACT is entered into in the State of California by and between the County of San Bernardino, hereinafter called the COUNTY, and

Name

City of Montclair

hereinafter called CONTRACTOR

Address Montclair Police Department
4870 Arrow Highway

Montclair, CA 91763

Telephone (909) 621-5873

Federal ID No. or Social Security No.

IT IS HEREBY AGREED AS FOLLOWS:

(Use space below and additional bond sheets. Set forth service to be rendered, amount to be paid, manner of payment, time for performance or completion, determination of satisfactory performance and cause for termination, other terms and conditions, and attach plans, specifications, and addenda, if any.)

WITNESSETH

WHEREAS, CONTRACTOR is in need of services and supplies necessary to operate a Drager Alcotest 7110 Mark III-C evidentiary breath alcohol analysis instrument, **AND**,

WHEREAS, COUNTY, through the Sheriff's Scientific Investigations Division (hereinafter referred to as "CRIME LAB"), has the resources and personnel to provide these services;

NOW THEREFORE, it is agreed as follows:

Auditor/Controller-Recorder Use Only

<input type="checkbox"/> Contract Database	<input type="checkbox"/> FAS
Input Date	Keyed By

I. SCOPE OF SERVICES.

- A. COUNTY shall provide services and supplies related to the operation of a Drager Alcotest 7110 Mark III-C evidentiary breath alcohol analysis instrument, which is included in the Conforming Products List for Evidential Breath Measurement Devices (69 FR 42238), effective July 14, 2004, as published by the National Highway Traffic Safety Administration (Docket NHTSA-2004-18512), US Department of Transportation. The services and supplies provided are as follows:
1. Instrument checklists and forms.
 2. In-laboratory calibration of Drager Alcotest 7110 Mark III-C.
 3. Accuracy verification solutions for Drager Alcotest 7110 Mark III-C.
 4. In-laboratory simulator repair is limited to the correction of mercury splits in the thermometer and replacement of O-rings.
 5. Loaner instruments and simulators, if available.
 6. Computer support including data upload and storage, program download, instrument diagnostics, and generation of reports.
 7. CRIME LAB will provide printer ribbons, mouthpieces and chart paper. It is the CONTRACTOR's responsibility to install and/or replace these items.
 8. Expert witness testimony regarding the Drager Alcotest 7110 Mark III-C.
 9. Training of Drager Alcotest 7110 Mark III-C operators.
 10. Training of Drager Alcotest 7110 Mark III-C accuracy verifiers.
- B. The scope of service **does not** include:
1. Site visits for repairs, except as specified in Paragraph A. #6, above, and/or calibration.
 2. Factory repair of instruments or simulators. The CRIME LAB does not repair instruments. CONTRACTOR shall contact Draeger Incorporated to set up an account in CONTRACTOR's name. CONTRACTOR shall submit the instrument to CRIME LAB for general troubleshooting. If warranted, CRIME LAB will contact CONTRACTOR to advise that the instrument is being shipped to Draeger for repair. Once repaired, Draeger will return the instrument to CRIME LAB for calibration and CRIME LAB will contact CONTRACTOR when instrument is ready for pick up. CONTRACTOR will be billed for the repair by Draeger and CONTRACTOR is responsible for payment.
 3. The cost of simulators. CONTRACTOR may purchase simulators from CRIME LAB and CRIME LAB will invoice CONTRACTOR for the simulators purchased. It is the CONTRACTOR's responsibility to replace simulators.

C. Additional responsibilities of the CONTRACTOR include:

1. Periodic determinations of accuracy, on forms provided by the CRIME LAB for this purpose, as required by the California Code of Regulations, Title 17 §1221.4 (a)(2)(A) and (B), i.e., not exceeding 10 days or following the testing of 150 subjects, whichever comes sooner.
2. Dedicated telephone line with standard jack located immediately adjacent to instrument location.

II. CONSIDERATION.

In consideration for COUNTY'S furnishing of services and supplies provided herein, CONTRACTOR shall pay the sum of \$2,400.00 per Drager Alcotest 7110 Mark III-C instrument, in advance, per fiscal year. Monthly charges for fractional parts of a fiscal year shall be computed at the rate of one twelfth (1/12) of the annual rate for each month or fraction thereof. COUNTY shall have the right to renegotiate the rate for services performed under this contract at the end of each fiscal year. COUNTY shall invoice CONTRACTOR for the annual cost at the beginning of each fiscal year.. Payment shall be due within fifteen (15) days from the date of the invoice.

III. TERM AND TERMINATION.

The term of this contract shall be for a period of three years commencing on July 1, 2009. Notwithstanding the foregoing, this contract may be terminated at any time, with or without cause, by either party, upon written notice given to the other party at least thirty (30) days prior to the date specified for such termination. Any such termination date shall coincide with the end of a calendar month. In the event of such termination, each party shall fully pay and discharge all obligations in favor of the other accruing prior to the date of termination, and each party shall be released from all obligations or performance, which would otherwise accrue subsequent to the date of termination. In the event of termination of this contract, COUNTY shall refund any sum previously paid by CONTRACTOR, which when prorated represents advanced payment for months of service which is not performed as a result of termination. Neither party shall incur any liability to the other by reason of termination.

IV. NOTICES.

All notices required to be given under this contract shall be in writing and delivered to the other party by registered or certified mail, postage prepaid. The addresses of the parties hereto, until further notice, are as follows:

CONTRACTOR: City of Montclair
Montclair Police Department
4870 Arrow Highway
Montclair, CA 91763

COUNTY: San Bernardino County Sheriff's Department
Bureau of Administration
P.O. Box 569
San Bernardino, CA 92402-0569

V. INDEMNIFICATION.

The CONTRACTOR agrees to indemnify, defend (with counsel reasonably approved by COUNTY) and hold harmless the COUNTY and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the COUNTY on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnitees. The CONTRACTOR's indemnification obligation applies to the COUNTY's "active" as well as "passive" negligence but does not apply to the COUNTY's "sole negligence" or "willful misconduct".

VI. INSURANCE.

Both CONTRACTOR and COUNTY are authorized self-insured public entities for purposes of Professional Liability, General Liability, Automobile Liability, and Workers' Compensation. CONTRACTOR and COUNTY warrant that through their respective program of self-insurance, they have adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this agreement.

VII. AUTHORITY.

The Sheriff of San Bernardino County shall have the right to exercise the COUNTY's authority under this contract including the right to give notice of termination on behalf of the COUNTY at his sole discretion.

VIII. FULL UNDERSTANDING.

This contract represents the full and complete understanding of the parties with respect to the subject matter hereto, and this contract supersedes all prior oral and written agreements or understandings between the parties with respect to the subject matter hereto. This contract shall be governed by the laws of the State of California. Venue for any lawsuit pertaining to this contract shall be Superior Court of California, County of San Bernardino, San Bernardino Division. Any amendment to this contract shall be in writing, signed by both parties.

IX. CONCLUSION.

This contract consisting of five (5) pages is the full and complete document describing the services to be rendered by COUNTY to CONTRACTOR, including all covenants, conditions and benefits.

[This page is intentionally left blank.]

COUNTY OF SAN BERNARDINO

City of Montclair

(Print or type name of corporation, company, contractor, etc.)

► _____
Gary C. Ovitt, Chairman, Board of Supervisors

By ► _____
(Authorized signature - sign in blue ink)

Dated: _____

Name: _____
(Print or type name of person signing contract)

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD

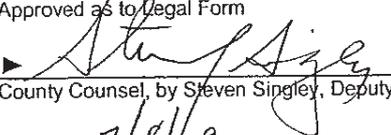
Title: _____
(Print or Type)

Dena M. Smith
Clerk of the Board of Supervisors
of the County of San Bernardino

Dated: _____

By _____
Deputy

Montclair Police Department
Address: 4870 Arrow Highway
Montclair, CA 91763

Approved as to Legal Form
► 
County Counsel, by Steven Singley, Deputy
Date 7/8/09

Reviewed by Contract Compliance
► _____
Date _____

Presented to BOS for Signature
► _____
Department Head
Date _____

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 09-66 WITH CONSTRUCTION TESTING AND ENGINEERING, INC., FOR \$41,247 FOR SPECIAL INSPECTIONS AND MATERIALS TESTING SERVICES FOR THE MONTCLAIR SENIOR CENTER PROJECT	DATE: August 3, 2009 SECTION: AGREEMENTS ITEM NO.: 4 FILE I.D.: CVC450
CONSIDER AUTHORIZING THE CITY MANAGER TO AMEND THE SCOPE OF SERVICES AS MAY BE NECESSARY FOR A TOTAL INCREASE NOT TO EXCEED \$10,000	DEPT.: PUBLIC WORKS

BUSINESS PLAN: STRATEGIC PRIORITY NO. 3, GOAL 3

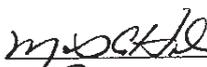
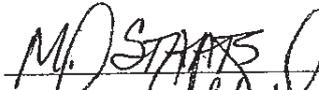
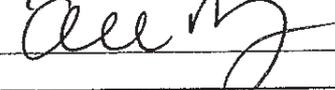
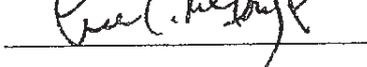
REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 09-66 with Construction Testing and Engineering, Inc., for special inspections and materials testing for the Montclair Senior Center Project. Awards of contracts and agreements with the City require City Council approval.

Approval of Agreement No. 09-66 would satisfy a portion of City of Montclair Business Plan Strategic Priority No. 3, Goal 3, as contained in Montclair's "Business Plan."

BACKGROUND: The Fiscal Years 2008-2012 Capital Improvement Program includes funding for construction of a new 8,800-square-foot Senior Center. The contract for the construction of this facility was awarded by the City Council at its meeting of July 20, 2009.

One of the necessary components for a successful project includes geotechnical observation, testing, reports, and special inspections for such things as soils work, concrete and pavement construction, and welding. The City requested and received proposals from five firms specializing in this type of work. Based on the qualifications of the submitting firms, staff feels that Construction Testing and Engineering, Inc. (CT&E) is the best qualified to perform the required work. CT&E also provided these services for the construction of the City of Montclair Police Department Facility and is currently providing these services for the Youth Center project, now under construction.

FISCAL IMPACT: Special inspections and materials testing fees for the Montclair Senior Center Project were negotiated as a "time and materials" contract for a total not to exceed \$41,247. The staff recommendation also includes a request that the City Council authorize the City Manager to modify the Scope of Services as may be necessary if additional work is required, with an increase in compensation not to exceed \$10,000.

Prepared by: <u></u>	Reviewed and Approved by:	<u></u>
Proofed by: <u></u>	Presented by:	<u></u>

RECOMMENDATION: Staff recommends the City Council take the following actions:

1. Approve Agreement No. 09-66 with Construction Testing and Engineering, Inc., for \$41,247 for special inspections and materials testing for the Montclair Senior Center Project.
2. Authorize the City Manager to amend the scope of services as may be necessary for a total increase not to exceed \$10,000.

PROFESSIONAL SERVICES AGREEMENT

This AGREEMENT is made and entered into this 4th day of August, 2009, by and between the CITY OF MONTCLAIR, a public entity (hereinafter referred to as "CITY") and Construction Testing and Engineering, Inc., a California corporation (hereinafter referred to as "CONSULTANT").

A. RECITALS

1. CITY has heretofore issued its Request for Proposals pertaining to the performance of professional services with respect to **Special Inspection and Material Testing Services for the Montclair Senior Center Project** (hereinafter referred to as "Project").
2. CONSULTANT has now submitted its proposal for the performance of such services.
3. CITY desires to retain CONSULTANT to perform professional services necessary to render advice and assistance to CITY for Project.
4. CONSULTANT represents that it is qualified to perform such services and is willing to perform such professional services as hereinafter defined.

NOW, THEREFORE, IT IS AGREED by and between CITY and CONSULTANT as follows:

B. AGREEMENT

1. Definitions: The following definitions shall apply to the following terms, except where the context of this Agreement otherwise requires:

a. Project: The performance of testing and inspection and the preparation of all of the necessary maps, plans, reports, and documents with respect to the Project as outlined in the Scope of Services required for each individual project.

b. Services: Such professional services as are necessary to be performed by CONSULTANT in order to complete the Project.

