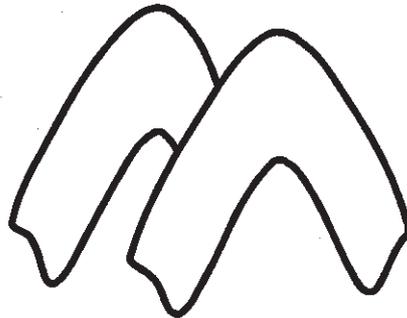


AGENDA FOR CITY COUNCIL, REDEVELOPMENT AGENCY, AND
MONTCLAIR HOUSING CORPORATION

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

December 7, 2009

7:00 p.m.



MONTCLAIR

Mayor Paul M. Eaton

Mayor Pro Tem J. John Dutrey

Council Member Leonard Paulitz

Council Member Carolyn Raft

Council Member Bill Ruh

City Manager Lee C. McDougal

City Attorney Diane E. Robbins

City Clerk Donna M. Jackson

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

December 7, 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 October 19, 2009 [CC/RDA/MHC]

2. Minutes of Regular Joint Council/Agency/MHC Meeting of November 2, 2009 [CC/RDA/MHC]

B. Administrative Reports

1. Consider Setting a Public Hearing to Consider Ordinance No. 09-911 Deleting Chapter 10.44, Amending Chapter 7.02, and Adding Chapter 7.24 to the Montclair Municipal Code Related to Public Nuisances [CC] 5
2. Consider Approval of Fiscal Year 2009-10 Recommendations for the Schedule of Community Benefits Funding [CC] 37
3. Consider Approval of Filing of a Notice of Completion for City of Montclair Police Department Facility Bid Package No. 12—Glass and Glazing; Reduction of Faithful Performance Bond to 10 Percent; and Retention of Payment Bond for Six Months [CC]
- Consider Release of Retention 30 Days After Recordation of Notice of Completion [CC] 40
4. Consider Approval of Filing of a Notice of Completion for City of Montclair Police Department Facility Bid Package No. 20—Plumbing; Reduction of Faithful Performance Bond to 10 Percent; and Retention of Payment Bond for Six Months [CC]
- Consider Release of Retention 30 Days After Recordation of Notice of Completion [CC] 42
5. Consider Authorization to Create a Technical Services Specialist Position to Replace a Full-Time Police Officer Position in the Police Department [CC] 44
6. Consider Approval of Warrant Register and Payroll Documentation [CC] 45

C. Agreements

1. Consider Approval of Agreement No. 09-112-I-85, an Irrevocable Annexation Agreement with Fabian and Eloisa Rodriguez for 11303 Wesley Avenue (Assessor's Parcel No. 1013-043-31) [CC] 46
2. Consider Approval of Agreement No. 09-119 with LAN Engineering Corporation Amending Agreement Nos. 02-01 and 02-135 for Design and Right-of-Way Acquisition Services Associated with the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project [CC] 51
3. Consider Approval of Agreement Nos. 09-120 (Robert and Sira Kessler), 09-121 (Carlos Perdomo), 09-122 (Victor Castro), 09-123 (Tom Beller), 09-124 (Albert Weir), and 09-125 (Donald Green), Self-Move Agreements in Conjunction with Right-of-Way Acquisition for the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project [CC] 57

- 4. Consider Approval of Agreement No. 09-126 with Hobby Club USA for Acquisition of Real Property at 10763-10771 Monte Vista Avenue and Acceptance of Quitclaim Deed [CC]
 - Consider Authorization of City Manager to Execute Agreement No. 09-126 [CC] 115
- 5. Consider Award of Contract to Cal Grove Corp. in the Amount of \$62,550
 - Consider Approval of Agreement No. 09-127 with Cal Grove Corp. for Construction of the Montera Elementary Soccer Park Project [CC]
 - Consider Authorization of a \$5,000 Construction Contingency [CC] 133
- 6. Consider Approval of Agreement No. 09-128 with the County of San Bernardino for Participation in the Avoid the 25 Campaign and Awareness Program [CC] 140

D. Resolutions

- 1. Consider Adoption of Resolution No. 09-05, a Resolution of the City of Montclair Redevelopment Agency Making a Finding that the Planning and Administrative Expenses Funded from the Low- and Moderate-Income Housing Fund are necessary for the Production, Improvement, or Preservation of the Community's Supply of Low- and Moderate-Income Housing [RDA] 152
- 2. Consider Adoption of Resolution No. 09-2822 Fixing the Salaries for Certain Police Department Employees Represented by the Montclair Police Officers Association [CC] 161
- 3. Consider Adoption of Resolution No. 09-2823 Supporting Wilderness and Wild River Designations for the San Gabriel Mountains [CC] 165

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 *(For Informational Purposes Only)*
 - 1. Minutes of the Public Works Committee Meeting of October 15, 2009 169

- | | | |
|----|---|-----|
| 2. | Minutes of the Code Enforcement Committee Meeting of
November 16, 2009 | 175 |
| 3. | Minutes of the Personnel Committee Meeting of
November 16, 2009 | 177 |

**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, December 21, 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 December 3, 2009.

AGENDA REPORT

SUBJECT: CONSIDER SETTING A PUBLIC HEARING TO CONSIDER ADOPTION OF ORDINANCE NO. 09-911 DELETING CHAPTER 10.44, AMENDING CHAPTER 7.02, AND ADDING CHAPTER 7.24 TO THE MONTCLAIR MUNICIPAL CODE RELATED TO PUBLIC NUISANCES

DATE: December 7, 2009

SECTION: ADMIN. REPORTS

ITEM NO.: 1

FILE I.D.: CDE010

DEPT.: FIRE

BUSINESS

PLAN: N/A

REASON FOR CONSIDERATION: The City Council is requested to consider setting a public hearing to consider adoption of Ordinance No. 09-911 deleting Chapter 10.44, amending Chapter 7.02, and adding Chapter 7.24 to the Montclair Municipal Code related to public nuisances.

BACKGROUND: Section VII of Article XI of the California Constitution provides that a city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws. California Government Code Section 38771 provides that a city legislative body may declare what constitutes a nuisance. California Government Code Section 38772, *et seq.*, further provides that a legislative body of a city may provide for the summary abatement of any nuisance at the expense of the person(s) creating, causing, committing, or maintaining the nuisance and by ordinance may make the expense of abatement of nuisances a lien against the property on which the nuisance is maintained and a personal obligation against the property owner.

In September 2009, the Code Enforcement Committee directed staff to examine the current Property Maintenance Ordinance and recommended changes related to the administrative procedures to correct or abate nuisance conditions on real properties within the City.

Proposed Ordinance No. 09-911 utilizes all legal means available to the City to use all regulations and administrative procedures that would promote the sound maintenance of properties and enhance the appearance, habitability, occupancy, use, and safety of all structures and premises in the City.

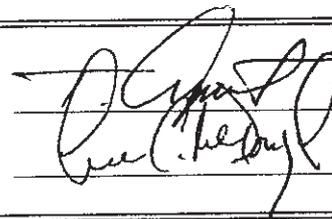
FISCAL IMPACT: The cost to publish a Notice of Public Hearing related to proposed Ordinance No. 09-911 is not anticipated to exceed \$300.

RECOMMENDATION: Staff recommends the City Council set a public hearing for Monday, December 21, 2009, at 7:00 p.m. in the City Council Chambers to consider the first reading of proposed Ordinance No. 09-911 deleting Chapter 10.44, amending Chapter 7.02, and adding Chapter 7.24 to the Montclair Municipal Code related to public nuisances.

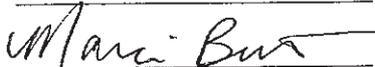
Prepared by:



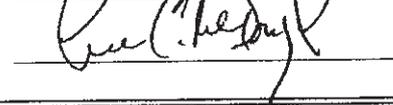
Reviewed and Approved by:



Proofed by:



Presented by:



ORDINANCE NO. 09-911

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF MONTCLAIR REPEALING CHAPTER 10.44
AND ADDING CHAPTER 7.24 OF THE MONTCLAIR
MUNICIPAL CODE REGARDING PUBLIC NUISANCES**

WHEREAS, Section VII of Article XI of the California Constitution provides that a city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, California Government Code Section 38771 provides that legislative bodies of cities may declare what constitutes a nuisance; and

Whereas, California Government Code Section 38772 et seq. further provides that legislative bodies of cities may also provide for the summary abatement of any nuisance at the expense of the persons creating, causing, committing, or maintaining the nuisance, and by ordinance may make the expense of abatement of nuisances a lien against the property on which the nuisance is maintained and a person obligation against the property owner; and

Whereas, the City Council finds that nuisance conditions are offensive and/or annoying to the senses, detrimental to property values and community appearance, an obstruction or interference with the comfortable enjoyment of adjacent properties or premises (both public and private), and/or are hazardous or injurious to the health, safety, and/or welfare of the general public; and

Whereas, it is the City Council's desire to develop and utilize regulations that will promote the sound maintenance of property and enhance the appearance, habitability, occupancy, use, and safety of all structures and premises in the City; and

Whereas, the City Council wishes to refine the administrative procedures for the City's use, upon its election, to correct or abate nuisance conditions on real properties throughout the City, while still protecting the responsible parties right to due process under the law.

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

Section I. Chapter 10.44 ("Property Appearance") of the Montclair Municipal Code is hereby repealed and deleted in its entirety.

Section II. Chapter 7.02.010 ("Definitions") of Title 7 ("Public Peace, Morals, and Welfare") of the Montclair Municipal Code is hereby amended to include the following:

Sec. 7.02.010 Definitions.

As used in Title, the following definitions shall apply. For purposes of Chapter 7.24, these definitions shall supersede any other definitions of the same terms elsewhere in this Code.

Abandoned structure shall mean real property, or any building or structure thereon, that is vacant and is maintained in an uninhabitable condition or a condition of disrepair or deterioration as evidenced by the existence of public nuisances therein; or that is vacant and under a current notice of default and/or notice of trustee's sale, pending tax assessor's lien sale; or that is vacant and has been the subject of a foreclosure sale where title was retained by the beneficiary of a deed of trust involved in the foreclosure. Factors that may also be considered in a determination of an abandoned structure include, without limitation: present operability and functional utility; the presence of nonfunctional, broken, or missing doors or windows, such that entry therein by unauthorized persons is not deterred; the existence of real property tax delinquencies for the land upon which the structure is located; age and degree of obsolescence of the structure; and the cost of rehabilitation or repair versus its market value.

Abandoned personal property shall mean and refers to any item, object, thing, material or substance that, by its condition of damage, deterioration, disrepair, nonuse, obsolescence, or location on public real property or on private real property causes a reasonable person to conclude that the owner has permanently relinquished all right, title, claim and possession thereto or that the object, thing, material or substance cannot be used for its intended or designed purpose. Abandoned personal property may include junk and vehicles.

Abatement costs shall mean all costs, fees, and expenses, incidental or otherwise, incurred by the City in investigating and abating a public nuisance.

Attractive nuisance shall mean any condition, device, equipment, instrument, item, or machine that is unsafe, unprotected, and may prove detrimental to minors whether in a structure or in outdoor areas of developed or undeveloped real property. This includes, without limitation, any abandoned or open and accessible wells, shafts, basements, or excavations; any abandoned refrigerators and abandoned or inoperable motor vehicles; any structurally unsound fences or structures; or any lumber, trash, fences, debris, or vegetation that may prove hazardous or dangerous to inquisitive minors. An attractive nuisance shall also include pools, standing water, or excavations containing water that are unfenced or otherwise lack an adequate barrier, thereby creating a risk of drowning, or that are hazardous or unsafe because of the existence of any condition rendering such water to be clouded, unclear, or injurious to health because of, without limitation, any of the following: bacterial growth, infectious or toxic agents, algae, insect remains, animal remains, rubbish, refuse, debris, or waste of any kind.

Building shall mean any structure designed, used, or maintained for the shelter or enclosure of persons, animals, chattels, equipment, or property of any kind and shall also include structures wherein things may be grown, made, produced, kept,

handled, stored, or disposed of and all appendages, accessories, apparatus, appliances, and equipment installed as a part thereof.

City shall mean the City of Montclair.

City Manager shall mean the Montclair City Manager or designee thereof.

City personnel shall mean any Montclair City employee, representative, agent, or contractor designated by the City Manager to abate a public nuisance.

Code, Codes, and Montclair Municipal Code shall mean the Montclair Municipal Code and any code, law, or regulation incorporated therein by reference and any adopted and uncodified ordinances.

Code Enforcement fees shall mean fees imposed by the City to defray its costs of Code Enforcement actions including, but not limited to, the time and other resources of public officials expended by them in identifying, inspecting, investigating, seeking, or causing the abatement of a violation at a residential structure or property. These include, but are not limited to, site inspections; drafting reports; taking photographs; procuring other evidence; engaging in meetings, conferences, and communications with responsible persons, their agents, or representatives concerning a violation as well as with attorneys for the City at any time; and appearances before judicial officers or reviewing authorities during the pendency of a judicial proceeding and other appearances at such judicial or administrative hearings. The time and resources that public officials further expend to confirm that a residential structure remains free of public nuisances while a responsible person is on probation to a court or when a matter concerning a residential structure remains pending before a reviewing authority in an administrative action shall also constitute Code Enforcement actions. For purposes of this definition:

A. Residential structure and property shall mean and include all structures and premises that are regulated by the California State Housing Law (California Health and Safety Code Division 13, Part 1.5, Section 17910 *et seq.*) and any future amendments thereto, as well as any property within a residential zone as designated by the Montclair Zoning Ordinance. These include, but are not limited to, apartment houses, hotels, motels, and dwellings and residential buildings and structures thereto.

B. Violation shall mean and include a public nuisance as described in this Chapter or any condition, activity, or use that is caused, allowed to exist, or maintained (because of an affirmative act, inaction, or omission) by a responsible person in violation of any other provision, regulation, or requirement of this Code or any applicable county, state, or federal laws or regulations.

Code Enforcement Officer shall mean any individual employed by the City with primary enforcement authority for City Codes, or his or her duly authorized representative(s).