2. CONSULTANT agrees as follows:

a. CONSULTANT shall forthwith undertake and complete the Project in accordance with Federal, State, and CITY statutes, regulations, ordinances and guidelines, all to the reasonable satisfaction of the CITY.

b. CONSULTANT shall supply copies of all maps, surveys, reports, plans, and documents (hereinafter collectively referred to as "documents") including all supplemental technical documents. CITY may thereafter review and forward to CONSULTANT comments regarding said documents and CONSULTANT shall thereafter make such revisions to said documents as are deemed necessary. CITY shall receive revised documents in such form and in the quantities determined necessary by CITY.

c. CONSULTANT shall, at CONSULTANT's sole cost and expense, secure and hire such other persons as may, in the opinion of CONSULTANT, be necessary to comply with the terms of this Agreement. In the event any such other persons are retained by CONSULTANT, CONSULTANT hereby warrants that such other persons shall be fully qualified to perform services required hereunder. CONSULTANT further agrees that no subcontractor shall be retained by CONSULTANT except upon the prior written approval of CITY.

d. CONSULTANT shall, at CONSULTANT's sole cost and expense, secure the required issuance of a City Business License as a condition precedent to being engaged as a CONSULTANT within the CITY.

e. CONSULTANT shall maintain complete and accurate books, documents, papers, accounting records, and other evidence with respect to allowable costs incurred and manpower expended under this Agreement. All such records shall be maintained on the basis of generally accepted accounting principles and shall be clearly identified and readily accessible. The CONSULTANT shall provide access during regular business hours to authorized representatives of CITY to such data and records; the right to inspect and audit all data and records of the CONSULTANT related to its performance under this Agreement; and to make transcripts therefrom as necessary to allow inspection of all work data, documents, proceedings, and activities related to this Agreement for a period of four (4) years from the date of final payment under this Agreement.

3. CITY agrees as follows:

a. To pay to CONSULTANT on a time and materials basis for all services rendered to a maximum sum of \$41,247 for the performance of the services required hereunder. This sum shall cover the cost of all staff time and all other direct and indirect costs or fees including the work of employees, consultants, and subcontractors to CONSULTANT. Payment to CONSULTANT, by CITY, shall be made in accordance with the Schedule set forth in Exhibit "A."

b. Payments to CONSULTANT shall be made by CITY in accordance with the invoices submitted by CONSULTANT on a monthly basis, and such invoices shall be paid within a reasonable time after said invoices are received by CITY. All charges shall be in accordance with Exhibit "A" either with respect to hourly rates or lump sum amounts for individual tasks.

c. CONSULTANT agrees that, in no event, shall CITY be required to pay to CONSULTANT any sum in excess of ninety-five percent (95%) of the maximum payable

hereunder prior to receipt by CITY of all final documents, together with all supplemental technical documents, as described herein acceptable in form and content to CITY. Final payments shall be made not later than sixty (60) days after presentation of final documents and acceptance thereof by CITY.

d. Additional Services: Payments for additional services requested, in writing, by CITY, and not included in the Scope of Services, shall be paid on a reimbursement basis in accordance with the fee schedule set forth in Exhibit "A." Charges for additional services shall be invoiced on a monthly basis and shall be paid by CITY within a reasonable time after said invoices are received by CITY.

4. Term: This agreement shall commence upon date first cited above, and shall continue until August 3, 2011, unless terminated in accordance with paragraph 7 herein.

5. CITY agrees to provide to CONSULTANT:

- a. Information relative to each individual project or assignment.
- b. Photographically reproducible copies of maps and other information, if available, which CONSULTANT considers necessary in order to complete the Project.
- c. Such information as is generally available from CITY files applicable to the Project.
- d. Assistance, if necessary, in obtaining information from other governmental agencies and/or private parties. However, it shall be CONSULTANT's responsibility to make all initial contact with respect to the gathering of such information.

6. Ownership of Documents: All documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by CONSULTANT pursuant to this Agreement shall be considered the property of the CITY and, upon payment for services performed by CONSULTANT, such documents and other identified materials shall be

delivered to CITY by CONSULTANT. CONSULTANT may, however, make and retain such copies of said documents and materials as CONSULTANT may desire.

Any use or reuse of the plans and specifications, except at the site intended, or any alteration or revision of the plans or specifications by the CITY, its staff, or authorized agents without the specific written consent of the CONSULTANT shall be at the sole risk of CITY. The CITY agrees to hold harmless and indemnify the CONSULTANT against all damages, claims and losses, including defense costs arising out of any such alteration or revision, or use or reuse at another site, by CITY, its staff or authorized agents.

7. Termination: This Agreement may be terminated by CITY upon the giving of written "Notice of Termination" to CONSULTANT at least fifteen (15) days prior to the date of termination specified in said Notice. In the event this Agreement is so terminated, CONSULTANT shall be compensated at CONSULTANT's applicable hourly rates as set forth in Exhibit "A", on a pro rata basis with respect to the percentage of the Project completed as of the date of termination. In no event, however, shall CONSULTANT receive more than the maximum specified in paragraph 3(a) above. CONSULTANT shall provide to CITY any and all documents, data, studies, surveys, drawings, maps, models, photographs and reports, whether in draft or final form, prepared by CONSULTANT as of the date of termination. CONSULTANT may not terminate this Agreement except for cause.

8. Notices and Designated Representatives: Any and all notices, demands, invoices, and written communications between the parties hereto shall be addressed as set forth in this paragraph 8. The below-named individuals, furthermore, shall be those persons primarily responsible for the performance by the parties under this Agreement:

AS TO CITY:

CITY OF MONTCLAIR
Name: Michael C. Hudson
Title: City Engineer
Address: 5111 Benito Street
Montclair, CA 91763

AS TO CONSULTANT:

CONSTRUCTION TESTING AND ENGINEERING, INC.
Name: Eddie "Mac" McFadden
Title: Business Development
Address: 12155 Magnolia Avenue, Suite C
Riverside, CA 92503

Any such notices, demands, invoices, or written communications, by mail, shall be deemed to have been received by the addressee forty-eight (48) hours after deposit thereof in the United States mail, postage prepaid, and properly addressed as set forth above.

9. Insurance: CONSULTANT shall neither commence work under this Agreement until it has obtained all insurance required hereunder in a company or companies acceptable to CITY nor shall CONSULTANT allow any subcontractor to commence work on a subcontract until all insurance required of the subcontractor has been obtained. CONSULTANT shall take out and maintain at all times during the term of this Agreement the following policies of insurance:

a. Workers' Compensation Insurance: Before beginning work, CONSULTANT shall furnish to CITY a Certificate of Insurance as proof that it has taken out full Workers' Compensation Insurance for all persons whom it may employ directly or through subcontractors in carrying out the work specified herein, in accordance with the laws of the State of California.

In accordance with the provisions of California Labor Code, Section 3700, every employer shall secure the payment of compensation to his employees. CONSULTANT shall, prior to commencing work, sign and file with CITY a certification as follows:

I am aware of the provisions of Section 3700 of the California Labor Code, which require 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 Agreement.

b. Public Liability and Property Damage: Throughout the term of this Agreement, at CONSULTANT's sole cost and expense, CONSULTANT shall keep, or cause to be kept, in full force and effect, for the mutual benefit of CITY and CONSULTANT, comprehensive, broad form, general public liability and automobile insurance against claims and liabilities for personal injury, death, or property damage arising from CONSULTANT's activities, providing protection of at least One Million Dollars (\$1,000,000.00) for bodily injury or death to any one person, at least Two Million Dollars (\$2,000,000) for any one accident or occurrence, and at least One Million Dollars (\$1,000,000.00) for property damage.

c. Errors and Omissions: CONSULTANT shall take out and maintain at all times during the term of this Agreement, a policy or policies of insurance concerning errors and omissions ("malpractice") providing protection of at least One Million Dollars (\$1,000,000.00) for errors and omissions ("malpractice") with respect to loss arising from actions of CONSULTANT performing services hereunder on behalf of CITY.

d. General Insurance Requirements: All insurance required by express provision of this Agreement shall be carried only in responsible insurance companies licensed to do business in the State of California and policies required under paragraph 9(b) shall name, as additional insureds, CITY, its elected officials, officers,

employees, and agents. All policies shall contain language, to the extent obtainable, to the effect that: (1) the insurer, insured, and all subcontractors waive the right of subrogation against CITY and CITY's elected officials, officers, employees, and agents; (2) the policies are primary and noncontributing with any insurance that may be carried by CITY; and (3) they cannot be canceled or materially changed except after thirty (30) days' written notice by the insurer to CITY by certified mail. CONSULTANT shall furnish CITY with copies of all such policies promptly upon receipt of them, or certificate evidencing the insurance. CONSULTANT may effect for its own account insurance not required under this Agreement.

10. Indemnification: CONSULTANT shall defend, indemnify, and save harmless CITY, its elected and appointed officials, officers, agents, and employees from all liability from loss, damage, or injury to persons or property, including the payment by CONSULTANT of any and all legal costs and attorneys' fees, in any manner arising out of any negligent or intentional or willful acts or omissions of CONSULTANT in the performance of this Agreement or any claim that CONSULTANT'S employees or agents are considered to be employees of CITY and/or entitled to any employee benefits from CITY, including but not limited to those available under CalPERS/PERL, including, but not limited to, all consequential damages to the maximum extent permitted by law.

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

12. Independent Contractor: The parties hereto agree that CONSULTANT and its employees, officers, and agents are independent contractors under this Agreement and shall not be construed for any purpose including, but not limited to eligibility under CalPERS/PERL or any other benefits, to be employees of CITY.

13. Compliance with Laws: CONSULTANT shall comply with all applicable laws in performing its obligations under this Agreement.

14. Confidentiality: Information and materials obtained by the CONSULTANT from CITY during the performance of this Agreement shall be treated as strictly confidential and shall not be used by the CONSULTANT for any purpose other than the performance of this Agreement.

15. Discrimination: The CONSULTANT agrees that no person shall be excluded from employment in the performance of this Agreement on grounds of race, creed, color, sex, age, marital status, or place of national origin. In this connection, the CONSULTANT agrees to comply with all County, State, and Federal laws relating to equal employment opportunity rights.

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

17. Attorneys' Fees: In the event any legal proceeding is instituted to enforce any term or provision of this Agreement, the prevailing party in said legal proceeding shall be entitled to recover attorneys' fees and costs from the opposing party in an amount determined by the Court to be reasonable.

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

IN WITNESS WHEREOF, the parties hereto execute this Agreement as of the day and year first set forth above.

CONSULTANT:

**CONSTRUCTION TESTING AND
ENGINEERING, INC.**

CITY:

CITY OF MONTCLAIR

By _____

Title _____

Date _____

Paul M. Eaton
Mayor

Date _____

ATTEST:

By _____

Title _____

Date _____

Donna M. Jackson
City Clerk

Date _____

APPROVED AS TO FORM:

Diane E. Robbins
City Attorney

EXHIBIT "A"
PROJECT PAYMENT SCHEDULE



CONSTRUCTION TESTING & ENGINEERING, INC.

14538 MERIDIAN PARKWAY, SUITE A | RIVERSIDE, CA 92518 | 951.571.4081 | FAX 951.571.4188

June 29, 2009

CTE PR No. 29111

Mr. Mike Hudson
Montclair Public Works & Engineering
5111 Benito Street
Montclair, CA 91763

**SUBJECT: PROPOSAL TO PROVIDE MATERIALS TESTING
 AND INSPECTION SERVICES**

**PROJECT: MONTCLAIR SENIOR CENTER
 MONTCLAIR, SAN BERNARDINO COUNTY, CALIFORNIA**

Dear Mr. Hudson,

Attached is our proposal to provide materials testing and special inspection services for your upcoming project in Montclair, CA. Our estimate is based on review of the plans and specifications.

CTE recognizes in this time of shrinking budgets and soaring material expenses, many companies like yours are looking for ways to save money on projects and to justify how and where your budget dollars are spent. One way CTE has developed to save our clients money is to not use the industry billing standard of the 4 and 8 hour blocks of time, but to instead bill our clients for time on site plus one hour, excluding days we are on-site for 8 hours. While this may only save an hour here or there the savings does add up over time, thus making the most efficient use of your budget.

We are fully capable of providing all of the proposed services from our facilities in Riverside, California. While considering our proposal please keep in mind that all of our **rates include review and distribution of all reports. No additional charges for travel, mileage or administrative work will be added.**

If you have any questions regarding this proposal or our capabilities, or suggestions on how we may better serve you, please contact me at (951) 571-4081 or (951) 552-5732.

Respectfully,

CONSTRUCTION TESTING & ENGINEERING, INC.

Tiffany Hilborn
Business Development

**Montclair Senior Center
Montclair, California.**

CTE PR 29111

***Proposed Services:
Service***

	Qty	Unit	Rate/Unit	Total
Reinforced Concrete Inspection	80	hrs @	\$64	\$5,120
Reinforced Masonry Inspection	100	hrs @	\$64	\$6,400
Field Weld/Bolting Inspection:	140	hrs @	\$64	\$8,960
Epoxy Bolt/Dowel Inspection:	4	hrs @	\$64	\$256
Non-Destructive Testing Inspector - Field	16	hrs @	\$70	\$1,120
Concrete Compression Tests	60	each @	\$20	\$1,200
Masonry Unit Conformance	1	set @	\$1,100	\$1,100
Masonry Composite Prism Tests - 8"x 8"x 16"	6	each @	\$95	\$570
Masonry Core Compression Tests	6	each @	\$30	\$180
Mortar Compression Tests	6	each @	\$20	\$120
Grout Compression Tests	6	each @	\$20	\$120
Soils Technician (Compaction Test - Fine Grading, Over-Ex)	40	hrs @	\$64	\$2,560
Soils Technician (Compaction Test - Trench / Wall Backfill)	100	hrs @	\$64	\$6,400
Soils Technician (Compaction Test - Pavement SG / Base)	24	hrs @	\$64	\$1,536
Footing Inspection - Engineer / Geologist	12	hrs @	\$80	\$960
Lab Maximum Density Test	3	each @	\$175	\$525
Sieve Analysis	12	each @	\$30	\$360
Compaction Reports	2	each @	\$900	\$1,800
Misc. Engineering Services	16	hrs @	\$80	\$1,280
Sr. Geologist Services	4	hrs @	\$85	\$340
Sr. Engineer Services	4	hrs @	\$85	\$340
Sample Pickup	16	hrs @	\$0	\$0
Letter of Affidavit	1	each @	\$150	\$150

Estimated Total for Proposed Services:

\$41,247

Owners Option

Roofing Inspection	40	each @	\$64	\$2,560
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AUTHORIZATION FOR WORK TO BE PERFORMED:

Should this scope of work, as described, meet with your approval, you may authorize the work to proceed by signing a copy of this proposal and returning it to our office. Should you believe that a modified scope of work may better meet your current needs, please contact our office. The attached CTE Standard Terms and Conditions shall govern this agreement.

Authorization Signature

Printed Name

Title

Date

GENERAL CONDITIONS:

The above estimate is based using a five day work week; all overtime will be billed at 1.5 times regular rate.

Same day cancellations or show up time be situations will be subject to the two-hour minimum charge.

Please note that all inspector and technician rates will increase every July 1, commensurate with Local 12 document annual increase.

This proposal is a good faith estimate of project inspection and testing costs. Actual billing will depend on the actual construction schedule and re-testing requirements.

This quote is valid for 90 days from date on letter.

CONSTRUCTION TESTING & ENGINEERING, INC.

STANDARD TERMS & CONDITIONS

- 1. SCOPE OF AGREEMENT:** CTE's written proposal along with these Terms and Conditions contain the entire agreement between CTE and its customer relating to the project and the services provided by CTE for the project. By signing CTE's written proposal and/or agreeing to receive CTE's services as described in the proposal, customer agrees to be bound by these Standard Terms and Conditions. CTE's customer agrees that it has been provided a copy of, read, and agrees to these Standard Terms and Conditions. Any prior discussions, negotiations or representations not expressly set forth in the written proposal and these Terms and Conditions are not part of the agreement. CTE requires that all modifications to the scope of the proposal and these Standard Terms and Conditions be in writing and signed by both CTE and its customer. CTE's inadvertent waiver of any term, condition or covenant, or breach thereof, shall not constitute a waiver of any other term, condition or covenant or CTE's right to insist upon future strict compliance with these Standard Terms and Conditions. If any term, condition or covenant of these Standard Terms and Conditions is held to be invalid, void or unenforceable, the remaining provisions of these Standard Terms and Conditions shall be valid and binding on CTE and its customer.
- 2. PAYMENT TERMS:** CTE shall submit monthly invoices for the work performed on the project to its customer, and that said invoices shall be due and payable upon receipt. No retention shall be held by customer. CTE's customer agrees that failure to timely pay these invoices is a material breach of the agreement. CTE's customer agrees that upon its material failure to timely pay its invoices, CTE may suspend its work pending payment and ultimately terminate the agreement. CTE's customer agrees that the periodic invoices are presumed to be correct, conclusive and binding on customer unless customer notifies CTE in writing of alleged inaccuracies, discrepancies or errors in the billing within ten (10) days after receipt of such invoices. CTE's customer agrees to pay a late charge of 1-1/2% per month on the unpaid balance commencing thirty (30) days after receipt of an invoice. In the event of any increase in the hourly rates charged for its testing, inspection or engineering services specified by this agreement, CTE shall provide 30 days advance notice to its customer of any such increase. CTE's customer shall have two (2) weeks in which to object to the increase, and any failure to timely object shall constitute an acceptance of the increase.
- 3. CHANGES IN SCOPE OF WORK:** CTE's customer agrees that if it requests incidental or additional services not specified by the written proposal that it will pay CTE for such services based upon CTE's customary hourly or unit price rates for said testing, inspection and engineering. In the event that changes are made to the plans and specifications for the project or CTE's customer modifies or alters the scope of its work, CTE shall be entitled to additional compensation to the extent that the change increases CTE's testing, inspection or engineering services, or the duration of CTE's performance.
- 4. TIME:** CTE's customer agrees that time is of the essence in connection with CTE's services, and that an extension or delay to CTE's performance duration shall result in increased costs to CTE. CTE's customer further agrees that any CTE extended performance duration or delay beyond that specified by the written proposal, and if none is specified by the proposal, by the initial approved construction schedule, shall justify additional compensation to CTE. Said additional compensation shall be based upon CTE's customary hourly, daily or monthly rates or unit prices for its testing, inspection and/or engineering services.
- 5. PROJECT DELAY:** CTE is not responsible for project delay or damages resulting therefrom caused by the activities of customer, contractor or its subcontractors, or governmental agencies, or by factors beyond CTE's reasonable control, including but not limited to, delays caused by reason of strikes, accidents, acts of God, weather, or failure of customer to furnish timely information or approval of CTE's work. CTE shall not be responsible for any delays caused by the actions and/or omissions of governmental agencies including but not limited to the processing of building permits or Environmental Impact Reports. CTE shall only act as an advisor to its customer on any governmental relations or approvals.
- 6. OWNERSHIP OF WORK-PRODUCT:** All documents, papers, drawings, testing data, or other work-product prepared by CTE, and copies thereof, shall remain the property of CTE and may not be used by its customer without CTE's express written consent. In the event that its customer fails to pay CTE for the services rendered, customer agrees to return all documents, papers, drawings, testing data, or other work-product prepared by CTE and agrees not to use said documents without CTE's written consent.
- 7. MUTUAL COOPERATION:** CTE and its customer agree to cooperate with each other in every way necessary in order to effectuate the intent of this Agreement. CTE's customer shall make available to CTE all information regarding existing and proposed conditions at the site, including but not limited to plot plans, topographic surveys, hydrographic data and soil data including borings, field and laboratory tests, and written reports. CTE's customer shall provide free access to the site for all necessary equipment and personnel.
- 8. WARRANTY:** CTE warrants that it and its professionals are properly licensed to perform the services rendered. CTE and its customer understand and agree that CTE does not guarantee the completion, quality of work performed by others on the project, or that the construction work complies with the specifications, plans or building codes. CTE makes no warranty, either express or implied, to its findings, recommendations, testing or engineering results, or professional advice except that its testing, inspection and/or engineering work was performed pursuant to generally accepted engineering standards within the industry in effect at the time of performance and within the geographic location in which the work was performed. CTE makes no representations concerning the nature of any subsurface soil condition unless specifically provided in writing.
- 9. USE OF FINALIZED/APPROVED DOCUMENTS:** CTE's customer agrees not to use or permit the use by any other entity, any plans, drawings, or other construction documents prepared by CTE which are not signed by CTE or finalized. CTE's customer agrees to be liable and responsible for any such unauthorized use of unsigned plans, documents or other construction documents not signed by CTE and waives all rights and claims against CTE for their unauthorized use.
- 10. NO FIELD DIRECTION:** CTE's customer understands that CTE's field personnel provide technical assistance to its customer at the project site, and that CTE will not perform construction supervision, construction management, or otherwise direct or oversee construction or the work. Customer shall inform all contractors and subcontractors that CTE is providing technical assistance and is not directing the work.
- 11. CONSTRUCTION STAKING:** In the event that any construction staking provided by CTE is destroyed, damaged or disturbed by CTE's customer, the contractor, its subcontractors, an act of God or any other party other than CTE, the cost of re-staking shall be paid for by customer as extra work.
- 12. SAFETY:** CTE's customer agrees that in accordance with the generally accepted industry standards and practices, the construction contractor will assume sole and complete responsibility for job site conditions during the course of construction of the project, including safety of all persons and property, that this responsibility shall apply continuously and not limited to normal work hours, and that CTE's customer agrees to defend, indemnify and hold CTE harmless from any and all liability, loss, or damage, real or alleged, in connection with accidents or injury on this project except to the extent caused by the sole negligence or willful misconduct of CTE.
- 13. INDEMNITY:** CTE agrees to indemnify customer for any loss, damage, injury or claim resulting from CTE's negligent act or performance, to the extent caused by CTE's negligent act or omission. CTE will not indemnify customer for the acts or omissions of customer, its representatives, agents, staff, consultants or any other party for whom it is responsible. CTE will maintain general liability insurance coverage at all times during which it performs work on the project.
- 14. PROFESSIONAL LIABILITY:** CTE agrees to perform its testing, inspection and/or engineering services in accordance with the written proposal, these Standard Terms and Conditions, and the custom and practice in the industry in place at the time the services were rendered, and in the geographic local in which the work was performed. CTE's customer agrees to limit CTE's liability to customer and to all contractors and subcontractors on the project, in total, due to alleged professional negligence, CTE's acts, errors, or omissions, and breaches of contract, to the sum of Fifty Thousand Dollars (\$50,000) or CTE's total invoiced fee on the project, whichever is greater.
- 15. CHOICE OF LAW/VENUE/DISPUTES/ATTORNEYS' FEES:** The Agreement between CTE and its customer shall be governed by and construed in accordance with the laws of the State of California. If any action at law or equity including an action for declaratory relief is brought to enforce or interpret the terms of CTE's agreement with its customer, the prevailing party in such action shall be entitled to compensation for its reasonable attorneys' fees and costs in addition to any other relief to which it may be entitled. CTE and its customer agree that any such action arising out of the services provided by CTE shall be brought in the Superior Court of the State of California, County of San Diego.

AGENDA REPORT

SUBJECT: CONSIDER ACCEPTANCE OF GRANTS FROM THE INLAND EMPIRE UNITED WAY TO FUND THE ARTCORPS AND CASE MANAGEMENT PROGRAMS

CONSIDER APPROVAL OF AGREEMENT NOS. 09-68 AND 09-69 WITH THE INLAND EMPIRE UNITED WAY TO PROVIDE THE ARTCORPS AND CASE MANAGEMENT PROGRAMS

DATE: August 3, 2009

SECTION: AGREEMENTS

ITEM NO.: 5

FILE I.D.: HSV030

DEPT.: COMMUNITY DEV.

BUSINESS

PLAN: N/A

REASON FOR CONSIDERATION: The City Council is requested to consider accepting grants from the Inland Empire United Way (IEUW) to fund the City's ArtCorps and Case Management Programs. In addition, the City Council is requested to consider approval of Agreement Nos. 09-68 and 09-69 with IEUW to provide these programs. Agreement Nos. 09-68 and 09-69 are attached for Council review and consideration.