Commercial vehicle shall mean any vehicle of a type required to be registered under the State of California Vehicle Code used or maintained for the transportation of persons for hire, compensation, or profit or designed, used, or maintained primarily

for the transportation of property. Passenger vehicles that are not used for the transportation of persons for hire, compensation, or profit, house cars (motor homes), and vanpool vehicles are not commercial vehicles.

Compliance period shall mean the period of time and/or required schedule set forth in a Notice of Abatement and/or an Order of Abatement within which all nuisance abatement actions referenced in such Notice of Abatement and/or Order of Abatement must be completed.

Controlled substances shall mean any substance that is declared by state or federal law to be a controlled substance.

Fire hazard shall include, but shall not be limited to, any device, equipment, waste, vegetation, condition, thing, or act that is in such a condition that it increases or could cause an increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service regularly engaged in preventing, suppressing, or extinguishing fire or that otherwise provides a ready fuel to augment the spread and intensity of fire or explosion arising from any cause or any device, equipment, waste, vegetation, condition, thing, or act that could obstruct, delay, hinder, or interfere with or may become the cause of obstruction, delay, or hindrance of, the operations of the Fire Department or other emergency service personnel or the egress of the occupants in the event of fire.

Hazardous materials shall mean any material or substance of any kind that is declared by any federal, state, or local law, ordinance, or regulation to be composed of hazardous material.

Hearing Officer shall mean the city employee or representative appointed by the City Manager, or a designee thereof, to hear all timely appeals from a Notice of Abatement.

Incidental expenses shall include, but shall not be limited to, the actual expenses and costs of the City, such as preparation of notices, specifications, and contracts; inspection of work; costs of printing and mailings required hereunder; costs of any filing and/or recordation with the County Recorder's Office or other governmental agency; and the costs of administration and legal services.

Inoperable vehicle shall mean and include, without limitation, any vehicle that is incapable of being lawfully driven on a highway. Factors that may be used to determine this condition include, without limitation, vehicles that have a "planned non-operational" status with the California Department of Motor Vehicles, vehicles lacking a current registration, a working engine, transmission, wheels, inflated tires, doors, windshield or any other part or equipment necessary for its legal and safe operation on a highway or any other public right-of-way.

Junk shall mean and include, but is not limited to, any cast off, damaged, discarded, junked, obsolete, salvaged, scrapped, unusable, worn out, or wrecked appliance, device, equipment, furniture, fixture, furnishing, object, material, substance, tire, or thing of any kind or composition. Junk may include abandoned personal property as well as any form of debris, refuse, rubbish, trash, or waste.

Factors that may be considered in a determination that personal property is junk include, without limitation, its:

- A. Condition of damage, deterioration, disrepair, or nonuse
- B. Approximate age and degree of obsolescence
- C. Location
- D. Present operability, functional utility, and status of registration or licensing, where applicable
- E. Cost of rehabilitation or repair versus its market value

Junkyard means real property of any zoning classification on which junk is kept, maintained, placed, or stored to such a degree that it constitutes a principal use or condition on said premises. The existence of a junkyard is not a nuisance when it is an expressly permitted use in the applicable zone and it is in full compliance with all provisions of the Montclair Comprehensive Zoning Ordinance and all other applicable provisions of the Montclair Municipal Code as well as all future amendments and additions thereto.

Notice of Abatement shall mean a "Notice of Public Nuisance and Intention to Abate with City personnel," as described in Section 7.24.060 of this Chapter.

Order of Abatement shall mean an order issued by a Hearing Officer following an appeal of a Notice of Abatement.

Owner shall mean and include any person having legal title to, or who leases, rents, occupies, or has charge, control, or possession of any real property in the City including all persons shown as owners on the last equalized assessment roll of the San Bernardino County Assessor's Office. Owners include persons with powers of attorney, executors of estates, trustees, or who are court-appointed administrators, conservators, guardians, or receivers. An owner of personal property shall be any person who has legal title, charge, control, or possession of such property.

Person shall mean and include any individual, partnership of any kind, corporation, limited liability company, association, joint venture, or other organization, however formed, as well as trustees, heirs, executors, administrators, or assigns or any combination of such persons. "Person" also includes any public entity or agency that acts as an owner in the City.

Personal property means property that is not real property and includes, without limitation, any appliance, article, device, equipment, item, material, product, substance, or vehicle.

Public nuisance means anything that is, or likely to become, injurious or detrimental to health, safety, or welfare or is offensive to the senses or an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property or unlawfully obstructs the free passage or use, in the customary manner, of

any sidewalk, public park, square, street, or highway. All conditions hereafter enumerated in this Chapter, or that otherwise violate or are contrary to any provision of the Montclair Municipal Code, are public nuisances by definition and declaration; and said enumerated conditions shall not, in any manner, be construed to be exclusive or exhaustive. A public nuisance shall also exist when a person fails to comply with any condition of a City approval, entitlement, license, or permit or when an activity on, or use of, real property violates, or is contrary to, any provision or requirement of the Montclair Municipal Code.

Real property or premises means any real property owned by any person and/or any building, structure, or other improvement thereon or portions thereof. "Real Property" or "premises" includes any parkway or unimproved public easement abutting or adjacent to such real property, whether or not owned by the City of Montclair.

Responsible person means any person, whether as an owner as defined in this Chapter or otherwise, that allows, causes, creates, maintains, suffers, or permits a public nuisance, or any violation of the Montclair Municipal Code or county or state law or regulation thereof, to exist or continue by any act or the omission of any act or duty. A responsible person shall also include employees, principals, joint venturers, officers, agents, and/or other persons acting in concert with, or at the direction of and/or with the knowledge and/or consent of, the owner and/or occupant of the lot, building, or structure on, or in which, a public nuisance or violation exists or existed. The actions or inactions of a responsible person's agent, employee, representative, or contractor may be attributed to that responsible person.

Structure means that which is built or constructed, an edifice, wall, fence, or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner.

Vacant shall mean real property or any building or structure thereon that is not legally occupied. Factors that may be used to determine whether real property, or building or structures thereon, is vacant include, but shall not be limited to, overgrown and/or dead vegetation; accumulation of newspapers, circulars, fliers, and/or mail; past due utility notices and/or disconnected utilities; accumulation of trash, junk, and/or other debris; the absence of window coverings such as curtains, blinds, and/or shutters; the absence of furnishings and/or personal items consistent with residential and/or commercial furnishings consistent with the permitted uses within the zone of the real property; and statements by neighbors, passersby, delivery agents, government employees that the property is vacant.

Vehicle means any device by which any person or property may be propelled, moved, or drawn upon a highway or other public right-of-way and includes all vehicles as defined by the California Vehicle Code and all future amendments thereto. "Vehicle" does not include devices (i) that are propelled exclusively by human power, such as bicycles and wheelchairs; or (ii) those that are used exclusively upon stationary rails or tracks.

Section III. Chapter 7.24 ("Public Nuisances") is hereby added to Title 7 ("Public Peace, Morals, and Welfare") of the Montclair Municipal Code to read as follows:

CHAPTER 7.24 PUBLIC NUISANCES

Part 1 – Nuisances Enumerated

Sec. 7.24.010 Findings, Purpose, and Intent.

A. Findings. The City Council finds and declares as follows:

1. Section VII of Article XI of the California Constitution provides that a city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws.

2. California Government Code Section 38771 provides that legislative bodies of cities may declare what constitutes a nuisance.

3. California Government Code Section 38772 *et seq.* further provides that legislative bodies of cities may also provide for the summary abatement of any nuisance at the expense of the persons creating, causing, committing, or maintaining it and by ordinance may make the expense of abatement of nuisances a lien against the property on which the nuisance is maintained and a personal obligation against the property owner.

4. Nuisance conditions are offensive or annoying to the senses, detrimental to property values and community appearance, an obstruction or interference with the comfortable enjoyment of adjacent properties or premises (both public and private) and/or are hazardous or injurious to the health, safety, or welfare of the general public.

B. Purpose and Intent. The purpose and intent of this Chapter are as follows:

1. To define as public nuisances and violations those conditions and uses of land that are offensive or annoying to the senses, detrimental to property values and community appearance, an obstruction or interference with the comfortable enjoyment of adjacent properties or premises (both public and private), and/or are hazardous or injurious to the health, safety, or welfare of the general public.

2. To develop regulations that will promote the sound maintenance of property and enhance of conditions of appearance, habitability, occupancy, use, and safety of all structures and premises in the City.

3. To establish administrative procedures for the City's use, upon its election, to, correct or abate violations of this Chapter on real property throughout the City.

4. Nothing in this Chapter shall be deemed to prevent the City at any time from commencing an administrative, civil, or criminal proceeding to abate a public nuisance or from pursuing other means available to it under the provisions of any applicable law to correct substandard, hazardous, or nuisance conditions or deficiencies in real property in addition to or as an alternative to the proceedings set forth herein.

5. This Chapter is not the exclusive regulation of property maintenance, nor is it intended to affect or otherwise alter nuisance abatement procedures established or that may be established in other chapters of this Code. It shall be supplemental and in addition to other regulatory codes, statutes, and ordinances heretofore or hereinafter enacted by the City, State of California, or other legal entity or agency having jurisdiction.

6. This Chapter is not intended to be applied, construed, or given effect in a manner that imposes upon the City, or upon any officer or employee thereof, any duty towards persons or property within the City or outside of the City that creates a basis for civil liability for damages, except as otherwise imposed by law.

Sec. 7.24.020 Prohibited Public Nuisance Conditions.

The City Council finds and declares that it is a public nuisance and unlawful for any person to allow, cause, create, maintain, or suffer, or permit others to maintain, real property or premises in the City in such a manner that:

A. Any one or more of the following conditions are found to exist thereon:

1. Land, the topography, geology, or configuration of which, whether in natural state or as a result of grading operations, excavation or fill, causes erosion, subsidence, or surface water drainage problems of such magnitude as to be injurious or potentially injurious to the public health, safety, and welfare or to adjacent properties including, but not limited to:

(a) Accumulations of uncompacted fill over three feet in height over predominant grade and contrary to adjacent contour for any period of time.

2. Real property, or any building or structure thereon, that is abandoned, uninhabited, or vacant for a period of more than six (6) months.

3. Buildings or other structures, or portions thereof, that are partially constructed or destroyed or allowed to remain in a state of partial construction or destruction for an unreasonable period of time. As used herein, an "unreasonable" period shall mean any portion of time exceeding the period given to a responsible person by the City for the complete abatement of this nuisance condition with all required City approvals, permits, and inspections. Factors that may be used by the City to establish a reasonable period for the complete abatement of this nuisance include, but are not limited to, the following:

(a) The degree of partial construction or destruction and the cause therefor.

(b) Whether or not this condition constitutes an attractive nuisance or if it otherwise poses or promotes a health or safety hazard to occupants of the premises, or to others.

(c) The degree of visibility, if any, of this condition from public or adjoining private real property.

(d) The scope and type of work that is needed to abate this nuisance.

(e) The promptness with which a responsible person has applied for and obtained all required City approvals and permits in order to lawfully commence the nuisance abatement actions.

(f) Whether or not a responsible person has complied with other required technical code requirements, including requesting and passing required inspections in a timely manner, while completing nuisance abatement actions.

(g) Whether or not a responsible person has applied for extensions to a technical code permit or renewed an expired permit, as well as the number of extensions and renewals that a responsible person has previously sought or obtained from the City.

(h) Whether or not a responsible person has made substantial progress, as determined by the City, in performing nuisance abatement actions under a technical code permit that has expired, or is about to expire.

(i) Whether delays in completing nuisance abatement actions under a technical code permit have occurred and the reason(s) for such delays.

4. Exterior portions of buildings or structures (including, but not limited to, roofs, balconies, decks, fences, stairs, stairways, walls, signs and fixtures), as well as sidewalks, walkways, driveways and parking areas, that have become defective, unsightly, or are maintained in a condition of dilapidation, deterioration or disrepair to such an extent as to result in, or tend to result in, a diminution in property values; or where such condition interferes with the peaceful use, possession and/or enjoyment of adjacent properties; or where such condition otherwise violates, or is contrary to, the Montclair Municipal Code, or State law.

5. Interior portions of buildings or structures (including, but not limited to attics, ceilings, walls floors, basements, mezzanines, and common areas) that have become defective, unsightly, or are maintained in a condition of dilapidation, deterioration or disrepair to such an extent as to result in, or tend to result in, a diminution in property values, or where such condition interferes with the peaceful use, possession and/or enjoyment of properties in the vicinity, or where such condition otherwise violates, or is contrary to, the Montclair Municipal Code or State law.

6. Obstructions of any kind, cause, or form that interfere with required light or ventilation for a building or structure or that interfere with, hinder, delay, or impede ingress therein and/or egress therefrom.

7. Failure to provide and maintain adequate weather protection to structures or buildings, so as to cause or promote the existence of cracked, peeling, warped, rotted, or severely damaged paint, stucco, or other exterior covering.

8. Broken, defective, damaged, dilapidated, or missing windows, doors, or vents in a building or structure, and/or broken, defective, damaged, dilapidated, or missing screens for windows, doors, or crawl spaces in a building or structure.

9. Windows or doors that remain boarded up or sealed after ten (10) calendar days written City notice to a responsible person requesting the removal of these coverings and the installation of fully functional or operable windows or doors. City actions to board up or seal windows or doors in order to deter unauthorized entry into structures shall not relieve responsible persons from installing fully functional or operational windows or doors.

10. Any form of an attractive nuisance.

11. Abandoned personal property that is visible from public or private property.

12. Items of junk, trash, debris, or other personal property that are kept, placed, or stored inside of a structure or on exterior portions of real property that constitute a fire or safety hazard or a violation of any provision of the Montclair Municipal Code, or items of junk, trash, debris, or other personal property that are visible from public or private real property, or that are otherwise out of conformity with neighboring community standards to such an extent as to result in, or tend to result in, a diminution in property values. Notwithstanding the foregoing, the existence of a junkyard is not a nuisance when such use and the premises on which such use occurs are in full compliance with all provisions of the Montclair Comprehensive Zoning Ordinance (including all approvals and permits required thereby), and all other applicable provisions of the Montclair Municipal Code and any future amendments and additions thereto, as well as applicable county, state, and/or federal laws and regulations.