BACKGROUND: In 2006, the City of Montclair and Ontario-Montclair School District (OMSD) were awarded the first of recurring California Department of Education After-School Education and Safety Program grants. One feature of the After-School Program (ASP) is the ArtCorps Program offered to students in grades K-8. This enrichment program is designed to offer an artist-in-residence program that brings professional artists into ASP classrooms to work and instruct students in the disciplines of visual arts, dance, drama, and literature. Grant funding from the IEUW will allow the ASP ArtCorps Program to continue.

The Montclair Community Collaborative is also receiving funding from IEUW to assist in providing a Case Management Program to members of the Montclair community. The goal of the Case Management Program is to ensure that children in the Montclair community are safe and healthy and that their families are safe, healthy, and self-sustaining. The Program is based on an empowerment model that engages parents and/or guardians to address underlying causes of family dysfunction by increasing family skills, assets, and resiliency.

Agreement Nos. 09-68 and 09-69 would be effective July 1, 2009, through June 30, 2010.

FISCAL IMPACT: The IEUW has offered the City grants of \$37,299 for the ASP ArtCorps Program and \$25,130 for the Case Management Program. There would be no direct fiscal impact on the City's General Fund associated with the Council's approval of Agreement Nos. 09-68 and 09-69.

Prepared by:

Marcia Richter

Reviewed and
Approved by:

Steve Lopez

Proofed by:

Christine Smidely

Presented by:

RECOMMENDATION: Staff recommends that City Council take the following actions:

1. Accept grants from the Inland Empire United Way to fund the ArtCorps and Case Management Programs.
2. Approve Agreement Nos. 09-68 and 09-69 with the Inland Empire United Way to provide the ArtCorps and Case Management Programs.

ORIGINAL

Please sign & return this copy.

AGREEMENT NO. 09-68

**INLAND EMPIRE UNITED WAY
2009-2010 PROGRAM FUNDING AGREEMENT**



I. PURPOSE

The Inland Empire United Way (consisting of board of directors, volunteers, employees, contractors), hereinafter referred to as "IEUW", and Montclair Community Collaborative/City of Montclair, hereinafter referred to as " Agency " enter into this mutual Agreement, including Attachments A (Eligibility Standards) and B (Guidelines to use United Way name and logo) referred to herein, for the period commencing July 1, 2009 to June 30, 2010.

II. RESPONSIBILITIES

A. The Organization agrees to:

1. Program Responsibility:

- a. Operate programs and deliver services as set forth during the application process.
- b. Submit proposed changes or reductions in program outcomes affected by United Way funds.

2. Fiscal Responsibility:

- a. Use the funds only for the purposes described in the proposal, and not use the funds for any purpose prohibited by law. Also repay any portion of the funding, which is not used for the purposes described in the proposal.
 - b. To maintain books, records and documents in accordance with generally accepted accounting procedures and practice which accurately and appropriately reflect all expenditures of funds listed in the Program Budget and the Agency Budget (submitted with the funding request).
 - c. To provide evidence of adequate financial accountability and accounting procedures documented by submission of a certified audit for agency budgets of \$500,000 or more; a CPA review for agency budgets of \$100,001 - \$500,000; a CPA compilation for agency budgets of \$100,000 or less and submission of a completed IRS Form 990, with a percentage of revenue directed to management/general/fund raising expenses (including required dues payments to national organizations) of less than 25%. The required documents shall be submitted to IEUW within six (6) months of the closing of the agency's fiscal year.
 - d. That all financial records and supporting documentation shall be subject at all times to inspection, review, or audit by IEUW personnel or its duly authorized agent.
 - e. To maintain and submit, in a timely fashion, documentation and progress reports related to services provided under this agreement.
 - f. To retain all financial records, supporting documentation, statistical records, and any other documents pertinent to this Agreement for a period of three (3) years after termination of this Agreement. If an audit has been initiated and audit findings have not been resolved at the end of three (3) years, all records shall be retained until resolution of audit findings.
 - g. Agency shall not assign the responsibility of this Agreement to another party or subcontract the program(s) funded under this Agreement, without prior written approval of IEUW.
- 3. Engage all levels of the organization (staff, leadership and board of directors) in the development, implementation and continuance of a system for measuring program outcomes and to use the results as the foundation for program planning.**
- 4. Provide service data, demographics, and other information as requested.**
- 5. Meet with IEUW staff to coordinate an in-house agency employee campaign for the IEUW community impact fund; participate in community campaign activities by providing campaign materials, speakers, tours and/or displays as requested.**
- 6. Complete and submit Agency Profile, Program/Services Profile, and Sites Profile for the 2-1-1 database with, as a minimum, annual updates.**
- 7. Complete and submit Agency Agreement and information about volunteer opportunities (as available) for the Hands On Inland Empire website with, as a minimum, annual updates.**

B. IEUW agrees to:

- 1. Recognize and respect the autonomy of the Agency, through its governing board, to determine its

- outcomes for this program without consulting with IEUW;
3. The agency making substantial changes to the program activities and/or ceasing to provide the program without consulting with IEUW;
 4. Events and/or activities attributable to the Agency or its personnel which result in:
 - a. Negative publicity to the Agency and/or IEUW, or
 - b. Call into question the ability of the Agency to satisfactorily perform under the terms of this Agreement, or
 - c. Unsatisfactory program performance by the Agency and of its responsibilities under this Agreement, and/or
 - d. Violation of the Program Funding Agreement.

Prior to suspension of agency funding by IEUW, the Agency shall be given an opportunity to explain its position to the President of IEUW, or other person designated by the IEUW Board of Directors.

VIII. HOLD HARMLESS CLAUSE

To the extent provided by law, the Agency agrees to indemnify and hold harmless the IEUW from liability on account of any injuries, damages, omissions, commissions, actions, causes of actions, claims, suits, judgments and damages accruing, including court costs and attorney's fees, as a result of services performed or not performed, or any negligent act by the Agency or funding granted or not granted by the IEUW or any action arising out of the operation of this funding Agreement.

IX. EVALUATION REQUIREMENTS

The Agency agrees to submit evaluation reports in such format and at such times as may be prescribed by IEUW, reporting the program progress. The Agency agrees to cooperate in an on-site monitoring if such is requested by IEUW. All financial and supporting documents should be available for review at all times.

X. AGENCY ACKNOWLEDGMENT

By execution of this Agreement, Agency accepts the working relationship between IEUW and the Agency providing the program; agrees to the conditions set forth in this Agreement. In addition, the Agency acknowledges the lack of an appeals process and accepts the funding level set forth in this Agreement.

INLAND EMPIRE UNITED WAY

**MONTCLAIR COMMUNITY COLLABORATIVE/
CITY OF MONTCLAIR**

Crystal L. Todd

Crystal L. Todd, Interim Executive Director

July 15, 2009

Date

Tammy Chalmers

Tammy Chalmers, Board Chair

July 15, 2009

Date

Paul M. Eaton, Mayor

Date

Donna Jackson, City Clerk

Date

Please sign & return this copy.

**INLAND EMPIRE UNITED WAY
2009-2010 PROGRAM FUNDING AGREEMENT**



I. PURPOSE

The Inland Empire United Way (consisting of board of directors, volunteers, employees, contractors), hereinafter referred to as "IEUW", and Montclair Community Collaborative/City of Montclair, hereinafter referred to as "Agency" enter into this mutual Agreement, including Attachments A (Eligibility Standards) and B (Guidelines to use United Way name and logo) referred to herein, for the period commencing July 1, 2009 to June 30, 2010.

II. RESPONSIBILITIES

A. The Organization agrees to:

1. Program Responsibility:
 - a. Operate programs and deliver services as set forth during the application process.
 - b. Submit proposed changes or reductions in program outcomes affected by United Way funds.
2. Fiscal Responsibility:
 - a. Use the funds only for the purposes described in the proposal, and not use the funds for any purpose prohibited by law. Also repay any portion of the funding, which is not used for the purposes described in the proposal.
 - b. To maintain books, records and documents in accordance with generally accepted accounting procedures and practice which accurately and appropriately reflect all expenditures of funds listed in the Program Budget and the Agency Budget (submitted with the funding request).
 - c. To provide evidence of adequate financial accountability and accounting procedures documented by submission of a certified audit for agency budgets of \$500,000 or more; a CPA review for agency budgets of \$100,001 - \$500,000; a CPA compilation for agency budgets of \$100,000 or less and submission of a completed IRS Form 990, with a percentage of revenue directed to management/general/fund raising expenses (including required dues payments to national organizations) of less than 25%. The required documents shall be submitted to IEUW within six (6) months of the closing of the agency's fiscal year.
 - d. That all financial records and supporting documentation shall be subject at all times to inspection, review, or audit by IEUW personnel or its duly authorized agent.
 - e. To maintain and submit, in a timely fashion, documentation and progress reports related to services provided under this agreement.
 - f. To retain all financial records, supporting documentation, statistical records, and any other documents pertinent to this Agreement for a period of three (3) years after termination of this Agreement. If an audit has been initiated and audit findings have not been resolved at the end of three (3) years, all records shall be retained until resolution of audit findings.
 - g. Agency shall not assign the responsibility of this Agreement to another party or subcontract the program(s) funded under this Agreement, without prior written approval of IEUW.
3. Engage all levels of the organization (staff, leadership and board of directors) in the development, implementation and continuance of a system for measuring program outcomes and to use the results as the foundation for program planning.
4. Provide service data, demographics, and other information as requested.
5. Meet with IEUW staff to coordinate an in-house agency employee campaign for the IEUW community impact fund; participate in community campaign activities by providing campaign materials, speakers, tours and/or displays as requested.
6. Complete and submit Agency Profile, Program/Services Profile, and Sites Profile for the 2-1-1 database with, as a minimum, annual updates.
7. Complete and submit Agency Agreement and information about volunteer opportunities (as available) for the Hands On Inland Empire website with, as a minimum, annual updates.

B. IEUW agrees to:

1. Recognize and respect the autonomy of the Agency, through its governing board, to determine its

- outcomes for this program without consulting with IEUW;
3. The agency making substantial changes to the program activities and/or ceasing to provide the program without consulting with IEUW;
 4. Events and/or activities attributable to the Agency or its personnel which result in:
 - a. Negative publicity to the Agency and/or IEUW, or
 - b. Call into question the ability of the Agency to satisfactorily perform under the terms of this Agreement, or
 - c. Unsatisfactory program performance by the Agency and of its responsibilities under this Agreement, and/or
 - d. Violation of the Program Funding Agreement.

Prior to suspension of agency funding by IEUW, the Agency shall be given an opportunity to explain its position to the President of IEUW, or other person designated by the IEUW Board of Directors.

VIII. HOLD HARMLESS CLAUSE

To the extent provided by law, the Agency agrees to indemnify and hold harmless the IEUW from liability on account of any injuries, damages, omissions, commissions, actions, causes of actions, claims, suits, judgments and damages accruing, including court costs and attorney's fees, as a result of services performed or not performed, or any negligent act by the Agency or funding granted or not granted by the IEUW or any action arising out of the operation of this funding Agreement.

IX. EVALUATION REQUIREMENTS

The Agency agrees to submit evaluation reports in such format and at such times as may be prescribed by IEUW, reporting the program progress. The Agency agrees to cooperate in an on-site monitoring if such is requested by IEUW. All financial and supporting documents should be available for review at all times.

X. AGENCY ACKNOWLEDGMENT

By execution of this Agreement, Agency accepts the working relationship between IEUW and the Agency providing the program; agrees to the conditions set forth in this Agreement. In addition, the Agency acknowledges the lack of an appeals process and accepts the funding level set forth in this Agreement.