13. The keeping or disposing of, or the scattering or accumulating of flammable, combustible, or other materials including, but not limited to, composting, firewood, lumber, junk, trash, debris, packing boxes, pallets, plant cuttings, tree trimmings or wood chips, discarded items, or other personal property in interior or exterior areas of buildings or structures, when such items or accumulations:

(a) Render premises unsanitary or substandard as defined by the Montclair Housing Code, the State Housing Law, the Montclair Building Code, or other applicable local, state, or federal law, rule, or regulation.

(b) Violate the Montclair Health Code.

(c) Cause, create, or tend to contribute to, a fire or safety hazard.

(d) Harbor, promote, or tend to contribute to, the presence of rats, vermin and/or insects.

(e) , create, or tend to contribute to, an offensive odor.

(f) Cause the premises to be out of conformity with neighboring community standards to such an extent as to result in, or tend to result in, a diminution of property values. Provided, however, that this use of land or condition shall not constitute a nuisance when expressly permitted under the applicable zone classification and the premises are in full compliance with all provisions of the Montclair Zoning and Development Code, and all other applicable provisions of the Montclair Municipal Code and any future amendments and additions thereto, as well as applicable county, state, and/or federal laws and regulations.

14. Overgrown vegetation including, but not limited to, any one of the following:

(a) Vegetation likely to harbor or promote the presence of rats, vermin and/or insects.

(b) Vegetation causing detriment to neighboring properties, or that is out of conformity with neighboring community standards to such an extent as to result in, or contribute to, a diminution of property values, including, but not limited to:

(1) Lawns with grass in excess of six inches (6") in height.

(2) Hedges, trees, lawns, plants, or other vegetation that are not maintained in a neat, orderly, and healthy manner as a result of lack of adequate mowing, grooming, trimming, pruning, fertilizing, watering, and/or replacement.

(3) Front and side yard vegetable gardens/plants visible from public streets.

(c) Vegetation that creates or promotes the existence of a fire hazard.

(d) Vegetation that overhangs or grows onto or into any public property including, but not limited to, any public alley, highway, land, sidewalk, street, or other right-of-way so as to cause an obstruction to any person or vehicle using such public property.

(e) Tree branches or other vegetation within five feet (5') of the rooftop of a structure so as to facilitate rodent or animal access thereto.

15. Dead, decayed, diseased, or hazardous trees, weeds, ground cover, and other vegetation or the absence of healthful vegetation that causes, contributes to, or promotes any one of the following conditions or consequences:

(a) An attractive nuisance

(b) A fire hazard

(c) The creation or promotion of dust or soil erosion

- (d) A diminution in property values
- (e) A detriment to public health, safety, or welfare

16. Lack of landscaped area in the front yard and corner lot side yard setback of each lot zoned A, R-1, R-2, R-3 or SL that is not covered in allowed hardscape as provided in subsection (A)(2) of this Section. All such front-yard area and setback on any improved property other than that covered in allowed hardscape shall be a landscaped area as defined herein. Exceptions to landscaped area requirements are:

- (a) Dormant plants and/or seasonal grasses
- (b) Major landscape rehabilitation of the property (not to exceed 180 consecutive days)

17. Hardscape coverage in excess of 60 percent of the front-yard area and corner lot side-yard setback on any improved property.

(a) The Director of Community Development may, upon sufficient, showing of need by the applicant, increase the front yard coverage of an impervious material to a maximum of 80 percent. In consideration of such an increase, the Director of Community Development shall be guided by a review of the size and configuration of the proposed coverage as compared with similar yards in the same vicinity. Such exception shall only be granted if necessary to provide required access improvements such as circular driveways, or to accommodate or reduced or irregularly shaped lots, such as those on cul-de-sacs. Such exceptions may be granted by Administrative Adjustment under Chapter 11.76 of this title.

(b) If less than 60 percent of the front-yard area and corner lot side-yard setback on any improved property is covered in hardscape, the remainder of such front-yard area and setback shall be a landscaped area as defined herein subject to the same exceptions provided in subsections 15(a) and (b) of this section.

18. Waste containers, yard waste containers, and recycling containers that are kept, placed or stored in parking areas or front or side yards, such that said containers are visible from public streets, except when placed in approved areas for collection at times permitted and in full compliance with this Code.

(a) Waste containers, yard waste containers, and recycling containers may be placed at an approved collection location in public view only from 6:00 p.m. the evening before scheduled pickup to 10:00 p.m. on the day of scheduled pickup.

(b) Dumpsters or storage bins may be located in front yard areas when a building permit that covers excavation, construction, or demolition operations is in full force and effect or for a period not to exceed 72 hours for general cleanup of the subject property.

19. The hanging, drying, or airing of clothing or household fabrics on fences, trees, or shrubberies, or the existence of clotheslines, in front or side yards abutting a public street and that is open to view from the street.

20. Abandoned, dismantled, inoperable, or wrecked boats, campers, motorcycles, trailers, vehicles, or parts thereof, unless kept, placed, parked, or stored inside of a completely enclosed, lawfully constructed building or structure.

21. Vehicles, trailers, campers, boats, recreational vehicles, and/or other mobile equipment parked or stored for in violation of any provision of the Montclair Municipal Code, including the Montclair Zoning and Development Code.

22. Vehicles, construction equipment, or other machinery exceeding the permissible gross vehicle weight for the streets or public property upon which they are located. A nuisance also exists under this provision when a vehicle, construction equipment, or other machinery is stopped, kept, placed, parked, or stored on private real property and when such vehicle, equipment, or machinery exceeds the permissible gross vehicle weight for the streets or public property that were utilized in its placement on said private real property, except when parked, placed, or stored pursuant to a valid permit issued by the City.

23. Any equipment, machinery, or vehicle of any type or description that is designed, used, or maintained for construction-type activities that is kept, parked, placed, or stored on public or private real property except when such item is being used during excavation, construction, or demolition operations at the site where said equipment, machinery, or vehicle is located pursuant to an active permit issued by the City.

24. Maintenance of signs, or sign structures, on real property relating to uses no longer lawfully conducted or products no longer lawfully sold thereon, or signs and their structures that are in disrepair or that are otherwise in violation of, or contrary to, the Montclair Zoning Ordinance.

25. Specialty structures that have been constructed for a specific single use only, and that are unfeasible to convert to other uses, and that are abandoned, partially destroyed, or are permitted to remain in a state of partial destruction or disrepair. Such specialty structures include, but are not limited to, the following: tanks for gas or liquid(s), lateral support structures and bulkheads, utility high-voltage towers and poles, utility high-rise support structures, electronic transmitting antennas and towers, structures that support or house mechanical and utility equipment and are located above the roof lines of existing buildings, high-rise freestanding chimneys and smoke stacks, and recreational structures such as tennis courts and cabanas.

26. Any building, structure, or personal property that obstructs or encroaches on any public property including, but not limited to, any public alley, highway, land, sidewalk, street, or other right-of-way unless a valid encroachment permit has been issued authorizing said encroachment or obstruction.

27. Causing, maintaining, or permitting graffiti or other defacement of real or personal property, as defined in the Montclair Municipal Code or other

applicable State law, to be present or remain on a building, structure, or vehicle, or portion thereof, that is visible from a public right-of-way or from private real property.

28. Storage of hazardous or toxic materials or substances on real property, as so classified by any local, state or federal laws or regulations, in such a manner as to be injurious, or potentially injurious or hazardous, to the public health, safety, or welfare or to adjacent properties or that otherwise violates local, state, or federal laws or regulations.

29. Unsanitary, polluted, or unhealthful pools, ponds, standing water, or excavations containing water, whether or not they are attractive nuisances but that are nevertheless likely to harbor mosquitoes, insects, or other vectors. The likelihood of insect harborage is evidenced by any of the following conditions: water that is unclear, murky, clouded, or green; water containing bacterial growth, algae, insect larvae, insect remains, or animal remains; or bodies of water that are abandoned, neglected, unfiltered, or otherwise improperly maintained.

30. Any discharge of any substance or material other than stormwater that enters, or could possibly enter, the City's storm drain system in violation of the Montclair Municipal Code.

31. Maintenance of any tarp or similar covering on or over any graded surface or hillside, except in the following circumstances:

(a) A state of emergency has been declared by local, county, state, or federal officials directly impacting the area to be covered.

(b) Covering with a tarp performed pursuant to an active building or grading permit.

32. Maintenance of any tarp or similar covering on or over any roof of any structure, except during periods of active rainfall, or when specifically permitted under an active roofing or building permit.

33. The keeping or suffering of any animal, reptile, or insect in a manner that poses a threat, disturbance, or menace to persons or property.

34. The use, parking, or storing of any recreational vehicle as temporary or permanent living space.

35. Maintenance of premises so out of harmony or conformity with the maintenance standards of properties in the vicinity as to cause, or that tends to cause, substantial diminution of the enjoyment, use, or property values of such properties in the vicinity.

36. Any condition recognized in local or state law or in equity as constituting a public nuisance or any condition existing on real property that constitutes, or tends to constitute, blight or that is a health or safety hazard to the community or neighboring properties.

B. Any building or structure, or portion thereof, or the premises on which the same is located in which there exists any of the conditions listed in Section 17920.3 of the California Health & Safety Code and any future amendments thereto.

C. Any building or structure, or portion thereof, or the premises on which same is located in which there exists any of the conditions listed in Chapter 10 of the 1997 Uniform Housing Code as adopted by the Montclair Municipal Code.

D. Any "dangerous building" as defined by the Code for the 1997 Code for the Abatement of Dangerous Buildings as adopted by the Montclair Municipal Code.

E. Any "unsafe structure and/or equipment" as defined by the California Building Code as adopted by the Montclair Municipal Code.

F. Any building or structure used by any person to engage in acts that are prohibited pursuant to the laws of the United States or the State of California, the provisions of the Montclair Municipal Code, or any other Ordinance of this City including, but not limited to, the following acts:

1. Unlawful possession, use, manufacturing, and/or sale of controlled substances
2. Prostitution
3. Unlawful gambling

G. Any condition, use, or activity that constitutes a public nuisance as defined by Sections 3479 or 3480 of the California Civil Code and any future amendments thereto.

H. Any building, structure, or use of real property that violates or fails to comply with (i) any applicable approval, permit, license, or entitlement or condition relating thereto; (ii) any ordinance of the City, including, but not limited to any provision of this Code; or (iii) any applicable county, state, or federal law or regulation.

Sec. 7.24.030 Penalty.

A. Notwithstanding any other provision of the Montclair Municipal Code to the contrary, any person who causes, permits, suffers, or maintains a public nuisance, or any person who violates any provision of this Chapter, or who fails to comply with any obligation or requirement of this Chapter, is guilty of a misdemeanor violation punishable in accordance with Chapter 1.12 of Title 1 of this Code.

B. Each person shall be guilty of a separate offense for each and every day, or part thereof, during which a violation of this Chapter, or of any law or regulation referenced herein, is allowed, committed, continued, maintained or permitted by such person, and shall be punishable accordingly.

Part 2 - Administrative Procedures for Abatement of Nuisances

Sec. 7.24.040 Abatement of Public Nuisances.

All conditions or uses that constitute a public nuisance as defined in Part 1 of this Chapter, or that are contrary to, or in violation of, any other provision or requirement of the Montclair Municipal Code, or of any applicable County or State law or regulation thereof, which shall also constitute a public nuisance shall be abated by repair, rehabilitation, demolition, removal, or termination. The procedures for abatement in this part shall not be exclusive and shall not, in any manner, limit or restrict the City from pursuing any other remedies available at law, whether equitable, administrative, civil, or criminal or from enforcing City Codes and adopted Ordinances or from abating or causing abatement of public nuisances in any other manner provided by law.

Sec. 7.24.050 Continuing Obligation of Responsible Persons to Abatement a Public Nuisance.

A. Responsible persons shall not allow, cause, create, permit, suffer, or maintain a public nuisance to exist on their premises. If public nuisances do arise or occur, responsible persons shall promptly abate them by repair, rehabilitation, demolition, repair, removal or termination with all required City approvals, permits, and inspections, when applicable.

B. The Cit may exercise its administrative, civil/injunctive and criminal remedies, or any one or combination of these remedies, to compel responsible persons to abate a public nuisance when, in its judgment, such persons have not completed nuisance abatement actions in a timely or proper manner, or when responsible persons have failed to prevent an occurrence or recurrence of a public nuisance.

Sec. 7.24.060 Notice of Public Nuisance and Intention to Abate with City Personnel.

A. Whenever a code enforcement officer or other public official determines that City Personnel may need to abate a public nuisance, he or she shall serve a written "Notice of Public Nuisance and Intention to Abate with City Personnel" on the responsible person(s) that contains the following provisions:

1. The address of the real property on which the nuisance condition(s) exist(s).
2. A description of the nuisance condition(s).
3. A reference to the law describing or prohibiting the nuisance condition(s).
4. A brief description of the required corrective action(s).
5. A compliance period in which to complete the nuisance abatement actions (with all required City approvals, permits, and inspections, when applicable).
6. The period and manner in which a responsible person may contest the Notice of Abatement as set forth in Section 7.24.090 of this Chapter. No such right

shall exist when the City is not seeking to establish the right to abate a public nuisance with City forces or contract agents.

7. A statement that the City may record a Declaration of Substandard Property with the San Bernardino County Recorder's Office against the premises if the public nuisance is not fully abated or corrected (with all required approvals, permits and inspections), as determined by the City, within the compliance period specified in the Notice, provided that a timely appeal therefrom has not been made.

B. The procedure in Subsection A shall not apply to public nuisances constituting an imminent hazard. In such instances, the provisions in Section 7.24.160 ("Emergency Action to Abate an Imminent Hazard") of this Chapter shall be followed.

C. The City's election to issue a Notice of Abatement pursuant to this Section shall not excuse responsible persons from their continuing obligation to abate a public nuisance in accordance with all applicable laws, regulations, and legal requirements. Furthermore, the issuance of a Notice of Abatement shall **not** obligate the City to abate a public nuisance.