INLAND EMPIRE UNITED WAY

MONTCLAIR C. C./CITY OF MONTCLAIR

Crystal Todd

Crystal L. Todd, Interim Executive Director

Paul M. Eaton, Mayor

Date

Date

Tammy Chalmers

Tammy Chalmers, Board Chair

Donna Jackson, City Clerk

7/21/09

Date

Date

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 09-03, A RESOLUTION OF THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY APPROVING AGREEMENT NO. 09-67, THE FIRST AMENDMENT TO AGREEMENT NO. 08-01, AN AFFORDABLE HOUSING AGREEMENT BY AND BETWEEN THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY AND MILLS FAMILY HOUSING PARTNERS, L.P. (NATIONAL COMMUNITY RENAISSANCE OF CALIFORNIA)	DATE: August 3, 2009 SECTION: RESOLUTIONS ITEM NO.: 1 FILE I.D.: RDA735 DEPT.: REDEVELOPMENT
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BUSINESS PLAN: Strategic Priority No. 2, Goal 3

REASON FOR CONSIDERATION: National Community Renaissance of California (National CORE) acquired the property at 10307 Mills Avenue for an affordable housing development. The site is located on the southeast corner of Kingsley Street and Mills Avenue. National CORE created Mills Family Housing Partners, L.P., for the purpose of obtaining tax credit financing for the proposed project. Through the approval of an Affordable Housing Agreement (Agreement No. 08-01), the City of Montclair Redevelopment Agency participated in financing the acquisition of the property at 10307 Mills Avenue and certain predevelopment costs. National CORE is requesting the Redevelopment Agency Board of Directors Members consider an amendment to the Affordable Housing Agreement that would provide additional funding in the form of a loan for the proposed residential development and allow National CORE to proceed with submittal of verification of Redevelopment Agency financial assistance to the State of California Tax Credit Allocation Committee (TCAC).

A copy of proposed Agreement No. 09-67 and a copy of Agreement No. 08-01 are included in the agenda packet for the Agency Board's consideration and information.

Adoption of Resolution No. 09-03 approving the First Amendment to the Affordable Housing Agreement by and between the City of Montclair Redevelopment Agency and Mills Family Housing Partners, L.P. (National CORE) will satisfy a portion of Strategic Priority No. 2, Goal 3, as contained in Montclair's "Business Plan."

BACKGROUND: The Redevelopment Agency Board of Directors approved an Affordable Housing Agreement with National CORE on January 22, 2008. Under the terms of the agreement, National CORE would construct a 50-unit affordable family housing development at 10307 Mills Avenue. The Mills Avenue location presently consists of a commercial strip center constructed in 1965. Most of the tenants in the shopping center have now been relocated with the exception of a convenience market/liquor store. Pursuant to the

Prepared by: <u>M. STAATS</u>	Reviewed and Approved by: <u>M. STAATS</u>
Proofed by: <u>Yvonne L. Smith</u>	Presented by: <u>Gene Chedoke</u>

Agreement, the Redevelopment Agency lent National CORE \$3,650,000 for predevelopment and acquisition costs. The Planning Commission approved entitlements for the project on August 25, 2008. As approved, the project would consist of 50 attached affordable dwelling units within one three-story building. The unit mix would consist of 34 two-bedroom units, 15 three-bedroom units, and one (1) one-bedroom unit. All ground floor units would be accessible and adaptable for persons with disabilities. In addition, the onsite amenities would include a community center containing approximately 1,200 square feet, a swimming pool, a tot lot, and landscaped courtyard.

The costs to finance construction of the 50-unit project are estimated to be nearly \$18 million dollars. National CORE proposed to finance the project with a combination of 9 Percent Low-Income Housing Tax Credits (LIHTC), the Redevelopment Agency acquisition and predevelopment assistance, Federal Home Loan Bank Affordable Housing Program (AHP) funds, and County of San Bernardino HOME funds. In order to submit an application to the TCAC, all sources of financing, other than the tax credits, must be committed. This year, the TCAC required tax credit applications be submitted by June 9, 2009. However, the Committee allowed agencies until August 17, 2009, to submit verifications of all financial commitments.

Shortly before the deadline for submittal of LIHTC applications in June, National CORE learned that its \$2 million request for County of San Bernardino HOME loan funds had been unsuccessful. National CORE staff immediately began investigating other sources of financing for the proposed 50-unit project. In the interest of submitting a competitive application to the TCAC, National CORE has requested that the Redevelopment Agency Board of Directors consider providing an additional loan for the project in the amount of \$2 million. Furthermore, National CORE is requesting the release of a deposit of \$650,000 provided by National CORE to the Redevelopment Agency for the purpose of undergrounding utilities along Mills Avenue. As National CORE proposed to construct multiple housing projects (San Antonio Gateway Vista project, 85-unit senior project, and 50-unit family project) along Mills Avenue, it was more cost effective to wait until the 50-unit Mills Avenue project would be developed to underground utilities. At the time the San Antonio Vista project was under construction, the Redevelopment Agency collected the \$650,000 deposit from National CORE for this work.

The First Amendment to the Affordable Housing Agreement would increase the amount of the loan made by the Redevelopment Agency to National CORE from \$3,650,000 to \$6,300,000. National CORE would execute an amended Promissory Note and execute a Modification to the Deed of Trust adding the \$2,650,000 to the residual receipts loan. As a residual receipts loan, the Redevelopment Agency would receive payment from future project revenue after the payment of other expenses. The term of the loan is 55 years commencing on the date a Certificate of Completion is issued. Interest on the Promissory Note would accrue at a rate of 3 percent simple interest per annum on the date of disbursement of funds by the Redevelopment Agency.

In lieu of borrowing the additional funds from the Redevelopment Agency, National CORE remains actively looking for alternative sources of financing for the proposed 50-unit project. The First Amendment requires National CORE to use its best efforts to take all necessary actions to secure other sources of funding to repay the Redevelopment Agency up to \$2 million. To that end, National CORE has already submitted an application for federal Neighborhood Stabilization Program 2 (NSP 2) funds for the Mills Avenue 50-unit project. However, it is possible that National CORE may not be able to secure another funding source.

The Redevelopment Agency Board of Directors should also note that the application process for LIHTC is competitive. Despite best efforts, there is no guarantee that National CORE's LIHTC application for the 50-unit project will be successful. In the event the LIHTC application is not successful, National CORE would propose to submit the LIHTC application in the next upcoming application period.

FISCAL IMPACT: The cost of financing the proposed 50-unit affordable family project is estimated to be approximately \$17.9 million. It is estimated that approximately \$9 million of this financing will be derived from the 9 Percent LIHTC Program. Permanent financing would also be made available through a loan from Bank of America, funds from the Federal Home Loan Bank Affordable Housing Program, and a residual receipts loan from the Redevelopment Agency. The Redevelopment Agency provided National CORE with a residual receipts loan from the Redevelopment Agency Housing Fund in the amount of \$3,650,000 for acquisition and predevelopment costs associated with the proposed project in 2008.

National CORE requests to borrow an additional \$2 million from the Redevelopment Agency because its application for County of San Bernardino HOME funds was not successful. National CORE is also requesting the release of a \$650,000 deposit held by the Redevelopment Agency for the purpose of undergrounding utilities and other construction on the frontage of Mills Avenue properties owned by National CORE. The Redevelopment Agency Housing Fund Budget contains moneys to finance the cost of the additional \$2 million residual receipts loan to National CORE. National CORE is actively seeking other sources of financing for this project. If National CORE were successful at securing alternative financing, National CORE would use these funds to supplant or repay the Agency the \$2 million.

RECOMMENDATION: Staff recommends the Redevelopment Agency Board of Directors adopt Resolution No. 09-03, a Resolution of the City of Montclair Redevelopment Agency approving Agreement No. 09-67, the First Amendment to Agreement No. 08-01, an Affordable Housing Agreement by and between the City of Montclair Redevelopment Agency and Mills Family Housing Partners, L.P. (National Community Renaissance of California).

RESOLUTION NO. 09-03

A RESOLUTION OF THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY APPROVING AGREEMENT NO. 09-67, THE FIRST AMENDMENT TO AGREEMENT NO. 08-01, AN AFFORDABLE HOUSING AGREEMENT BY AND BETWEEN THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY AND MILLS FAMILY HOUSING PARTNERS, L.P. (NATIONAL COMMUNITY RENAISSANCE OF CALIFORNIA)

WHEREAS, California Health and Safety Code Sections 33334.2 and 33334.6 authorize and direct the City of Montclair Redevelopment Agency (the "Agency") to expend a certain percentage of all taxes that are allocated to the Agency pursuant to Section 33670 for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost to persons and families of low and moderate income, lower income, and very low income; and

WHEREAS, pursuant to applicable law, the Agency has established a Low- and Moderate-Income Housing Fund (the "Housing Fund"); and

WHEREAS, pursuant to Health and Safety Code Section 33334.2(e), in carrying out its affordable housing activities, the Agency is authorized to provide subsidies to or for the benefit of very low-income and lower income households, or persons and families of low or moderate income, to the extent those households cannot obtain housing at affordable costs on the open market and to provide financial assistance for the construction and rehabilitation of housing that will be made available at an affordable housing cost to such persons; and

WHEREAS, the "Participant," which consists of Mills Family Housing Partners, L.P. (National Community Renaissance of California), collectively, has proposed to enter into an agreement, entitled, "The First Amendment to Affordable Housing Agreement," in the form submitted herewith (the "Amended Agreement"), under which the Agency will increase assistance to the Participant in order to construct a 50-unit affordable family housing project at 10307 Mills Avenue (the "Site"), which units shall be used as rental housing and rented to lower and very low-income households at an affordable rent, all as more particularly provided in the Affordable Housing Agreement (Agreement No. 08-01). The construction of the 50-unit affordable family housing project by Participant constitutes the "Project"; and

WHEREAS, in order to carry out and implement the Redevelopment Plan for the Agency's Redevelopment Projects and the affordable housing requirements thereof, the Agency would lend certain additional funds to the Participant, all as more particularly provided by the Agreement; and

WHEREAS, the Project is located within the project area boundaries of Redevelopment Project Area No. V (the "Project Area" and the "Redevelopment Project," respectively) and the construction and operation of the Project pursuant to the Affordable Housing Agreement and Amended Agreement would benefit the Project Area

by providing affordable housing for persons who currently live and work within the Project Area; and

WHEREAS, the Agency has adopted an Implementation Plan pursuant to Health and Safety Code Section 33490, which sets forth the objective of providing housing to satisfy the needs and desires of various constituent elements of the community; and

WHEREAS, the Amended Agreement furthers the goals of the Agency set forth in the Implementation Plan as it will facilitate the creation of affordable housing that will serve the residents of the neighborhood and the City; and

WHEREAS, the Agency has duly considered all terms and conditions of the proposed Amended Agreement and believes the Amended Agreement is in the best interests of the Agency and the City and the health, safety, and welfare of its residents and in accord with the public purposes and provisions of applicable State and local law requirements; and

WHEREAS, the additional financial participation by the Agency under the Amended Agreement is in consideration of the particular uses required by the Affordable Housing Agreement to be conducted by the Participant on the Site as well as the Participant's undertakings concerning the development and operation of improvements for affordable rental housing; and

WHEREAS, the Participant has submitted to the Agency and the City Council of the City of Montclair (the "City Council") copies of the Amended Agreement substantially in the form submitted herewith; and

WHEREAS, the Agency now determines that the expenditures by Agency under the Amended Agreement are of benefit to the Project Area and the Project; and

WHEREAS, all actions required by all applicable law with respect to the proposed Amended Agreement have been taken in an appropriate and timely manner; and

WHEREAS, the City Council has previously determined, in its adoption of the Ordinance approving the Redevelopment Project, that the Site is a portion of a blighted area, and is underutilized, as further set forth in the Implementation Plan as previously adopted and amended by the Agency; and

WHEREAS, the Amended Agreement would assist in the alleviation or removal of blighting conditions and would further the goals of the Implementation Plan by providing for the provision of improvements and the operation of certain uses as provided in the Affordable Housing Agreement; and

WHEREAS, the Agency has duly considered all of the terms and conditions of the proposed Amended Agreement and believes the redevelopment of the Site pursuant to the Affordable Housing Agreement and the Amended Agreement are in the best interests of the City and the health, safety, and welfare of its residents and in accord with the public purposes and provisions of applicable state and local laws and requirements.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the City of Montclair Redevelopment Agency hereby find and determine as follows:

SECTION 1. The use of funds from the Agency's Low- and Moderate-Income Housing Fund pursuant to the Agreement will be of benefit to the Project Area.

SECTION 2. Implementation of the Amended Agreement will assist to eliminate blight within the Project Area by providing for the proper reuse and redevelopment of a portion of the Project Area that was declared blighted.

SECTION 3. The Amended Agreement is consistent with the provisions and goals of the Implementation Plan.