Sec. 7.24.070 Additional Requirements For Demolition of Buildings or Structures.

A. The City shall provide responsible persons with a reasonable period to elect between options of repair, rehabilitation, or demolition, as well as a reasonable period of time to complete any of these options, before City Personnel abate a public nuisance by demolishing a building or structure pursuant to Part 2 of this Chapter.

B. The City shall serve a Notice of Abatement on all secured lien holders of record with the San Bernardino County Recorder's Office in the event abatement actions include demolition of a building or structure.

C. Notwithstanding the provisions of Section 7.24.110 of this Chapter, entry onto any real property to abate a public nuisance by demolition of a building or structure, excepting in cases involving an imminent hazard, shall be pursuant to a warrant or other order issued by a court of competent jurisdiction.

D. The provisions of this Section shall not apply if demolition is required to address an imminent hazard. In such situation, the provisions of Section 7.24.160 ("Emergency Action to Abate an Imminent Hazard") shall apply.

Sec. 7.24.080 Service of Notice.

A. Except as otherwise expressly required by a provision of this Chapter, any notice required by this Chapter may be served by personal delivery to any responsible person or by first class mail with receipt confirmation. The date of service shall be the date it is personally delivered or placed in a U.S. Postal Service receptacle. Failure of any responsible person to receive a properly addressed Notice of Abatement by mail shall not invalidate any action or proceeding pursuant to this Chapter.

B. Except as otherwise expressly required by a provision of this Chapter, any notice issued to an owner of real property shall be sent to the mailing address on the last equalized assessment roll of the San Bernardino County Assessor's Office. Failure of any owner to receive a properly addressed notice by mail shall not invalidate any action or proceeding pursuant to this Chapter.

Sec. 7.24.090 Right of Appeal From a Notice of Abatement.

A. A responsible person may contest a Notice of Abatement by filing a written request for an appeal with the City Clerk's Office (located at 5111 Benito Street, Montclair) within ten (10) calendar days of service of the Notice of Abatement. No fee shall be due for the filing of an appeal.

B. A written request for an appeal shall contain the following information:

1. Name, address, and telephone number of each responsible party who is appealing the Notice of Abatement (hereinafter, "appellant").
2. Address and description of real property upon which the City intends to enter and abate a public nuisance.
3. Date of Notice of Abatement being appealed.
4. Specific action or decision being appealed.
5. Grounds for appeal in sufficient detail to enable the Hearing Officer to understand the nature of the controversy.
6. The signature of at least one appellant.

C. Failure of the City Clerk to receive a timely appeal constitutes a waiver of the right to contest a Notice of Abatement. In this event, the Notice of Abatement is final and binding.

D. The provisions of this Section only apply to instances where the City has elected to establish the right, but not the obligation, to abate public nuisances with City Personnel. In no event does this Chapter limit the right of City officials to issue alternative written or oral notices of code violations to responsible persons or to cause the abatement of public nuisances in a different manner, including without limitation, by court orders arising from the City's exercise of its criminal or civil remedies. In such instances, a responsible person shall receive a right to hearing and other due process rights through the court process.

Sec.7.24.100 Sample Notice of Abatement.

A. The Notice of Abatement shall be written in a form that is substantially consistent with the following:

Notice of Public Nuisance(s) and Intention to Abate With City Personnel

("Notice of Abatement")

(Date)

_____ [Responsible Person(s)]
_____ [Mailing Address]
_____ [City, State, and ZIP Code]

Re: Real Property at _____, Montclair, California
San Bernardino County Assessor's Parcel No.: _____
Legal description (Optional): _____

NOTICE IS HEREBY GIVEN that the following public nuisance conditions or activities exist on the premises described above:

(1) (Describe condition or activities) _____
_____ in violation of Montclair Municipal Code (*as well as County and State laws, if applicable*) Section(s) _____.

(a) Required corrective action(s): _____
_____ (with all required permits, approvals, and inspections).

(b) Required completion date: _____
_____ [Repeat Items 1(a-b) for each additional public nuisance to be included in this Notice.]

The foregoing public nuisance conditions are subject to abatement by repair, rehabilitation, demolition, removal, or termination.

PLEASE TAKE FURTHER NOTICE that you may appeal this Notice of Abatement by filing an appeal on a City approved form with the City Clerk's office (located at 5111 Benito Street, Montclair) within ten (10) calendar days of service of this notice. No fee shall be due for the filing of an appeal. Failure of the City Clerk to receive a timely appeal constitutes a waiver of your right to any further administrative appeal and renders the Notice of Abatement final and binding. A written request for an appeal shall contain the following information:

1. Name, address, and telephone number of each responsible party who is appealing the Notice of Abatement (hereinafter, "appellant"), as well as relationship of appellant to the public nuisance described in the Notice of Abatement.
2. Address and description of real property upon which the City intends to enter and abate a public nuisance.
3. Date of Notice of Abatement being appealed.
4. Specific action or decision being appealed.

5. Grounds for appeal in sufficient detail to enable the Hearing Officer to understand the nature of the controversy.

6. The signature of at least one appellant.

Following appeal in the case of a final decision by the City, judicial review of this decision is subject to the provisions and time limits set forth in California Code of Civil Procedure Sections 1094.6 *et seq.*

PLEASE TAKE FURTHER NOTICE that if the public nuisance violations are not abated within the time specified and a timely appeal is not made, such nuisance may be abated by City employees, representatives, or contract agents (hereafter "City Personnel") in the manner stated in this Notice of Abatement. On such occasions, all costs of the abatement including, but not limited to, those stated in Chapter 7.24 of the Montclair Municipal Code shall be assessed against the responsible person(s) and/or the subject property as a lien, or as a special assessment, or as otherwise allowed by law.

PLEASE TAKE FURTHER NOTICE that the City may record a Notice of Substandard Property with the San Bernardino County Recorder's Office against the premises if the public nuisance is not fully abated or corrected (with all required approvals, permits, and inspections), as determined by the City, in the manner and time set forth in this Notice of Abatement and provided that a timely appeal therefrom has not been made.

PLEASE TAKE FURTHER NOTICE that, in the event of abatement by City Personnel, all buildings, structures, and/or personal property constituting a public nuisance may be removed from the subject premises or from public property and destroyed or disposed of, without regard to its actual or salvage value.

Dated this _____ day of _____, 20____.

Public Official (*Name and Title*)

(End of Form)
.....

A Notice of Abatement shall be deemed in substantial compliance with this subsection regardless of form if all substantive information is contained in such Notice of Abatement.

Sec. 7.24.110 Consequence for an Untimely Appeal.

A. If a timely appeal is not received by the City Clerk, the right to appeal is waived and the Notice of Abatement is final and binding. In such instances, the City may, without any administrative hearing, cause the abatement with City personnel of any or all of the nuisance conditions or activities stated in the Notice of Abatement.

Entry onto private real property that is both improved and occupied shall, excepting instances of an imminent hazard, be pursuant to a warrant from a court of competent jurisdiction. The City shall follow the procedures stated in this Chapter for recovery of all abatement costs, fees, and expenses (incidental or otherwise).

B. Nothing contained in this Chapter shall obligate the City to undertake abatement actions pursuant to a Notice of Abatement, whether or not there is a timely appeal.

Sec. 7.24.120 Abatement by Responsible Person Prior to Hearing.

A. Any responsible person shall have the right to abate a nuisance in accordance with the Notice of Abatement at his or her own expense, provided all corrective actions are completed with all required City permits, approvals, and inspections, prior to the date the matter is set for a hearing.

B. A hearing shall be cancelled if all nuisance conditions or activities are, as determined by the City, fully and lawfully abated prior thereto.

Sec. 7.24.130 Review by Hearing Officer.

A. Any responsible person who contests a Notice of Abatement shall, subject to filing a timely appeal, obtain review thereof before a hearing officer. The administrative appeal shall be scheduled no later than sixty (60) calendar days, and no sooner than ten (10) calendar days, after receipt of a timely filed request for appeal. The appellants listed on the written request for an appeal shall be notified in writing of the date, time, and location of the hearing at least ten (10) calendar days prior to the date of the hearing.

B. Any request by an appellant to continue a hearing must be submitted to the City Clerk in writing no later than two (2) business days before the date scheduled for the hearing. The hearing officer may continue a hearing for good cause or on his/her own motion; however, in no event may the hearing be continued for more than thirty (30) calendar days without stipulation by all parties.

C. At the place and time set forth in the notification of appeal hearing, the hearing officer shall hear and consider the testimony of the appealing person(s), the issuing officer, and/or their witnesses, as well as any documentary evidence presented by these persons concerning the alleged public nuisance(s).

D. Appeal hearings are informal, and formal rules of evidence and discovery do not apply. The City bears the burden of proof to establish a nuisance exists by a preponderance of evidence. The issuance of a Notice of Abatement shall constitute prima facie evidence of the violation and the Code Enforcement Officer who issued the Notice of Abatement is not required to participate in the appeal hearing. The appellant and the enforcement officer issuing the Notice as well as all other responsible persons shall have the opportunity to present evidence and to present and cross examine witnesses. The appellant and the enforcement officer issuing the Notice of Abatement, or other responsible persons, may represent himself/herself/themselves or be represented by anyone of his/her/their choice. The appellant, or other interested

persons, may bring an interpreter to the hearing at his/her/their sole expense. The City may, at its discretion, record the hearing by stenographer or court reporter, audio recording, or video recording.

E. If the appellant fails, or other responsible persons fail, to appear, or to otherwise submit any admissible evidence demonstrating the nonexistence of the alleged nuisance(s), the hearing officer shall cancel the hearing and send a notice thereof to the responsible person(s) by first class mail to the address(es) stated on the appeal form. A cancellation of a hearing because of nonappearance of the appellant shall constitute the appellant's waiver of the right to appeal. In such instances, the Notice of Abatement is final and binding.

Sec. 7.24.140 Decision of Hearing Officer; Order of Abatement.

A. Not later than fifteen (15) calendar days following conclusion of the hearing, the hearing officer shall determine if any nuisance condition exists at the subject property. If the hearing officer determines that each nuisance condition described in the Notice of Abatement is nonexistent, the Notice of Abatement shall be deemed cancelled. If the hearing officer determines that one or more of the nuisance conditions described in the Notice of Abatement exists, he/she shall issue a written Order of Abatement that shall contain the following:

1. A finding and description of each nuisance condition existing at the subject property
2. The name of each person responsible for a nuisance condition or conditions at the subject property, as well as the name of any person who is not responsible therefor.
3. The required corrective action and a compliance period for each unabated nuisance condition.
4. Any other finding, determination, or requirement that is relevant or related to the subject matter of the appeal.
5. The following statement: "The decision of the Hearing Officer is final and binding. Judicial review of this decision is subject to the provisions and time limits set forth in California Code of Civil Procedure Sections 1094.6 *et seq.*"

B. Notwithstanding the provisions of Chapter 1.08 of this Code, the decision of the Hearing Officer is final and conclusive; and the responsible person shall not be entitled to appeal the determination of the hearing officer to the City Manager (if the Hearing Officer were someone other than the City Manager), Planning Commission, or City Council.

C. A copy of the decision shall be served by first class mail with receipt confirmation on each responsible person to whom the Notice of Abatement was issued. If the property owner is not an appellant, a copy of the Order of Abatement shall also be served on the owner by first class mail to the address shown on the last equalized

assessment roll. Failure of a person to receive a properly addressed decision shall not invalidate any action or proceeding by the City pursuant to this Chapter.

D. The failure of any responsible person to comply with an Order of Abatement by completing each of the requisite corrective actions in the manner and time set forth in the Order of Abatement constitutes a misdemeanor offense.

Sec. 7.24.150 Abatement of Nuisance by Responsible Persons Prior to City Abatement Actions.

A. Any responsible person shall have the right to fully abate a nuisance in accordance with the Hearing Officer's decision prior to the date of entry of City personnel upon the subject real property, provided that all corrective actions are completed with all required City permits, approvals and inspections, prior to said entry date. In such instances, all administrative proceedings shall be cancelled, with the exception of the City's right to seek recovery of its incurred incidental expenses, Code Enforcement Fees, and Attorney's Fees as provided by and pursuant to the provisions of this Chapter.

B. Once the City enters a subject real property to abate a public nuisance, it shall have the right to complete this action.

C. It is unlawful and a misdemeanor for any person to obstruct, impede, or interfere with City Personnel in the performance of any act that is carried out to abate a public nuisance.

D. All buildings, structures, and/or personal property that is removed by City Personnel from premises in the abatement of a nuisance shall be lawfully disposed of or destroyed without regard to its actual or salvage value, if any.

Sec. 7.24.160 Emergency Action to Abate an Imminent Hazard.

A. Notwithstanding any provision of the Montclair Municipal Code to the contrary, the Police Chief, the Fire Chief, or the Building Official, or any of their designees, may cause a public nuisance to be summarily abated if it is determined that the nuisance creates an imminent hazard to a person or persons, or to other real or personal property.

B. Prior to abating a nuisance that creates an imminent hazard, the City Manager shall attempt to notify a responsible person by telephone or in writing of the imminent hazard and request its abatement by said person; provided however, that the City Manager may dispense with any attempt at prior notification of a responsible person if, in the sole discretion of the City Manager, the nature or severity of the hazard justifies such inaction. If notice has been so given, but, in the sole discretion of the City Manager, the responsible person(s) fail(s) to take immediate and meaningful steps to abate the imminent hazard, the City may abate the nuisance with City personnel without further notice, and charge the costs and fees thereof to the responsible person(s).

C. Within ten (10) business days following emergency action of City personnel to abate an imminent hazard, the City shall serve any responsible person with a Notice of Emergency Abatement by City Personnel of an Imminent Hazard by first class mail. Notice to a property owner shall be mailed to the mailing address set forth in the last equalized assessment roll of the San Bernardino County Assessor's Office. Failure of any responsible person to receive a properly addressed Notice of Emergency Abatement by City personnel of an Imminent Hazard by mail shall not invalidate any action or proceeding pursuant to this Chapter.