SECTION 4. The Agency hereby approves the Amended Agreement in substantially the form presented to the Agency, subject to such revisions as may be made by the Executive Director of the Agency or his or her designee. The Chairman of the Agency is hereby authorized to execute the Amended Agreement (including without limitation all attachments thereto) on behalf of the Agency, together with any instruments necessary or convenient to implement the Amended Agreement. A copy of the Amended Agreement shall, when executed by the Agency, be placed on file in the office of the Secretary of the Agency.

SECTION 5. The Executive Director of the Agency (or his or her designee) is hereby authorized, on behalf of the Agency, to make revisions to the Amended Agreement that do not materially or substantially increase the Agency's obligations thereunder or materially or substantially change the uses or development permitted on the Site, to sign all documents, to make all approvals and take all actions necessary or appropriate to carry out and implement the Affordable Housing Agreement and the Amended Agreement and to administer the Agency's obligations, responsibilities and duties to be performed under the Affordable Housing Agreement and Amended Agreement and related documents.

APPROVED AND ADOPTED this XX day of XX, 2009.

Chairman

ATTEST:

Secretary

I, Donna M. Jackson, Secretary of the City of Montclair Redevelopment Agency, DO HEREBY CERTIFY that Resolution No. 08-01 was duly adopted by the Redevelopment Agency Board of Directors at a regular meeting thereof held on the XX day of XX, 2009, and that it was adopted by the following vote, to-wit:

AYES: XX
NOES: XX
ABSTAIN: XX
ABSENT: XX

Donna M. Jackson
Secretary

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 09-2810 AUTHORIZING PLACEMENT OF ASSESSMENTS ON CERTAIN PROPERTIES FOR DELINQUENT SEWER AND TRASH ACCOUNTS	DATE: August 3, 2009 SECTION: RESOLUTIONS ITEM NO.: 2 FILE I.D.: STB300-17 DEPT.: ADMIN. SVCS.
BUSINESS PLAN: N/A	

REASON FOR CONSIDERATION: There are 601 outstanding liens on properties for collection of delinquent civil debts owed to the City for sewer and trash service. Placement of assessments on these properties would assist in more timely collection of these delinquent accounts.

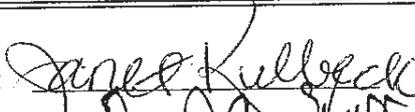
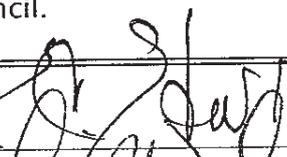
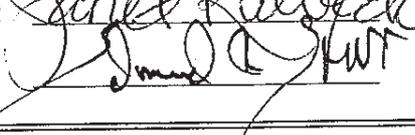
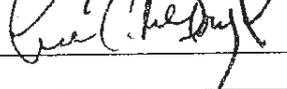
BACKGROUND: The City Council authorized the placement of 701 liens on properties for delinquent sewer and trash charges on the following dates:

<i>Date</i>	<i>Number of Liens</i>
October 6, 2008	104
November 3, 2008	132
February 2, 2009	87
March 2, 2009	142
June 1, 2009	105
July 6, 2009	<u>131</u>
TOTAL	<u>701</u>

Of these 701 properties, liens have been cleared from 100 of them.

It is recommended that assessments, which are collected with the property tax, be placed on the remaining 601 properties. Doing so would result in the City's more timely collection of the delinquencies than the lien process, which generates payment only upon sale or refinance of the property.

In addition to the regular bimonthly billings, we have sent bimonthly letters to these property owners advising them of their delinquencies. They received two notifications when the liens were placed and were again notified on July 23, 2009, that the action proposed this evening would be considered by the City Council.

Prepared by: 	Reviewed and Approved by: 
Proofed by: 	Presented by: 

FISCAL IMPACT: Recoverable amount is \$155,472.67.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 09-2810 authorizing placement of assessments on certain properties for delinquent sewer and trash charges as listed on Exhibit A of said Resolution.

RESOLUTION NO. 09-2810

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MONTCLAIR AUTHORIZING
PLACEMENT OF ASSESSMENTS ON CERTAIN
PROPERTIES FOR DELINQUENT SEWER AND
TRASH ACCOUNTS**

WHEREAS, Chapter 1.12 of the Montclair Municipal Code authorizes various methods by which delinquent civil debts may be collected including, but not limited to, the placement of assessments on the properties on which the debts were generated; and

WHEREAS, City Council has recently placed property liens on 701 properties on which there are delinquent civil debts for unpaid sewer and trash charges; and

WHEREAS, the lien amount was paid on 100 of these accounts; and

WHEREAS, it is appropriate to also place assessments on these 601 properties as identified on Exhibit A of this Resolution to further encourage the payment of these charges owed to the City; and

WHEREAS, the owners of these properties have received notification of proposed actions against their properties including the date and time when such action would be considered by the City Council.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair approve the placement of assessments on the properties and in the amounts specified in Exhibit A, entitled "August 2009 - Property Assessments."

BE IT FURTHER RESOLVED that the City Clerk is authorized to provide the San Bernardino County Assessor's Office with the documents required to cause such assessments to be placed.

APPROVED AND ADOPTED this XX day of XX, 2009.

Mayor

ATTEST:

City Clerk

I, Donna M. Jackson, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 09-2810 was duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council held on the XX day of XX, 2009, and that it was adopted by the following vote, to-wit:

AYES: XX
NOES: XX
ABSTAIN: XX
ABSENT: XX

Donna M. Jackson
City Clerk

**Exhibit A to Resolution No. 09-2810
August 2009 - Property Assessments**

Service Address	Lien No. 1	Lien No. 2	Lien No. 3	Total Assessment Amount	Type
9497 Del Mar Avenue	\$210.44	\$162.57	\$272.88	\$645.89	Residential
9863 Coalinga Avenue	\$270.90	\$223.97	\$285.59	\$780.46	Residential
4447 Harvard Street	\$222.56	\$272.82		\$495.38	Residential
4328 Granada Street	\$217.04	\$222.57	\$272.92	\$712.53	Residential
10060 Camulos Avenue	\$217.04	\$222.57	\$272.92	\$712.53	Residential
10395 Vernon Avenue	\$237.66	\$218.70		\$456.36	Residential
10231 Mills Avenue	\$124.67	\$399.74		\$524.41	Residential
9641 Surrey Avenue	\$283.36			\$283.36	Residential
4274 San Bernardino Street	\$240.74	\$361.70		\$602.44	Residential
10141 Canary Court	\$283.36			\$283.36	Residential
11142 Amherst Avenue	\$240.60	\$256.58	\$240.02	\$737.20	Residential
5628 Granada Street	\$217.04	\$222.57	\$272.92	\$712.53	Residential
10171 Canary Court	\$156.55	\$223.30		\$379.85	Residential
9884 Coalinga Avenue	\$222.57	\$272.85		\$495.42	Residential
9795 Coalinga Avenue	\$217.10	\$223.20	\$278.56	\$718.86	Residential
9872 Coalinga Avenue	\$217.03	\$222.51	\$272.40	\$711.94	Residential
4426 Princeton Street	\$217.44	\$226.33	\$307.05	\$750.82	Residential
10137 Mills Avenue	\$240.62	\$256.81	\$240.02	\$737.45	Residential
5171 Fauna Street	\$212.66	\$193.47		\$406.13	Residential
9434 Rose Avenue	\$217.04	\$222.57	\$272.92	\$712.53	Residential
5438 Cambridge Street	\$179.04			\$179.04	Residential
4912 Canoga Street	\$216.68	\$230.14	\$216.39	\$663.21	Residential
10221 Santa Anita Avenue	\$279.54	\$223.30		\$502.84	Residential
4103 Howard Street	\$294.82			\$294.82	Residential
9136 Ramona Avenue	\$217.04	\$222.57	\$272.92	\$712.53	Residential
5676 San Jose Street	\$217.04	\$222.57	\$272.92	\$712.53	Residential
9352 Rose Avenue	\$222.46	\$271.91		\$494.37	Residential
5596 Hawthorne Street	\$217.04	\$222.57	\$272.92	\$712.53	Residential
5629 Bonnie Brae Street	\$222.57			\$222.57	Residential
9413 Rose Avenue	\$217.04	\$222.57	\$272.92	\$712.53	Residential
9414 Rose Avenue	\$221.35	\$261.79		\$483.14	Residential
9634 Marion Avenue	\$198.09	\$209.63	\$314.47	\$722.19	Senior
9567 Fremont Avenue	\$316.46			\$316.46	Residential
5257 Palo Verde Street	\$197.28	\$202.15	\$246.47	\$645.90	Senior
5490 Cambridge Street	\$116.11	\$214.34	\$198.05	\$528.50	Residential
4485 San Jose Street	\$265.90	\$390.84		\$656.74	Residential
9542 Pradera Avenue	\$222.37	\$271.11		\$493.48	Residential
9547 Camulos Avenue	\$214.34			\$214.34	Residential
9522 Tudor Avenue	\$217.04	\$222.57	\$272.92	\$712.53	Residential
4372 San Bernardino Court	\$217.04	\$222.57	\$272.92	\$712.53	Residential
4418 Harvard Street	\$292.75			\$292.75	Residential
4833 San Bernardino Street	\$209.05			\$209.05	Residential

Service Address	Lien No. 1	Lien No. 2	Lien No. 3	Total Assessment Amount	Type
5366 Alamitos Street	\$217.04	\$222.57	\$272.92	\$712.53	Senior
9784 Vernon Avenue	\$311.39			\$311.39	Residential
9877 Camulos Avenue	\$310.88			\$310.88	Residential
4585 James Street	\$217.04	\$222.57	\$272.92	\$712.53	Residential
9757 Camulos Avenue	\$215.99	\$213.08	\$186.64	\$615.71	Residential
9910 Amherst Avenue	\$217.04	\$222.57	\$272.92	\$712.53	Residential
4324 Denver Street	\$161.41			\$161.41	Residential
4390 El Morado Street	\$239.77	\$238.37	\$225.55	\$703.69	Residential
4461 El Morado Street	\$166.43	\$217.07	\$222.92	\$606.42	Residential
4923 Granada Street	\$223.28	\$279.37		\$502.65	Residential
9935 Poulsen Avenue	\$217.04	\$222.57	\$272.89	\$712.50	Residential
10022 Rose Avenue	\$181.24			\$181.24	Residential
10058 Rose Avenue	\$215.99	\$213.08	\$186.64	\$615.71	Residential
10068 Rose Avenue	\$216.90	\$221.35	\$261.79	\$700.04	Residential
5360 Rudisill Street	\$160.37	\$248.38	\$316.56	\$725.31	Residential
9982 Bel Air Avenue	\$217.04	\$222.60	\$273.15	\$712.79	Residential
5032 Orchard Street	\$198.05			\$198.05	Residential
4852 Fauna Street	\$230.58	\$399.80		\$630.38	Residential
10231 Coalinga Avenue	\$230.29	\$399.77		\$630.06	Residential
10123 Fremont Avenue	\$219.38	\$398.32		\$617.70	Residential
5181 Fauna Street	\$200.35			\$200.35	Residential
10124 Poulsen Avenue	\$400.20			\$400.20	Residential
10154 Poulsen Avenue	\$217.88	\$217.10	\$216.52	\$651.50	Residential
5210 Kingsley Street	\$201.19	\$248.54	\$197.17	\$646.90	Senior
10201 Columbine Avenue	\$196.87			\$196.87	Residential
10203 Vernon Avenue	\$257.00	\$449.72		\$706.72	Residential
10212 Del Mar Avenue	\$277.16			\$277.16	Residential
5476 Kingsley Street	\$283.36			\$283.36	Residential
5051 Flora Street	\$230.74	\$433.69		\$664.43	Residential
10238 Monte Vista Avenue	\$231.33	\$399.90		\$631.23	Residential
10282 Greenwood Avenue	\$217.88	\$240.96	\$216.52	\$675.36	Residential
10289 Tudor Avenue	\$231.00	\$399.86		\$630.86	Residential
4668 Kingsley Street	\$179.85			\$179.85	Residential
10129 Galena Avenue	\$225.89	\$313.82	\$217.40	\$757.11	Residential
10252 Camulos Avenue	\$187.74			\$187.74	Residential
4219 Fauna Street	\$238.19	\$425.64	\$218.75	\$882.58	Residential
10428 Lehigh Avenue	\$193.47			\$193.47	Residential
5019 Kingsley Street	\$222.62	\$284.05	\$217.04	\$723.71	Residential
8912 Felipe Avenue	\$132.76	\$400.10		\$532.86	Residential
4780 Howard Street	\$217.88	\$240.96	\$216.52	\$675.36	Residential
4846 Mane Street	\$226.10			\$226.10	Residential
11020 San Pasqual Avenue	\$279.54	\$223.30		\$502.84	Residential
11221 Greycliff Avenue	\$240.96	\$401.19		\$642.15	Residential
11158 Carriage Avenue	\$283.36			\$283.36	Residential
9601 Carrillo Avenue	\$217.05	\$222.67	\$273.81	\$713.53	Residential