D. A Notice of Emergency Abatement by City personnel of an Imminent Hazard shall contain the following provisions:

1. The name of all known responsible persons who are being served with the Notice of Emergency Abatement by City personnel of an Imminent Hazard and the address of the real property on which the imminent hazard was present.

2. A brief description of the condition(s) and reasons why it constitutes an imminent hazard.

3. A brief description of the law prohibiting or pertaining to the imminent hazard.

4. A brief description of the actions City personnel took to abate the imminent hazard.

E. Omission of any of the foregoing provisions in a Notice of Emergency Abatement by City personnel of an Imminent Hazard, whether in whole or in part, or the failure of a responsible person to receive this document, or the failure of the City to issue this document in a timely fashion, shall not render it defective or render any proceeding or action pursuant to this Chapter invalid.

F. Emergency abatement of an imminent hazard by City personnel shall not preclude the City from recording a Declaration of Substandard Property in accordance with the provisions of Section 7.24.220 of this Chapter, if conditions thereafter remain at the premises that constitute a violation of law or a public nuisance.

G. The City shall be entitled to recover its fees and costs (incidental or otherwise) for the abatement of an imminent hazard. In such instances, the City shall follow the procedures set forth in this Chapter.

Sec. 7.24.170 Combination of Notices.

The notices that are authorized by this Chapter may be combined in the discretion of the City.

Sec. 7.24.180 Establishment of Costs of Abatement.

A. The City shall keep an accounting of the Abatement Costs.

B. The City shall serve a Statement of Abatement Costs on the responsible persons within ninety (90) calendar days of the City's completion of nuisance abatement actions. Service of this statement may be made in the manner provided for in Section 7.24.080 of this Chapter.

C. Unless a timely contest of the Statement of Abatement Costs is filed, a responsible person shall tender the Abatement Costs in U.S. currency to the City within thirty (30) calendar days of the date of service of the Statement of Abatement Costs.

D. A responsible person has the right to contest a Statement of Abatement Costs by filing a written request for contest with the City Clerk's Office (located at 5111 Benito Street, Montclair) within ten (10) calendar days of service of the Statement of Abatement Costs.

1. A written request for contest shall contain the following information:

(a) Name, address, telephone number, and signature of each responsible person who is contesting the Statement of Abatement Costs.

(b) Address and description of the real property upon which the City abated a public nuisance.

(c) Date of the Statement of Abatement Costs being appealed.

(d) Description of the specific Abatement Cost being contested, and a statement of the grounds for contest in sufficient detail to enable the City Manager to understand the nature of the controversy.

2. No fee shall be due for the filing of a request for contest.

E. Failure of the City Clerk to receive a timely appeal request for contest constitutes a waiver of the right to contest a Statement of Abatement Costs. In this event, the Statement of Abatement Costs is final and binding, and the City may proceed to collect its Abatement Costs as contained in a final Statement of Abatement Costs in any manner allowed by law.

F. If a timely request for contest is received by the City Clerk, a hearing shall be set before the City Manager no later than sixty (60) calendar days, and no sooner than ten (10) calendar days, of receipt of the request for contest. A notice of the date, time and location of the hearing shall be served on all responsible persons who contested the Statement of Abatement Costs by first class mail to the address(es) stated on the request form at least ten (10) calendar days prior to the hearing. Failure of a person requesting a contest to receive a properly addressed notice shall not invalidate any action or proceeding by the City pursuant to this Chapter.

G. Any request by an appellant to continue a hearing must be submitted to the City Clerk in writing no later than five (5) business days before the date scheduled for the hearing. The City Manager may continue a hearing for good cause or on his or her own motion; however, in no event may the hearing be continued for more sixty (60) calendar days without stipulation by all parties.

H. At the time and place fixed for receiving and considering the request to contest the Statement of Abatement Costs, the City Manager shall hear and pass upon the evidence submitted by City Personnel, together with any objections or protests raised by responsible persons liable for said costs. Testimony and evidence shall be limited to issues related to the abatement costs, and no person shall be permitted to present evidence or testimony challenging the existence of a public nuisance or manner of abatement as described in the Notice of Abatement. Thereupon, the City Manager may make such revision, correction or modification to the statement as it may deem just, after which the statement, as it is submitted, or as revised, corrected or modified, shall be confirmed. The hearing may be continued from time to time.

I. Notwithstanding the provisions of Chapter 1.08 or any other provision of this Code, the decision of the City Manager is final and binding, and a responsible person shall not be entitled to a hearing before the Planning Commission or the City Council.

J. The City Clerk shall cause a confirmed Statement of Abatement Costs to be served upon all persons who contested the original statement by first class mail to the address(es) stated on the request form. The City Clerk shall cause a confirmed Statement of Abatement Costs to be served on the owner of the property on which City personnel abated a public nuisance by first class mail to the address shown on the last equalized assessment roll (irrespective of whether the owner contested the Statement of Abatement Costs). This document shall also contain the following statement: "The decision of the City Manager is final and binding. Judicial review of the this decision is subject to the provisions and time limits set forth in California Code of Civil Procedure Sections 1094.6 *et seq.*"

K. Failure of a person to receive a properly addressed confirmed statement shall not invalidate any action or proceeding by the City pursuant to this Chapter.

L. A responsible person shall tender the Abatement Costs in U.S. Currency to the City within thirty (30) calendar days of the date of service of the confirmed Statement of Abatement Costs. The Abatement Costs (as contained in an uncontested Statement on Abatement Costs or in a confirmed Statement of Abatement Costs) shall constitute a civil debt against the responsible party(ies) and may be collected by the City in any manner authorized by law.

Sec. 7.24.190 Collection of Abatement Costs by Special Assessment.

A. The City may cause a special assessment to be made upon real property upon which a public nuisance was abated pursuant to California Government Code, Section 38773.5, and future amendments thereto, in the event a Statement of Abatement Costs or a confirmed Statement of Abatement Costs is not paid in a timely manner.

B. A Notice of Special Assessment shall be sent to the owner(s) of the subject real property by certified mail at the time the assessment is the imposed that shall contain the following recitals:

The property may be sold after three years by the tax collector for unpaid delinquent assessments. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection, and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the cost of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrance for value has been created and attaches thereon prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection.

C. The City Attorney or City Prosecutor shall establish the Notice of Special Assessment form for use, or consideration by, the Tax Collector in collecting a special assessment.

D. The Notice of Special Assessment shall be entitled to recordation with the San Bernardino County Recorder's Office.

E. The amount of a Special Assessment shall also constitute a personal obligation of the property owners of land upon which the nuisance was abated.

Sec. 7.24.200 Collection of Costs of Abatement by Nuisance Abatement Lien.

A. As an alternative to the procedure contained in Section 7.24.190 of this Chapter, the City may cause a nuisance abatement lien to be recorded upon real property upon which a public nuisance was abated pursuant to California Government Code, Section 38773.1, and future amendments thereto, in the event a Statement of Abatement Costs or a confirmed Statement of Abatement Costs is not paid in a timely manner.

B. A lien shall not be recorded prior to serving the owner of record of the parcel of land on which the public nuisance is maintained, with a notice. This document shall be served in the same manner as a summons in a civil action in accordance with Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure. If the owner of record, after diligent search cannot be found, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten (10) days and publication thereof in a newspaper of general circulation published in San Bernardino County pursuant to Section 6062 of the California Government Code.

C. The nuisance abatement lien shall be recorded in the San Bernardino County Recorder's office in the County in which the parcel of land is located and from the date of recording shall have the force, effect, and priority of a judgment lien.

D. A nuisance abatement lien authorized by this Section shall specify the

amount of the lien for the City of Montclair, the name of the City department on whose behalf the lien is imposed, the date of the abatement actions, the street address, legal description and assessor's parcel number of the parcel on which the lien is imposed, and the name and address of the recorded owner of the parcel.

E. In the event that the lien is discharged, released, or satisfied, through either payment or foreclosure, notice of the discharge containing the information specified in Subsection (D) shall be recorded by the City. A nuisance abatement lien and the release of the lien shall be indexed in the grantor-grantee index.

F. A nuisance abatement lien may be foreclosed by an action brought by the City for a money judgment.

G. The City may recover from the property owner any costs incurred regarding the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien.

H. The amount of a Nuisance Abatement Lien shall also constitute a personal obligation of the property owners of land upon which the nuisance was abated.

Sec. 7.24.210 Triple the Costs of Abatement.

Pursuant to California Government Code Section 38773.7 (or any subsequent amendment thereto), upon entry of a second or subsequent civil or criminal judgment within a two (2) year period finding that an owner of property is responsible for a public nuisance except for public nuisance conditions abated pursuant to California Health and Safety Code Section 17980 ("State Housing Law"), the court may order that person to pay triple the costs of the abatement.

Part 3 - Recordation, Enforcement and Attorney's Fees

Sec. 7.24.220 Recordation of Substandard Notice.

A. Notwithstanding any provision of the Montclair Municipal Code to the contrary, if the City determines that any property, building or structure, or any part thereof, is in violation of any provision of the Montclair Municipal Code and said violation has not been fully abated or corrected, as determined by the City, in the manner and time provided in a written notice to a responsible person, then the City, in its sole discretion, may record a "Declaration of Substandard Property" with the San Bernardino County Recorder's Office against said premises. As used herein, "fully abated or corrected" includes the procurement of all required City and/or County approvals, permits, licenses and the passage of all required inspections.

B. A Declaration of Substandard Property may be recorded after service of a Notice to Abate provided that: (i) the Notice to Abate contained this disclosure, (ii) the public nuisance was not, as determined by the City, fully abated or corrected in the manner and time specified in the Notice to Abate, and, (iii) either a timely and proper appeal of the Notice to Abate was not made or, in any instance where a Notice to Abate was timely appealed, the Notice to Abate is upheld by the reviewing administrative authority.

C. The City may record a Declaration of Substandard Property without the issuance of a "Notice to Abate", provided that a written notice of violation or a written notice of correction to a responsible person previously disclosed that a Declaration of Substandard Property might be recorded against a property if a violation is not fully abated or corrected in the manner and time delineated in said notice.

D. The form that constitutes a Declaration of Substandard Property shall be approved by the City Attorney or the City Prosecutor.

E. The City shall record a Notice of Rescission of Substandard Property with the San Bernardino County Recorder's Office within ten (10) business days of its determination that a violation or a public nuisance has been fully abated or corrected.

F. The City shall cause copies of recorded Declaration of Substandard Property and Notice of Rescission of Substandard Property to be served on all persons having an ownership interest in the subject real property as shown in the last equalized assessment roll of the San Bernardino County Assessor's Office. Notwithstanding any provision of the Montclair Municipal Code, service thereof shall be by first class mail. Failure of any person to receive such notices shall not invalidate any action or proceeding pursuant to this Chapter.

Sec. 7.24.230 Code Enforcement Fees.

A. Pursuant to California Health and Safety Code Section 17951, and any successor statute thereto, responsible persons, who cause, allow, permit, suffer, or maintain a violation in, or upon, residential properties, shall be charged fees (hereafter "Code Enforcement Fees") by the City to defray its costs of code enforcement actions, as hereafter defined. Such fees shall not exceed the amount reasonably required to achieve this objective and are chargeable whether the City's Code Enforcement actions occur in the absence of formal administrative or judicial proceedings, as well as prior to, during, or subsequent to, the initiation of such proceedings.

B. The amount(s) or rate(s) of Code Enforcement Fees for City Personnel time and other resources that are used for Code Enforcement actions shall be established and may thereafter be amended by Resolution by the City Council.

C. The City Manager, or a designee thereof, is authorized to adopt regulations for the uniform imposition of Code Enforcement Fees and for related administrative actions pertaining to such fees.

D. The fees imposed pursuant to this Section shall be in addition to any other fees or charges that responsible persons may owe in accordance with any other provision of the this Code or that are imposed pursuant to county, state, or federal laws or regulations.

E. Code Enforcement Fees shall be recoverable in conjunction with any civil, administrative, or criminal action to abate, cause the abatement or cessation of, or otherwise remove a violation or a public nuisance.

F. Failure to pay Code Enforcement Fees shall constitute a debt that is collectible in any manner allowed by law.

Sec. 7.24.240 Recovery of Attorney's Fees.

A. A prevailing party in any administrative, civil or equitable judicial action to abate, or cause the abatement of a public nuisance as defined in this Chapter, or in any appeal or other judicial action arising therefrom, may recover reasonable attorney's fees in accordance with the following subsections:

1. Attorney's fees are not recoverable by any person as a prevailing party unless the City Manager, or a designee thereof or an attorney for and on behalf of the City, elects in writing to seek recovery of the City's attorney's fees at the initiation of that individual action or proceeding. Failure to make such an election precludes any entitlement to, or award of, attorney's fees in favor of any person or the City.

2. The City is the prevailing party when an administrative or judicial determination is made or affirmed by which a person is found to be responsible for one or more conditions or activities that constitute a public nuisance. A person is the prevailing party only when a final administrative or judicial determination completely absolves that person of responsibility for all conditions or activities that were alleged, in that action or proceeding, to constitute a public nuisance. An administrative or judicial determination that results in findings of responsibility and nonresponsibility on the part of a person for conditions or activities that were alleged in that action or proceeding to constitute a public nuisance, shall nevertheless result in the City being the prevailing party.

B. Provided that the City has made an election to seek attorney's fees, an award of attorney's fees to a person shall not exceed the amount of reasonable attorney's fees incurred by the City in that action or proceeding.

Sec. 7.24.250 Applicability of Other Laws.

A. This Chapter does not exclusively regulate the conditions and use of property within the City. This Chapter shall supplement other provisions of this Code and other statutes, ordinances or regulations now existing or subsequently enacted by the City, the State or any other entity or agency having jurisdiction.

B. The procedures for abatement set forth in this Chapter are not exclusive and are in addition to any other provisions set forth in this Code or by state law for the abatement of public nuisances.

Section IV. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of

the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional.

Section V. Effective Date.

This Ordinance shall be in full force and effect thirty (30) days after passage.

Section VI. Posting.