Service Address	Lien No. 1	Lien No. 2	Lien No. 3	Total Assessment Amount	Type
9606 Central Avenue	\$150.32			\$150.32	Residential
9599 Pradera Avenue	\$196.34	\$193.74	\$169.96	\$560.04	Senior
9866 Rose Avenue	\$198.44	\$212.84	\$343.69	\$754.97	Senior
5198 Kingsley Street	\$410.57	\$749.51		\$1,160.08	Multifamily
8919-21 Felipe Avenue	\$664.09			\$664.09	Multifamily
4693 Canoga Street	\$714.87	\$753.48	\$715.34	\$2,183.69	Multifamily
10360 Amherst Avenue	\$550.12	\$590.85	\$549.16	\$1,690.13	Multifamily
10431 Amherst Avenue	\$383.40	\$410.57	\$382.77	\$1,176.74	Multifamily
10421 Amherst Avenue	\$383.40	\$410.57	\$382.77	\$1,176.74	Multifamily
4505 Donner Court	\$216.71	\$230.29	\$216.39	\$663.39	Residential
9823 Fremont Avenue	\$217.04	\$222.57	\$272.92	\$712.53	Residential
9851 Sun Valley Drive	\$283.36			\$283.36	Residential
9819 Snowmass Drive	\$363.08			\$363.08	Residential
4556 Humboldt Court	\$334.71			\$334.71	Residential
4558 Humboldt Court	\$239.75			\$239.75	Residential
4542 Yosemite Drive	\$204.39			\$204.39	Residential
10468 Calico Court	\$220.26	\$262.56	\$216.78	\$699.60	Residential
4515 Yosemite Drive	\$220.46	\$264.35	\$216.81	\$701.62	Residential
5223 Belvedere Way	\$212.66	\$193.47	\$215.95	\$622.08	Residential
11032 San Juan Way	\$292.78	\$233.16		\$525.94	Residential
9250 Bel Air Avenue	\$161.07			\$161.07	Residential
5557 Palo Verde Street	\$203.71			\$203.71	Residential
4370 Holt Boulevard	\$766.39	\$685.31		\$1,451.70	Residential
4924 Canoga Street	\$216.78	\$231.04	\$216.40	\$664.22	Residential
10310-12 Lehigh Avenue	\$383.30	\$409.67	\$382.76	\$1,175.73	Multifamily
5105 Bandera Street	\$185.57			\$185.57	Residential
10557 Morgan Circle	\$230.64	\$399.80		\$630.44	Residential
9112 Camulos Avenue	\$217.04	\$222.61	\$273.25	\$712.90	Residential
9472 Rose Avenue	\$217.04	\$222.60	\$273.15	\$712.79	Residential
11076 Roswell Avenue	\$202.37	\$191.89		\$394.26	Residential
5039 Rosewood Street	\$175.39			\$175.39	Residential
10273 Monte Vista Avenue	\$277.38			\$277.38	Residential
10290 Monte Vista Avenue	\$209.94			\$209.94	Senior
10614 Oak Glen Avenue	\$346.10			\$346.10	Multifamily
10963 San Juan Way	\$243.02	\$278.61	\$240.28	\$761.91	Residential
4864 Highland Street	\$240.73	\$247.12	\$305.16	\$793.01	Residential
4982 Granada Street	\$217.04	\$222.57	\$272.92	\$712.53	Residential
5572 Princeton Street	\$217.05	\$222.68	\$273.92	\$713.65	Residential
10057 Geneva Avenue	\$280.72			\$280.72	Residential
4742 Canoga Street	\$700.61	\$623.89	\$713.77	\$2,038.27	Multifamily
10076 Lindero Avenue	\$159.82			\$159.82	Residential
10475 Yosemite Drive	\$230.26			\$230.26	Residential
9768 Bolton Avenue	\$240.74	\$247.16	\$305.52	\$793.42	Residential
4501 Donner Court	\$230.29	\$399.77		\$630.06	Residential
9243 Camulos Avenue	\$198.05			\$198.05	Residential

Service Address	Lien No. 1	Lien No. 2	Lien No. 3	Total Assessment Amount	Type
9875 Coalinga Avenue	\$214.35			\$214.35	Residential
4711 San Bernardino Street	\$217.04	\$222.57	\$272.92	\$712.53	Residential
9824 Galena Avenue	\$248.34			\$248.34	Residential
9617 Surrey Avenue	\$198.05			\$198.05	Residential
5190 Howard Street A & B	\$382.00	\$376.44	\$325.82	\$1,084.26	Multifamily
4337 Appaloosa Way	\$283.36			\$283.36	Residential
5185 Flora Street	\$230.28			\$230.28	Residential
9539 Ramona Avenue	\$217.04	\$222.57	\$272.92	\$712.53	Residential
10594 Oak Glen Avenue	\$161.04	\$172.93		\$333.97	Residential
4999 Grand Avenue	\$293.48			\$293.48	Residential
5093 Bandera Street	\$215.82	\$222.22	\$216.29	\$654.33	Residential
4581 Highland Street	\$222.44			\$222.44	Residential
5133 San Bernardino Street	\$224.62			\$224.62	Residential
11013 Wesley Avenue	\$217.18	\$234.59	\$219.21	\$670.98	Residential
5127-29 Harvard Street	\$361.61	\$191.00		\$552.61	Multifamily
5554 Vernon Court	\$216.65	\$216.39		\$433.04	Residential
5429 El Morado Street	\$198.44	\$212.80	\$343.29	\$754.53	Senior
10472 Yosemite Drive	\$196.87	\$214.21		\$411.08	Residential
9587 Ramona Avenue	\$215.99	\$213.08	\$186.64	\$615.71	Residential
9136 Felipe Avenue	\$212.48			\$212.48	Residential
10236 Del Mar Avenue	\$224.97	\$305.43	\$217.30	\$747.70	Residential
4422 Denver Street	\$273.60	\$231.32		\$504.92	Residential
9527 Marion Avenue	\$217.04	\$222.57		\$439.61	Residential
10968 Fremont Avenue	\$162.48	\$186.01		\$348.49	Residential
10436 Helena Avenue	\$205.81			\$205.81	Residential
5607 Denver Street	\$217.04	\$222.57	\$272.92	\$712.53	Residential
4785 Harvard Street	\$239.28			\$239.28	Residential
5216 Coventry Way	\$310.58			\$310.58	Residential
9950 Bel Air Avenue	\$216.90	\$221.35	\$261.79	\$700.04	Residential
9839 Vernon Avenue	\$214.25	\$197.28		\$411.53	Residential
5485 Applegate Street	\$310.87			\$310.87	Residential
4771 Orchard Street	\$162.15			\$162.15	Residential
5425 Howard Street	\$240.39			\$240.39	Multifamily
9846 Steamboat Drive	\$155.12	\$169.96		\$325.08	Residential
9864 Vernon Avenue	\$320.23			\$320.23	Residential
9254 Ramona Avenue	\$217.03	\$222.49	\$272.15	\$711.67	Residential
9566 Central Avenue	\$274.00			\$274.00	Residential
4822 Olive Street	\$273.99			\$273.99	Residential
10462 Yosemite Drive	\$232.86	\$400.11		\$632.97	Residential
4876 Moreno Street	\$198.05			\$198.05	Residential
9512 Camulos Avenue	\$225.32	\$297.85		\$523.17	Residential
4870 Rosewood Street	\$269.08			\$269.08	Residential
10025 Central Avenue	\$217.09	\$223.09	\$277.57	\$717.75	Residential
4277 Orchard Street	\$364.61			\$364.61	Residential
9656 Benson Avenue	\$217.04	\$222.55	\$272.69	\$712.28	Residential

Service Address	Lien No. 1	Lien No. 2	Lien No. 3	Total Assessment Amount	Type
4424 San Jose Street #12	\$166.11	\$183.94		\$350.05	Residential
10189 Camulos Avenue	\$214.72	\$180.94	\$162.88	\$558.54	Residential
4460 Benito Street	\$223.43	\$280.72		\$504.15	Residential
4372 Berkeley Street	\$140.36	\$230.97		\$371.33	Residential
10250 Poulsen Avenue	\$271.83	\$222.45		\$494.28	Residential
4362 Alamos Street	\$223.43	\$280.72		\$504.15	Residential
5391 Holt Boulevard	\$250.22			\$250.22	Commercial
9986 Central Avenue	\$316.46			\$316.46	Residential
9641 Helena Avenue	\$217.04	\$222.61	\$273.28	\$712.93	Residential
5101 Bandera Street	\$216.50	\$228.42	\$216.37	\$661.29	Residential
9784 Galena Avenue	\$272.91			\$272.91	Residential
9791 Helena Avenue	\$224.75	\$292.68		\$517.43	Residential
5572 Kingsley Street	\$283.36			\$283.36	Residential
9636 Benson Avenue	\$428.94			\$428.94	Residential
4596 Mane Street	\$216.71	\$230.34	\$216.39	\$663.44	Residential
4612 Canoga Street	\$714.86	\$753.48	\$715.34	\$2,183.68	Multifamily
10017 Columbine Avenue	\$267.20	\$380.55		\$647.75	Residential
5421 Rudisill Street	\$240.74	\$247.17	\$305.57	\$793.48	Residential
9760 Bolton Avenue	\$331.95			\$331.95	Residential
5229 Belvedere Way	\$214.21			\$214.21	Residential
4424 San Jose Street #18	\$234.46			\$234.46	Residential
4234 Fauna Street	\$279.54	\$223.30		\$502.84	Residential
9762 Monte Vista Avenue	\$217.12	\$223.37	\$280.23	\$720.72	Residential
9985 Geneva Avenue	\$217.91	\$230.45	\$344.46	\$792.82	Residential
9597 Helena Avenue	\$240.73	\$247.13	\$305.29	\$793.15	Residential
9836 Monte Vista Avenue	\$217.05	\$222.67	\$273.76	\$713.48	Residential
9912 Rose Avenue	\$221.35	\$161.79		\$383.14	Residential
4441 El Morado Street	\$213.08	\$186.64		\$399.72	Residential
4304 Denver Street	\$198.57	\$218.37		\$416.94	Residential
4534 Yosemite Drive	\$232.55	\$400.08		\$632.63	Residential
9595 Mills Avenue	\$217.05	\$222.69	\$273.98	\$713.72	Residential
4780 Bandera Street	\$668.44	\$331.41	\$710.22	\$1,710.07	Multifamily
9855 Central Avenue	\$199.38			\$199.38	Residential
5422 Orchard Street	\$231.78	\$399.97		\$631.75	Residential
11159 Essex Avenue	\$494.82			\$494.82	Residential
9961 Del Mar Avenue	\$217.10	\$223.19	\$278.47	\$718.76	Residential
4286 Granada Street	\$231.71	\$356.01		\$587.72	Residential
11119 Roswell Avenue	\$202.54	\$193.18		\$395.72	Residential
9611 Camulos Avenue	\$239.28	\$159.67		\$398.95	Residential
9025 Helena Avenue	\$217.03	\$222.50	\$272.32	\$711.85	Residential
5635 Palo Verde Street	\$217.04	\$222.57	\$272.91	\$712.52	Residential
5124 Holt Boulevard	\$145.20			\$145.20	Commercial
4592 Canoga Street	\$744.41	\$615.23		\$1,359.64	Multifamily
5232 Hanover Way	\$216.92	\$232.21	\$216.41	\$665.54	Residential
11040 Buckingham Way	\$221.74			\$221.74	Residential