The City Clerk shall certify to the passage of this Ordinance and cause the same to be posted pursuant to Government Code Section 36933.

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 the foregoing is a true and correct copy of Ordinance No. 09-911 of said City, which was introduced at a regular meeting of the City Council held on the XX day of XX, 2009, and finally passed not less than five (5) days thereafter on the XX day of XX, 2009, by the following vote, to-wit:

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

Donna M. Jackson
City Clerk

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF FISCAL
YEAR 2009-10 RECOMMENDATIONS FOR
THE SCHEDULE OF COMMUNITY BENEFITS
FUNDING

DATE: December 7, 2009

SECTION: ADMIN. REPORTS

ITEM NO.: 2

FILE I.D.: CAC080

BUSINESS

PLAN: N/A

DEPT.: COMMUNITY DEV.

REASON FOR CONSIDERATION: Annually, the Human Services Division presents the City Council with a list of Community Action Committee (CAC) organizations that are recommended to receive a portion of funds appropriated in the Community Benefits account. The City Council is requested to consider the organizations' requests listed on the Fiscal Year 2009-10 Community Benefits Assistance Program Agency Funding Requests at the end of this report and to approve the funding recommendations.

BACKGROUND: The City Council has established an annual policy of appropriating funds to social service agencies that provide special services to Montclair residents. At the direction of the City Council, the CAC conducts a public hearing to provide CAC members with the following opportunities:

- Become acquainted with the requesting organizations and their programs of service.
- Inquire about requesting agencies' operating budgets and revenue sources in order to evaluate their financial needs.
- Determine the appropriate use of funds that may have been previously allocated by the City to requesting agencies.

The CAC heard presentations on Wednesday, November 4, 2009, to consider requests for community benefits assistance from the following organizations:

1. *Community Senior Services.* Services include providing frail elderly the needed volunteer assistance to remain independent in their homes through the Senior Companion Program, provide support and training to caregivers through the Family Caregiver Support Program, provide comprehensive up-to-date information through the Senior Resource Directory, and provide help for individuals who need assistance with a product or service at no cost to them through the Change A Life Foundation. Last year, the agency received 54 calls on the Senior Help Line for Montclair Senior Citizens.

Prepared by: _____

M. Richter

Reviewed and
Approved by: _____

Steve L...

Proofed by: _____

Christine Smidely

Presented by: _____

Joe (the dog)

2. *House of Ruth*. The House of Ruth provides shelter and support services for Montclair women and their children who are victims of physical abuse. In 2008, the House of Ruth gave direct services to 664 Montclair residents, providing hotline crisis intervention, emergency shelter, children's programs, counseling for women and children, legal and social services advocacy, job counseling, housing advocacy, case management, information and referral, and community education.
3. *Inland Hospice Association*. The Inland Hospice Association assists terminally ill patients and their families in facing the process of death. Organization representatives stay with the patients to provide companionship and emotional support and respite for families. The representatives also assist in personal care and transportation. In the past fiscal year, Inland Hospice assisted 32 Montclair residents.
4. *John Wooton Scholarship Fund*. Since 1983, a college music scholarship is awarded through this fund to a graduating Montclair High School student with a grade point average of 3.0 or better who plans to major or minor in music.
5. *Montclair Community Collaborative (MCC)*. The MCC was founded in 1996 to coordinate services for struggling children and families in crisis. The goal of MCC's Case Management Program is to help families access food, shelter, education, health care, and transportation. In 2008 the MCC Case Management Program provided 336 families/individuals with service.
6. *Montclair Meals on Wheels*. Services include the home delivery of lunches to Montclair residents who are unable to shop for themselves or prepare their own meals. The program regularly serves approximately 25 Montclair residents weekdays throughout the year. Meals on Wheels program is charged \$3 per meal and the cost to the recipient is also \$3. The funds received would pay for the fixed costs needed to support the program volunteers that deliver the meals, such as insurance and mileage fees.
7. *Pomona Valley Workshop (PVW)*. Pomona Valley Workshop provides vocational and social opportunities for adults with developmental/physical disabilities, improving their quality of life. Funding would be used to purchase tools and equipment for the Work Activity Program that allows PVW to provide contract workers to local business vendors at a reduced cost. This helps employ our disabled workforce while also benefiting our local business economy.
8. *Project Sister*. Services are provided to survivors of sexual assault and include the following: 24-hour hotline, information and referral, advocacy and accompaniment, individual counseling and support groups, community education, teen programs, child-abuse prevention, and self-defense instruction. Project Sister served 300 Montclair residents to date during 2009.
9. *Visiting Nurse Association and Hospice (VNA)*. The VNA provides home health-care and hospice services in our community. The VNA provided free care to Montclair residents through two programs - Take the Afternoon Off and Charitable Care. Through these programs the VNA served 32 Montclair residents to date during 2009.

FISCAL IMPACT: For Fiscal Year 2009-10, the City Council authorized spending \$10,000 on community benefits. Funding levels for each eligible agency are based on the following factors:

- Level of service to the Montclair community
- Level of service need in the community
- Amount of each request
- Previous year's allocation
- Available funds

RECOMMENDATION: Staff recommends the City Council approve the following Fiscal Year 2009-10 schedule of recommendations for the Community Benefits Funding:

FISCAL YEAR 2009-10
COMMUNITY BENEFITS ASSISTANCE PROGRAM
AGENCY FUNDING REQUESTS

<i>Requesting Agencies</i>	<i>FY 2009-10 Funding Requests</i>	<i>FY 2009-10 Recommen- dations</i>
1. Community Senior Services	5,000	1,083
2. House of Ruth	2,000	1,083
3. Inland Hospice Association	1,954	1,083
4. John Wooton Scholarship Foundation	1,000	1,000
5. Montclair Community Collaborative	1,000	1,000
6. Montclair Meals on Wheels	1,500	1,500
7. Pomona Valley Workshop	2,500	1,085
8. Project Sister	1,500	1,083
9. Visiting Nurse Association	<u>\$ 5,000</u>	<u>\$ 1,083</u>
TOTALS	<u>\$ 21,454</u>	<u>\$ 10,000</u>

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF FILING OF A NOTICE OF COMPLETION FOR CITY OF MONTCLAIR POLICE DEPARTMENT FACILITY BID PACKAGE NO. 12-GLASS AND GLAZING; REDUCTION OF FAITHFUL PERFORMANCE BOND TO 10 PERCENT; AND RETENTION OF PAYMENT BOND FOR SIX MONTHS	DATE: December 7, 2009 SECTION: ADMIN. REPORTS ITEM NO.: 3 FILE I.D.: PDT765 DEPT.: PUBLIC WORKS
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CONSIDER RELEASE OF RETENTION 30 DAYS AFTER RECORDATION OF NOTICE OF COMPLETION

BUSINESS

PLAN: STRATEGIC PRIORITY NOS. 4 AND 5

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.

Approval of this Notice of Completion would satisfy a portion of Strategic Priority Nos. 4 and 5 as contained in Montclair's "Business Plan."

BACKGROUND: On September 5, 2006, the City Council awarded 20 of 22 separate construction contracts necessary to construct the City's new Police Department facility. Bid Package No. 12-Glass and Glazing was awarded to E&R Glass Contractors, Inc. All work required under Bid Package No. 12 by Agreement No. 06-130 has been completed in a satisfactory manner. There have been no Stop Notices submitted against this project, nor are any expected.

FISCAL IMPACT: Bid Package No. 12-Glass and Glazing was awarded to E&R Glass Contractors, Inc., in the amount of \$414,518. Construction change orders totaling \$52,362 were written for this contract, increasing the total contract amount to \$466,880.

RECOMMENDATION: Staff recommends the City Council take the following actions related to City of Montclair Police Department Facility-Bid Package No. 12-Glass and Glazing:

1. Approve the filing of a Notice of Completion with Office of the San Bernardino County Recorder.
2. Reduce Faithful Performance Bond to 10 percent.
3. Retain Payment Bond for six months.
4. Release retention 30 days after recordation of Notice of Completion.

Prepared by: <u><i>msckd</i></u>	Reviewed and Approved by:	<u><i>M. STAATS</i></u>
Proofed by: <u><i>Alle my</i></u>	Presented by:	<u><i>Paul (the boy)</i></u>

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. : 1007-711-07

(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 Police Department Facility-Bid Package No. 12

for the undersigned City of Montclair, a Municipal Corporation, on the 30th day of November, 2009

The City accepted the job on the 7th day of December, 2009

The Contractor on said job was E & R Glass
5369 Brooks Street
Montclair, CA 91763

The improvement consisted of Glass and Glazing

The property upon which said work of improvement was completed is described as: 4870 Arrow Highway
Montclair, CA

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 APPROVAL OF FILING OF A NOTICE OF COMPLETION FOR CITY OF MONTCLAIR POLICE DEPARTMENT FACILITY BID PACKAGE NO. 20-PLUMBING; REDUCTION OF FAITHFUL PERFORMANCE BOND TO 10 PERCENT; AND RETENTION OF PAYMENT BOND FOR SIX MONTHS	DATE: December 7, 2009
	SECTION: ADMIN. REPORTS
	ITEM NO.: 4
	FILE I.D.: PDT765
CONSIDER RELEASE OF RETENTION 30 DAYS AFTER RECORDATION OF NOTICE OF COMPLETION	DEPT.: PUBLIC WORKS

BUSINESS

PLAN: STRATEGIC PRIORITY NOS. 4 AND 5

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.

Approval of this Notice of Completion would satisfy a portion of Strategic Priority Nos. 4 and 5 as contained in Montclair's "Business Plan."

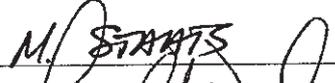
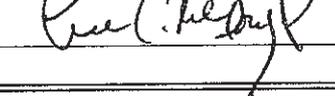
BACKGROUND: On September 5, 2006, the City Council awarded 20 of 22 separate construction contracts necessary to construct the City's new Police Department facility. Bid Package No. 20-Plumbing was awarded to J. M. Farnan Co., Inc. All work required under Bid Package No. 20 by Agreement No. 06-138 has been completed in a satisfactory manner. There have been no Stop Notices submitted against this project, nor are any expected.

FISCAL IMPACT: Bid Package No. 20-Plumbing was awarded to J. M. Farnan Co., Inc., in the amount of \$795,000. Construction change orders totaling \$27,903 were written for this contract, increasing the total contract amount to \$822,903.

RECOMMENDATION: Staff recommends the City Council take the following actions related to City of Montclair Police Department Facility-Bid Package No. 20-Plumbing:

1. Approve the filing of a Notice of Completion with Office of the San Bernardino County Recorder.
2. Reduce Faithful Performance Bond to 10 percent.
3. Retain Payment Bond for six months.
4. Release retention 30 days after recordation of Notice of Completion.

Prepared by: 
Proofed by: 

Reviewed and Approved by: 
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. : 1007-711-07

(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 Police Department Facility-Bid Package No. 20

for the undersigned City of Montclair, a Municipal Corporation, on the 30th day of November, 2009

The City accepted the job on the 7th day of December, 2009

The Contractor on said job was JM Farnan Company, Inc.
2750 Sierra Way
La Verne, CA 91750

The improvement consisted of Plumbing

The property upon which said work of improvement was completed is described as: 4870 Arrow Highway
Montclair, CA

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 AUTHORIZATION TO CREATE A TECHNICAL SERVICES SPECIALIST POSITION TO REPLACE A FULL-TIME POLICE OFFICER POSITION IN THE POLICE DEPARTMENT	DATE: December 7, 2009
	SECTION: ADMIN. REPORTS
	ITEM NO.: 5
	FILE I.D.: PDT530
BUSINESS PLAN: N/A	DEPT.: POLICE

REASON FOR CONSIDERATION: The Police Department is requesting authorization to create a Technical Services Specialist position that will be filled by two part-time non-sworn employees.

BACKGROUND: The Police Department's Technical Services assignment is currently filled by a sworn, full-time Police Officer. If authorized, the position would be replaced with a Technical Services Specialist position to be filled by two part-time, retired Police Officers.

The Technical Services position is vital to the Police Department as the officer in the assignment coordinates the purchase and maintenance of Police vehicles, equipment, and communication equipment. The Officer also monitors and manages all Police vehicles, equipment, and communication equipment to ensure they are properly serviced, repaired, and/or replaced. In addition, the officer conducts safety inspections of the vehicles and equipment; assists the Police Department and the Public Works Department in vehicle repairs and maintenance activities; maintains an inventory of Police Department vehicles, communication equipment, weapons, and other Police-related equipment; assists in the preparation of the annual budget; and supervises the work of Police Cadets and trains and coordinates them in parking-enforcement and other activities. Utilizing experienced, nonsworn, retired Police Officers would fulfill the need to staff this invaluable and essential position in a cost-effective and cost-efficient manner.

FISCAL IMPACT: The fiscal impact for the Technical Services Specialist position is approximately \$73,500. A savings of approximately \$62,600 would be realized by providing no benefits to the two part-time positions.

RECOMMENDATION: Staff recommends the City Council authorize the creation of a Technical Services Specialist position to replace a full-time Police Officer position in the Police Department.

Prepared by: <u><i>H.B. Jones</i></u>	Reviewed and Approved by: <u><i>H.B. Jones</i></u>	
Proofed by: <u><i>Sharon Agopian</i></u>	Presented by: <u><i>Lee (The Dog)</i></u>	

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION	DATE: December 7, 2009
	SECTION: ADMIN. REPORT
	ITEM NO.: 6
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 December 7, 2009, and Payroll Documentation dated September 27, 2009, finds them to be in order and recommends their approval.

FISCAL IMPACT: The Warrant Register dated December 7, 2009, totals \$2,573,545.59. The Payroll Documentation dated September 27, 2009, totals \$611,438.01, with \$454,856.32 being the total cash disbursement.

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

Prepared by:

Donna M. Jackson
Janet Kelleher

Reviewed and
Approved by:

[Signature]
[Signature]

Proofed by:

Presented by:

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 09-112-I-85, AN IRREVOCABLE ANNEXA- TION AGREEMENT WITH FABIAN AND ELOISA RODRIGUEZ FOR 11303 WESLEY AVENUE (ASSESSOR'S PARCEL NO. 1013-043-31)	DATE: December 7, 2009 SECTION: AGREEMENTS ITEM NO.: 1 FILE I.D.: SEW080 DEPT.: COMMUNITY DEV.
BUSINESS PLAN: N/A	

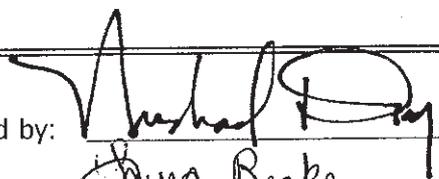
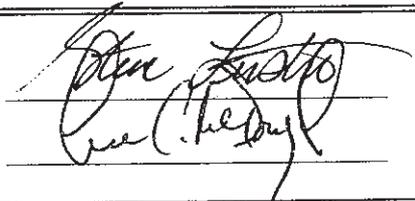
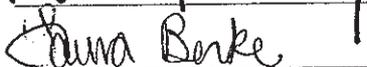
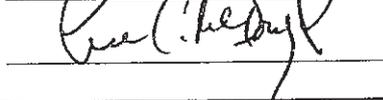
REASON FOR CONSIDERATION: Irrevocable Annexation Agreements are subject to City Council review and approval.

BACKGROUND: Proposed Irrevocable Annexation Agreement No. 09-112-I-85 would permit the property owners of the subject parcel located in unincorporated County territory to connect to the City's sewer main in Grand Avenue, with the Agreement requiring annexation of the property when feasible at a future date.

If approved by the City Council, the Agreement is also subject to approval by the Local Agency Formation Commission (LAFCO): The proposed Agreement and sewer connection request is consistent with City policy and meets all applicable City requirements. Following City Council and LAFCO approvals, the Agreement is recorded against the property and becomes binding on future owners, heirs, successors, or assigns.

FISCAL IMPACT: There would be no fiscal impact should the City Council approve Agreement No. 09-112-I-85.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 09-112-I-85, an Irrevocable Annexation Agreement with Fabian and Eloisa Rodriguez for 11303 Wesley Avenue (Assessor's Parcel No. 1013-043-31).

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

AGREEMENT NO. 09-112-I-85

**AN IRREVOCABLE AGREEMENT TO ANNEX
TO THE CITY OF MONTCLAIR**

(Fabian and Eloisa Rodriguez, 11303 Wesley Avenue)

This agreement is entered into this 7th day of December, 2009, between Fabian and Eloisa Rodriguez, husband and wife as joint tenants, hereinafter referred to as "Owner," and the City of Montclair, hereinafter referred to as "City."

WHEREAS, Owner is the legal property owner of the real property located at 11303 Wesley Avenue, also referenced as San Bernardino County Tax Assessor Parcel No. (APN) 1013-042-31, shown as Exhibit "A" attached, and is further described as follows:

Lot 29 of Tract Map No. 6678 as per Map recorded in Book 92, Page(s) 73 and 74 of Maps, in the office of the County Recorder of San Bernardino County, State of California.

WHEREAS, the subject property is a 5,910 square-foot (.14 acres) corner lot on the southeast corner of Grand and Wesley Avenues within the unincorporated San Bernardino County area that is a part of the Sphere of Influence of the City of Montclair; and

WHEREAS, the subject property is developed with a duplex (two units) and a detached 2-car garage; and

WHEREAS, the Owner desires to connect to and utilize the City's sanitary sewer system for the above described property, said system otherwise being available only to properties within the City of Montclair corporate limits; and

WHEREAS, Owner desires to annex to the City of Montclair; and

WHEREAS, the City is willing to consent to the connection of said property to the sewer main only on the condition that the property be annexed to the City at the earliest possible time; and

WHEREAS, the City intends to pursue annexation of Owner's property plus other property, but said annexation will cause delay, which would create a substantial hardship for Owner of said property; and

WHEREAS, the agreements, conditions, and covenants contained herein are made for the direct benefit of the land subject to this Agreement and described herein and shall create an equitable servitude upon the land and operate as a covenant

running with the land for the benefit of the Owner of the land and his heirs, successors, and assigns.

NOW THEREFORE, the parties do agree as follows:

1. Owner does hereby give irrevocable consent to annex to the City of Montclair at such time as the annexation may be properly approved through appropriate legal proceedings, and Owner does further agree to provide all reasonable cooperation and assistance to the City in the annexation proceedings. Said cooperation is contemplated to include signing any applications of consent prepared by the City, and submitting any evidence reasonably within the control of the Owner to the various hearings required for the annexation. Said cooperation does not include, however, any obligation on behalf of the Owner to institute any litigation of judicial proceeding whatsoever to force annexation to the City.

2. The City of Montclair does hereby agree to authorize the connection of said property, proposed to be developed on Owner's property, to the sewer main located in Grand Avenue. Said connection to the sewer main shall be permitted by the City at such time as all applicable permits have been obtained and associated fees have been paid.

3. Owner agrees to pay such annexation fees and costs, and other municipal charges as would ordinarily be charged in the annexation of property to the City. Said fees shall be payable when the same becomes due and payable. (In some circumstances, these fees may be borne by the City.)

4. Owner shall pay all fees and charges and make all deposits required by the City to connect to and use the sewer, and Owner agrees to be bound by all City ordinances, rules, and regulations with respect to the sewer system. Owner agrees to pay monthly sewer charges beginning on the date this agreement is approved by the City Council.

5. This agreement shall be recorded with the Office of the Recorder of the County of San Bernardino.

6. Owner shall install any and all future improvements upon said property to the City's standards, except that the County standard(s) shall apply when more restrictive than the City standard(s).

7. Owner shall execute this agreement on behalf of himself, his heirs, successors, and assigns, and said agreement shall be irrevocable without the prior written consent of both parties hereto.

8. The benefit to the subject property shall inure to the benefit of subsequent owners, their heirs, successors, and assigns; and the agreements, conditions, and covenants contained herein shall be binding upon them and upon the land.

EXECUTED THIS 7TH DAY OF DECEMBER, 2009.

Owner: Fabian Rodriguez, a married man

Fabian Rodriguez

Eloisa Rodriguez, a married woman

Eloisa Rodriguez

City: The Mayor and City Clerk of the City of Montclair have been authorized to execute this agreement on behalf of the City of Montclair at a regularly scheduled meeting of the City Council on December 7, 2009.

Mayor of the City of Montclair

City Clerk of the City of Montclair

Exhibit A

Irrevocable Annexation Agreement-09-112-I-85
11303 Wesley Ave

Legend

⊙ Sewer Manholes

Sewer Main Lines

— City of Montclair

- - - IEUA

□ County

Grand

8"

4"

Proposed
Lateral

Site

11303

Wesley



AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 09-119 WITH LAN ENGINEERING CORPORATION AMENDING AGREEMENT NOS. 02-01 AND 02-135 FOR DESIGN AND RIGHT-OF-WAY ACQUISITION SERVICES ASSOCIATED WITH THE MONTE VISTA AVENUE/UNION PACIFIC RAILROAD GRADE SEPARATION PROJECT	DATE: December 7, 2009 SECTION: AGREEMENTS ITEM NO.: 2 FILE I.D.: STA110 DEPT.: PUBLIC WORKS
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BUSINESS

PLAN: STRATEGIC PRIORITY NO. 6

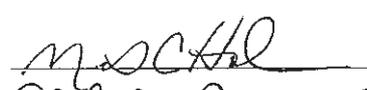
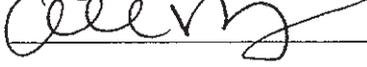
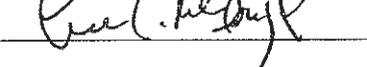
REASON FOR CONSIDERATION: In 2002, the City entered into Agreement No. 02-01 with LAN Engineering Corporation for environmental, design, and right-of-way acquisition services associated with the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project. The project was originally fully state funded, but at one point, the state withdrew the funding. Although partial funding has been restored, the delay caused by the temporary loss of funds and the need to redo some of the work previously completed has made it necessary to increase the compensation portion of the agreement with its consultant. Approval of proposed Agreement No. 09-119 requires City Council approval.

Approval of Agreement No. 09-119 and acceptance of the quitclaim deed satisfies a portion of Strategic Priority No. 6 as contained in Montclair's "Business Plan."

BACKGROUND: With the passage of the Traffic Congestion Relief Act of 2000, funding was made available for the construction of grade separations between streets and railroad tracks in several areas of the state. The Act provided \$95 million for grade separations in San Bernardino County, including one between Monte Vista Avenue and the Union Pacific Railroad tracks. LAN Engineering Corporation was hired by the City to assist with the environmental clearance, design, and right-of-way acquisition.

By 2002, the state had entered into a fiscal crisis and could no longer continue to fund the Traffic Congestion Relief Program (TCRP). Funding for the project was temporarily suspended in 2003, but not until appraisal services had been completed and some offer letters had been made. The offer letters were rescinded and work was halted.

Partial TCRP funding was restored in Fiscal Year 2005-06, and right-of-way acquisition work began again, starting with new title reports and updated appraisals. During the temporary suspension of work, property values had increased significantly and were so reflected in the new appraisals. Costs for appraisal, design, and right-of-way acquisition services had also increased as well. The fees provided in Agreement No. 02-135 were no longer adequate to cover the increased costs.

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

FISCAL IMPACT: Agreement No. 09-119 provides a fee increase to AECOM Technical Services, Inc., the successor to LAN Engineering Corporation. The recommended fee increase is \$799,903, increasing their compensation from \$1,460,281 to \$2,260,184. Although this fee increase would be covered by the state as part of the TCRP, there will be an overall shortfall of state funds for right-of-way acquisition. Federal funding is available for these acquisitions, but it will be necessary to reopen the environmental phase of this project and comply with federal requirements before these funds can be used. In the meantime, acquisition work on those two parcels has been suspended.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 09-119 with LAN Engineering Corporation amending Agreement Nos. 02-01 and 02-135 for design and right-of-way acquisition services associated with the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project.

AMENDMENT TO AGREEMENT NOS. 02-01 AND 02-135

WITH

AECOM TECHNICAL SERVICES, INC.

(FORMERLY LAN ENGINEERING CORPORATION)

FOR

INCREASE IN COMPENSATION

This agreement is made and entered into this ____ day of _____, 2009, by and between the CITY OF MONTCLAIR, a municipal corporation hereinafter designated as "City," and AECOM TECHNICAL SERVICES, INC. (formerly Lim and Nascimento Engineering Corporation and LAN Engineering Corporation), a California Corporation hereinafter designated as "Consultant," and collectively designated as the "Parties."

RECITALS

WHEREAS, Parties have previously entered into Agreement No. 02-01 on January 9, 2002, and amended said agreement by Agreement No. 02-135 on October 7, 2002, for design services associated with a grade separation project between Monte Vista Avenue and the Union Pacific Railroad tracks, hereinafter called "Project;" and

WHEREAS, funding for Project was provided through the state's Traffic Congestion Relief Act of 2000 and the Traffic Congestion Relief Program (TCRP); and

WHEREAS, the ongoing state fiscal crisis beginning in fiscal year 2002/2003 caused TCRP funding to be temporarily withdrawn from Project; and

WHEREAS, partial TCRP funding was restored in fiscal year 2005/2006; and

WHEREAS, most of the "Phase 3 Right-of-way Services" required for Project and as described in Exhibit 'A-1' of Agreement No. 02-135 was time-sensitive and had to be redone; and

WHEREAS, hourly charge rates and expense reimbursements for LAN Engineering Corporation and its successor, AECOM Technical Services, Inc., has increased significantly during the TCRP suspension period and subsequent thereto.

NOW, THEREFORE, IT IS AGREED by and between City and Consultant to modify Section B Paragraph 3 Subsection a.1 to pay to CONSULTANT a maximum sum of \$2,260,184 for the performance of the services required under Exhibit 'A-1.' 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 on a "time and material basis" in accordance with the Schedule set forth in Exhibit 'C-1.

IT IS AGREED between City and Consultant to perform services required under Exhibit 'A-1' to complete "PHASE 2 Design Services" Section B Final Design Services (100% Submittal) at a mutually agreed time frame and budget after identifying and securing the funding.

IT IS FURTHER AGREED that all other terms of Agreement No. 02-01 and Agreement No. 02-135 shall remain the same and be incorporated herein as though fully set forth.

AECOM TECHNICAL SERVICE, INC.

CITY OF MONTCLAIR

Consultant

City

By: _____

By: _____

Title: _____

Title: _____ Mayor

Date: _____

Date: _____

By: _____

Attest: _____

Title: _____

Title: _____ City Clerk

Date: _____

Date: _____

Approved as to form:

By: _____

Title: _____ City Attorney

Date: _____

EXHIBIT 'C-1

Classification	Hourly Rate
Senior Project Manager	\$270
Project Manager	\$220
Task Manager/Deputy Project Manager	\$190
Specialist/QA/QC	\$215
Senior Project Engineer	\$190
Project Engineer	\$160
Associate Engineer	\$135
Design Engineer	\$110
Assistant Engineer	\$ 90
Junior Engineer/Technician	\$ 70
Senior Designer/CADD	\$130
Designer/CADD	\$100
Junior Designer/CADD	\$ 75
Senior Assistant to PM/Senior Administrator	\$100
Assistant to PM/Administrator	\$ 70
Junior Administrator	\$ 50

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NOS. 09-120 (ROBERT AND SIRA KESSLER), 09-121 (CARLOS PERDOMO), 09-122 (VICTOR CASTRO), 09-123 (TOM BELLER), 09-124 (ALBERT WEIR), AND 09-125 (DONALD GREEN), SELF-MOVE AGREEMENTS IN CONJUNCTION WITH RIGHT-OF-WAY ACQUISITION FOR THE MONTE VISTA AVENUE/UNION PACIFIC RAILROAD GRADE SEPARATION PROJECT

DATE: December 07, 2009
SECTION: AGREEMENTS
ITEM NO.: 3
FILE I.D.: STA110
DEPT.: PUBLIC WORKS

BUSINESS

PLAN: STRATEGIC PRIORITY NO. 6

REASON FOR CONSIDERATION: As part of ongoing efforts to secure right-of-way for the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project, the City is currently acquiring right-of-way in fee title and easements on various parcels. Most of these parcels are occupied, and the tenants must be relocated. Under state laws, the tenants are entitled to move themselves but must enter into agreements with the City to recover their costs. Agreements with the City require City Council approval.