Service Address	Lien No. 1	Lien No. 2	Lien No. 3	Total Assessment Amount	Type
9921 Vernon Avenue	\$217.33	\$225.26	\$197.39	\$639.98	Residential
5514 Holt Boulevard	\$307.37	\$410.27		\$717.64	Multifamily
11122 Coalinga Avenue	\$283.36			\$283.36	Residential
10150 Helena Avenue	\$196.87	\$214.21		\$411.08	Residential
4748 Fauna Street	\$234.02	\$400.25		\$634.27	Residential
5115 Bandera Street	\$221.74	\$276.14	\$216.94	\$714.82	Residential
5540 San Jose Street	\$203.71			\$203.71	Residential
4224 Appaloosa Way	\$212.66	\$215.95		\$428.61	Residential
5071 Fauna Street	\$239.44			\$239.44	Residential
4512 Bonnie Brae Street	\$221.21	\$260.45		\$481.66	Residential
5400 La Denev Street	\$282.82			\$282.82	Residential
5402 Granada Street	\$198.05			\$198.05	Residential
4605 San Jose Street	\$357.43			\$357.43	Residential
4535 Mane Street	\$241.90	\$155.03		\$396.93	Residential
5103 Aspen Drive	\$217.91	\$230.45	\$344.46	\$792.82	Residential
10195 Bel Air Avenue	\$227.74			\$227.74	Residential
10045 Santa Anita Avenue	\$216.90			\$216.90	Residential
5382 Berkeley Street	\$217.04	\$222.57	\$272.85	\$712.46	Residential
9855 Sun Valley Drive	\$512.11			\$512.11	Residential
5015 Rodeo Street	\$291.92			\$291.92	Residential
9608 Benson Avenue	\$223.25	\$279.10		\$502.35	Residential
4267 Orchard Street	\$240.74			\$240.74	Residential
4855 Mane Street	\$216.72	\$230.39	\$216.39	\$663.50	Residential
10259 Camulos Avenue	\$216.56	\$229.03	\$216.38	\$661.97	Residential
5509 Bonnie Brae Street	\$230.46	\$344.64		\$575.10	Residential
4502 Donner Court	\$230.10			\$230.10	Residential
10075 Vernon Avenue	\$314.18			\$314.18	Residential
5401 San Bernardino Street	\$218.19	\$233.09	\$368.53	\$819.81	Residential
11178 Whitewater Avenue	\$216.54	\$228.82	\$216.37	\$661.73	Residential
10081 Mills Avenue	\$217.75	\$229.10	\$332.29	\$779.14	Residential
4667 Allesandro Street	\$216.90	\$221.38		\$438.28	Residential
4780 Kingsley Street	\$196.87	\$214.21		\$411.08	Residential
4975 Canoga Street	\$227.01	\$324.02	\$217.52	\$768.55	Residential
4650 Flora Street	\$242.17	\$226.61		\$468.78	Residential
10225 Lehigh Avenue	\$215.72	\$221.26	\$216.28	\$653.26	Residential
5213 Coventry Way	\$379.60			\$379.60	Residential
10032 Benson Avenue	\$217.09	\$223.09	\$277.57	\$717.75	Residential
10960 Fremont Avenue	\$209.70	\$181.10		\$390.80	Residential
10288 Benson Avenue	\$240.96			\$240.96	Residential
11169 Carrillo Avenue	\$279.54	\$223.30		\$502.84	Residential
10321 Kimberly Avenue	\$237.62			\$237.62	Residential
4391 Bandera Street	\$204.59	\$276.14		\$480.73	Residential
4912 Carlton Street	\$164.43	\$203.71	\$160.11	\$528.25	Residential
11073 Monte Vista Avenue	\$265.52			\$265.52	Residential
5515 La Denev Street	\$247.68			\$247.68	Residential

Service Address	Lien No. 1	Lien No. 2	Lien No. 3	Total Assessment Amount	Type
4246 Rudisill Street	\$261.74	\$205.59	\$345.84	\$813.17	Residential
4622 Grand Avenue	\$199.33	\$209.71		\$409.04	Residential
4823 San Bernardino Street	\$174.05			\$174.05	Residential
5225 Saddleback Street	\$155.67			\$155.67	Residential
5271 Saddleback Street	\$270.77			\$270.77	Residential
4761 Mission Boulevard	\$189.26	\$172.16		\$361.42	Residential
9606 Helena Avenue	\$280.72			\$280.72	Residential
5132 Holt Boulevard	\$174.72			\$174.72	Commercial
9763 Camarena Avenue	\$216.71	\$219.56	\$245.51	\$681.78	Residential
9835 Saratoga Avenue	\$385.43			\$385.43	Residential
4400 El Morado Street	\$272.77	\$220.38	\$253.03	\$746.18	Residential
10484 Calico Court	\$283.80			\$283.80	Residential
10271 Camulos Avenue	\$226.72			\$226.72	Residential
4950 Manzanita Street	\$159.54			\$159.54	Residential
5356 Rosewood Street	\$198.05			\$198.05	Residential
10984 San Miguel Way	\$209.35	\$163.41		\$372.76	Residential
9795 Central Avenue	\$367.90			\$367.90	Residential
4691 Allesandro Street	\$162.22			\$162.22	Residential
11036 Buckingham Way	\$198.05			\$198.05	Residential
4507 Grand Avenue	\$132.85			\$132.85	Residential
4664 Ewart Street	\$183.32	\$212.71		\$396.03	Residential
9803 Lindero Avenue	\$223.43	\$280.72		\$504.15	Residential
5568 Benito Street	\$253.30			\$253.30	Residential
4980 Howard Street	\$168.71	\$160.58		\$329.29	Residential
9878 Galena Avenue	\$283.36			\$283.36	Residential
4785 Manzanita Street	\$191.95			\$191.95	Residential
4315 Clydesdale Way	\$189.48	\$213.40		\$402.88	Residential
11007 Monte Vista Avenue	\$261.47			\$261.47	Residential
11246 Poulsen Avenue	\$223.50			\$223.50	Residential
4740 Benito Street	\$192.47			\$192.47	Residential
9610 Poulsen Avenue	\$181.07			\$181.07	Residential
5044 Highland Street	\$198.86			\$198.86	Residential
4310 Berkeley Street	\$193.64	\$185.35		\$378.99	Residential
5356 Alamitos Street	\$213.08	\$186.61		\$399.69	Residential
10075 Vernon Avenue	\$212.10	\$177.71		\$389.81	Residential
9511 Bolton Avenue	\$328.39			\$328.39	Residential
9151 Camulos Avenue	\$274.96			\$274.96	Residential
9760 Bolton Avenue	\$266.57			\$266.57	Residential
5358 Orchard Street	\$123.63			\$123.63	Residential
4605 San Jose Street	\$166.85			\$166.85	Residential
5399 Benito Street	\$135.66			\$135.66	Residential
				\$155,472.67	

**MINUTES OF THE MEETING OF THE MONTCLAIR
CODE ENFORCEMENT COMMITTEE HELD ON
MONDAY, JULY 20, 2009, AT 6:00 P.M. IN THE CITY
HALL CONFERENCE ROOM, 5111 BENITO STREET,
MONTCLAIR, CALIFORNIA**

I. CALL TO ORDER

Council Member Paulitz called the meeting to order at 6:01 p.m.

II. ROLL CALL

Present: Mayor Pro Tem Dutrey; Council Member Paulitz; City Manager McDougal; Deputy City Manager Starr; Fire Chief Ament; Fire Division Chief Shiba; City Attorney Robbins; and City Prosecutor Eckart

III. APPROVAL OF MINUTES

A. Minutes of Code Enforcement Committee Meeting of April 20, 2009.

It was the consensus of the Code Enforcement Committee to approve the minutes of the Code Enforcement Committee meeting of April 20, 2009.

IV. PUBLIC COMMENT - None

V. OLD BUSINESS

- A. The Noise Ordinance was adopted at the last City Council meeting.
- B. The updated Administrative Fine Code was adopted at the last City Council meeting. Fire Chief Ament reported that since April 2009 Code Enforcement has issued Administrative Citations totaling \$118,000 in fines. Mayor Pro Tem Dutrey inquired about the revenue generated from these citations. Deputy City Manager Starr replied that revenue from these citations goes back into the General Fund.
- C. Deputy City Manager Starr reported on the differences between researching property records using Property Finder with DocEdge.com versus TRW, which the City currently uses. He stated that the reports are similar, the migration to the new program would not be difficult, and he believes there would be a cost savings to using the new program. City Prosecutor Eckart distributed a sample transaction history of a property using DocEdge.com. Members agreed to go ahead with the migration to Property Finder with DocEdge.com.

VI. NEW BUSINESS

A. Mayor Pro Tem Dutrey inquired about the process regarding violations of overgrown weeds and grass on a property and when the City will take action to abate the nuisance. Members discussed the lien and administrative citation process and expressed their desire to streamline the process. City Prosecutor Eckart distributed a draft he prepared of potential changes to the Montclair Municipal Code concerning the chapters on administrative citations and property appearance that would address these concerns by shortening the appeal process and eliminating City Council approval.

VII. ROUNDTABLE DISCUSSION ON PROBLEM PROPERTIES

Fire Chief Ament gave an update on 5526 Armsley Street stating that the property is in foreclosure but there are no violations. The resident that persistently insists that there are violations on this property has been served with 602 documents and will be arrested for trespassing if caught on the property.

Fire Chief Ament distributed photos of Golden State Water Company's new chain-link fence. It is in violation of the City ordinance regarding fencing. Mayor Pro Tem Dutrey and Council Member Paulitz recommend the City Attorney send a letter to Golden State Water Company explaining that another structure needs to be put up in place of the chain-link fence. Council Member Paulitz requested a visit to the site with Chief Ament.

Council Member Paulitz inquired about the list of numerous potential problem properties in the northwest quadrant of town. Fire Chief Ament responded that all properties on the list provided by Council Member Paulitz are already in the database.

Council Member Paulitz inquired about a house on Benito that has tall and dry weeds. Chief Ament responded that the property owner has been notified of the violations on the property, which is in foreclosure.

VIII. NEXT MEETING

The next meeting is scheduled for Monday, August 17, 2009, at 6:00 p.m.

IX. ADJOURNMENT

At 6:40 p.m., Council Member Paulitz adjourned the Code Enforcement Committee Meeting.

Submitted for Code Enforcement
Committee approval,



Marci Butler
Administrative Specialist

**MINUTES OF THE MEETING OF THE MONTCLAIR
PERSONNEL COMMITTEE HELD ON MONDAY,
JULY 20, 2009, AT 7:55 P.M. IN THE CITY
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,
MONTCLAIR, CALIFORNIA**

I. CALL TO ORDER

Mayor Eaton called the meeting to order at 7:55 p.m.

II. ROLL CALL

Present: Mayor Eaton; Council Member Ruh; City Manager McDougal;
and Deputy City Manager/Director of Administrative
Services Starr

III. APPROVAL OF MINUTES

**A. Minutes of the Regular Personnel Committee Meeting of July 6,
2009.**

Moved by Deputy City Manager/Administrative Services Director
Starr, seconded by Council Member Ruh, and carried unanimously
to approve the minutes of the Personnel Committee meeting of
July 6, 2009.

IV. PUBLIC COMMENT - None

V. CLOSED SESSION

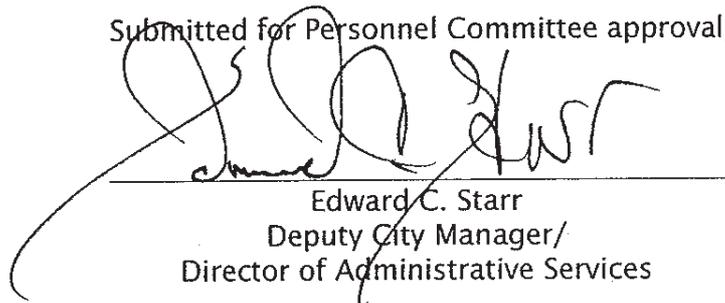
At 7:56 p.m., the Personnel Committee went into Closed Session
regarding personnel matters related to appointments, resignations/
terminations, and evaluations of employee performance.

At 8:10 p.m., the Personnel Committee returned from Closed Session.
Mayor Eaton stated that no announcements would be made at this time.

VI. ADJOURNMENT

At 8:10 p.m., Mayor Eaton adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



Edward C. Starr
Deputy City Manager/
Director of Administrative Services