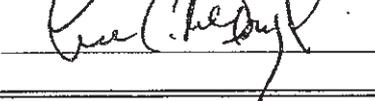
Approval of Agreement Nos. 09-120 through 09-125 satisfies a portion of Strategic Priority No. 6 as contained in Montclair's "Business Plan."

BACKGROUND: With the passage of the Traffic Congestion Relief Act of 2000, funding was made available for the construction of grade separations between streets and railroad tracks in several areas of the state. The Act provided \$95 million for grade separations in San Bernardino County including one between Monte Vista Avenue and the Union Pacific Railroad tracks. A consultant was hired by the City to assist with the environmental clearance, design, and right-of-way acquisition.

The City has closed escrow on a number of right-of-way acquisitions, most of which had tenants occupying the premises. Notice has been given to the tenants to vacate the premises. Under state law, the tenants are entitled to reimbursement of relocation expenses or may relocate themselves. In the event they choose to "self move," they are entitled to relocation expenses not exceeding the amount of the lowest bid that the City receives for that move. Agreement Nos. 09-120 through 09-125 provide for relocation expenses for several tenants. The City Council has previously approved "self move" agreements with other tenants on properties acquired for the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project.

FISCAL IMPACT: Partial funding for the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project is provided through the state Traffic Congestion Relief Program. All right-of-way costs to date, including the proposed relocation expenses, would be

Prepared by: 
Proofed by: 

Reviewed and Approved by: 
Presented by: 

reimbursed to the City by the state. Tenants will receive half of the money up front and the other half when the move is complete.

The Agreements provide for relocation expenses in the following amounts:

<i>Agreement Number</i>	<i>Party</i>	<i>Amount</i>
09-120	Robert and Sira Kessler	\$ 1,488.22
09-121	Carlos Perdomo	\$ 750.00
09-122	Victor Castro	\$ 1,100.00
09-123	Tom Beller	\$10,258.75
09-124	Albert Weir	\$ 2,055.00
09-125	Donald Green	\$ 2,369.86

RECOMMENDATION: Staff recommends the City Council approve Agreement Nos. 09-120 (Robert and Sira Kessler.), 09-121 (Carlos Perdomo), 09-122 (Victor Castro), 09-123 (Tom Beller), 09-124 (Albert Weir), and 09-125 (Donald Green), Self-Move Agreements in conjunction with right-of-way acquisition for the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project.



It is hereby understood and agreed by Robert & Sira Kessler (called here the "Claimant") and the City of Montclair (called here the "Displacing Agency") that the amount to be paid to the Claimant for the relocation of all equipment, stock, inventory, and other items of personal property itemized on the attached inventory (**Exhibit A**) and not acquired with the real property located at 4848 Mission Blvd., Montclair, CA 91762 ("Subject Property") to the replacement location at 4848 Mission Blvd., Montclair, CA 91762 ("On-site move") is **ONE THOUSAND FOUR HUNDRED EIGHTY EIGHT DOLLARS AND TWENTY TWO CENTS (\$1,488.22)**. This payment is based on the amount of the lowest, most reasonable bid, attached hereto as **Exhibit B**.

The parties further agree as follows:

1. A check in the amount of \$1,488.22 will be released when a representative of Overland, Pacific & Cutler, Inc. the Displacing Agency's relocation representative has personally inspected the Subject/Displacement Property to verify completion of the move.
2. If upon inspection by a representative of Overland, Pacific & Cutler, Inc. any portion of the items on Exhibit "A" were not relocated to the Replacement Site for any reason whatsoever, an appropriate reduction in the agreed amount shall be made by the Displacing Agency.
3. The Claimant shall allow a representative of Overland, Pacific & Cutler, Inc. to monitor the move as it sees fit, and such monitoring shall not carry with it any liability or responsibility on the part of the Displacing Agency or Overland, Pacific & Cutler, Inc.
4. Neither the Displacing Agency nor any employee, officer, or agent thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by Claimant under or in connection with the agreement. It is also understood and agreed that the Claimant shall fully indemnify and hold the Displacing Agency and Overland, Pacific & Cutler, Inc. harmless for any liability imposed by injury or damage to property occurring by reason of anything done or omitted by Claimant in connection with this agreement.
5. In the event the actual cost of the move exceeds the amount agreed upon above, only those additional costs which can be shown to have been actually required in order to complete the move will, within certain limitations, be reimbursed. In this event, the actual cost of the entire move must be itemized and documented in support of the claim. All moving expense records are subject to review and audit by a representative of the Displacing Agency.

EXHIBIT "A"

The following items require relocation and have not been acquired with the real property in conjunction with the acquisition of the Subject Property.

Please list and describe all items to be relocated:

2 8x10x20 Containers
1 8x10x40 Container
Misc. car parts.

I certify under the penalty of perjury that the above listed items are personal property owned by me and are to be relocated to the Replacement Site.

Dated: 10-09-09

By: Robert Kessler
Robert Kessler

Dated: 10-09-09

By: Sira Kessler
Sira Kessler

EXHIBIT "B"

LOWEST, MOST REASONABLE MOVING BID

Please see attached moving bid

Exhibit "B"

Estimate/Order For Service

Estimate Prepared For: Robert Sira Kessler

Agent Suddath Relocation Systems
 14221 Artesia Blvd.
 La Mirada, CA 90638
 562-404-7794
 562-483-7845
 sbargsten@suddath.com

Sales Person
 Shannon Bargsten
 sbargsten@suddath.com

Origin Information		Destination Information		Service Information	
Shipper:	Robert Sira Kessler	Shipper:	Robert Sira Kessler	Order No:	
Address:	4848 W Mission Blvd	Address:		Estimate Date:	7/27/2009
Address 2:		Address 2:		Pack Date:	
City St. Zip:	Ontario, CA 91762	City St. Zip:	Ontario, CA 91762	Load Date:	
County:	San Bernardino	County:	San Bernardino	Deliver Date:	
Phone(H):	909-059-1841	Phone(H):			
Phone(W):		Phone(W):			
Email:	kjackson@opcservices.com				
Tariff: Local		Effective Date: 7/27/2009		Estimated Weight: 3000	

Local Moving Charges

2 Mover(s), 1 Van(s), 4 Hour(s). Hourly Rate: \$90.00
 Travel Time: 2 hours. Hourly Rate: \$90.00 per hour

Local Moving Charges: **\$540.00**

Local Packing Charges

2 packers, 1 van, 3 hours, \$90.00/per hour

Article	Qty	Cost Ea.	Cost
K/Q Split	10	\$11.90	\$119.00
SubTotal:			\$119.00
Tax:			\$9.22

Packing Total: **\$398.22**

Additional Charges

Service Description

Moving 3 container on site \$500.00

Total Miscellaneous: **\$500.00**

Local Fuel Charge \$50.00

Fuel Charge Total: **\$50.00**

Local Additional Charges: **\$550.00**

Total Estimated Costs: **\$1,488.22**

Valuation Options	Listed below are the minimum Valuation Options that are offered and the total price for the move with each option.		
	Type	Charge	Total
currently applied	0.60/lb	\$0	\$1,488.22
	3.50/lb - \$10,500.00	\$0.00	\$1,488.22
	FVP \$0 - \$15,000.00	\$0.00	\$1,488.22
	FVP \$250 - \$15,000.00	\$0.00	\$1,488.22
	FVP \$500 - \$15,000.00	\$0.00	\$1,488.22

Signature of Salesperson

Date

Signature of Consumer

Date

Claim Transmittal and Check Request	
Claimant: Robert Kessler and Sira Kessler	Agency: City of Montclair
Address: 4848 Mission Blvd., Montclair, CA 91762	Project: Monte Vista Grade Separation Project
Case ID: LIM-005-04848-001	Consultant: Karen Jackson
Date:	THE ATTACHED DOCUMENTS MAY CONTAIN CONFIDENTIAL INFORMATION

To:	From:
Mike Hudson City Engineer City of Montclair 5111 Benito Street P.O. Box 2308 Montclair, CA 91763	Karen Jackson Overland, Pacific & Cutler, Inc. 2280 Market Street, Suite 340 Riverside, CA 92501 Phone: (951) 683-2353 Fax: (951) 683-3901

Attached documents support the following payment request(s):		
<input type="checkbox"/>	Residential Moving Expenses	<input checked="" type="checkbox"/> Business Moving Expense
<input type="checkbox"/>	Rental Assistance	<input type="checkbox"/> Business Reestablishment
<input type="checkbox"/>	Downpayment Assistance	<input type="checkbox"/> Business Site Searching
<input type="checkbox"/>	Periodic LRH Payment	<input type="checkbox"/> Business In-Lieu
<input type="checkbox"/>	Purchase Price Differential	<input type="checkbox"/> Fixtures and Equipment
<input type="checkbox"/>	Mortgage Interest Differential	<input type="checkbox"/> All-Inclusive Settlement
<input type="checkbox"/>	Purchase Incidental Expenses	<input type="checkbox"/> Security Deposit Return
<input type="checkbox"/>	Other Payment:	

Benefit check(s) are requested to be prepared as follows:			
Chk	Payable To:	In the Amount:	Check Disposition:
1.	Robert Kessler and Sira Kessler	\$1,488.22	Hold for pick-up by OPC staff
2.			
3.			

Payment Advance/Final Status:		Notes:
<input type="checkbox"/>	Advance Payment	This claim represents the moving payment only. To move 3 containers and Misc tools from storage area.
<input checked="" type="checkbox"/>	Interim Payment	
<input type="checkbox"/>	Final Payment	

Claim for Actual Reasonable Moving and Related Expenses

Business, Nonprofit Organizations and Farm Operations

INSTRUCTIONS: This claim form is for the use of displaced businesses, nonprofit organizations, and farm operations that wish to apply for a PAYMENT FOR ACTUAL REASONABLE MOVING AND REESTABLISHMENT EXPENSES, rather than apply for a FIXED PAYMENT (which has a minimum of \$1,000.00 and a maximum of \$20,000.00). The Agency will explain the differences between the two payments. If you are eligible to choose either payment, the Agency representative will help you determine which is most advantageous, and will help you complete the form. If the full amount of your claim is not approved, the Agency will provide you with a written explanation of the reason. If you are not satisfied with the Agency's determination, you may appeal that determination. The Agency will explain how to make an appeal. This information is being collected under the authority of the Uniform Relocation Assistance and Real Property Policies Act (URA) and/or California Relocation Assistance Act.

FOR AGENCY USE ONLY	
Agency	City of Montclair
Project	Monte Vista Grade Separation
Case #	LIM-005-04848-001
Program Rules	OPC Claim Serial Number
<input checked="" type="checkbox"/> Federal <input type="checkbox"/> State <input type="checkbox"/> Other	RV010081

SECTION A - General

1. Name Under Which Claimant Conducts Operations Robert Kessler and Sira Kessler	2. Name, Title and Phone # of Person Filing Claim on Behalf of Claimant Robert Kessler and Sira Kessler (909) 731-8414
3a. Address From Which Claimant Moved 4848 W. Mission Blvd. Montclair, CA 91762	3b. Date First Occupied 11/1/1986
4a. Address to Which Claimant Moved 4848 W. Mission Blvd. Montclair, CA 91762	3c. Date Move Started 4b. Date Move Completed 5. Is This a Final Claim? <div style="text-align: right;"><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</div>
6. Type of Operation (Check One): <input checked="" type="checkbox"/> Business <input type="checkbox"/> Farm Operation <input type="checkbox"/> Nonprofit Operation	7. Type of Ownership (Check One): <input checked="" type="checkbox"/> Sole Propriet. <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Nonprofit Org.

8. Computation of Payment

ITEM	AMOUNT CLAIMED	FOR AGENCY USE ONLY
(1) Moving Expenses (from Section B)	\$1,488.22	
(2) Reestablishment Expenses (\$10,000 maximum, from Section C)	\$0.00	
(3) Reasonable Searching Expenses (Attach Schedule)	\$0.00	
(4) Storage Expenses (Attach Schedule)	\$0.00	
(5) Actual Direct Loss of Personal Property (Attach Schedule)	\$0.00	
(6) Other Expenses (attach explanation)	\$0.00	
(7) Total Amount Claimed (add lines (1) through (6))	\$1,488.22	
(8) Amount Previously Received for Expenses Claimed Here (If any)	\$0.00	
(9) Amount Requested (Line (7) minus Line (8))	\$1,488.22	

9. Certification by Claimant(s)

WARNING: If you knowingly or deliberately make false statements on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition you may not receive any of the amounts claimed on this form. I CERTIFY that this claim and supporting information are true and complete, that I have not submitted any other claim for the expenses listed and that I have not been paid for the expenses by any other source. My choice of type of payment was made on the basis of full explanation by the displacing Agency representative of the difference between the two types of payments available and the eligibility for each.

Signature(s) of Claimant(s) or Claimant(s) Agent 	Title (Type or Print) owner	Date 11-11-09
--	--------------------------------	------------------

FOR AGENCY USE ONLY

Payment Action	Amount of Payment	Signature	Name (Type or Print)	Date
10. Recommended 	\$1,488.22		Karen Jackson Senior Consultant	11/11/09
11. Approved				

SECTION B: Supporting Data for Moving Expenses (not included in Section C)					
Type of Work Performed (moving personal property, phone/utility reconnection, reprinting, etc.)	Name and Address of Contractor	Payment directly to Contractor?		AMOUNT CLAIMED	FOR AGENCY USE ONLY
		YES	NO		
(1) Self move personal property	Shannon Bargston-Suddath Van Lines 802 S. Clementine, Anaheim, CA 92805		X	\$1,488.22	
(2)				\$0.00	
(3)				\$0.00	
(4)				\$0.00	
(5)				\$0.00	
(6)				\$0.00	
(7)				\$0.00	
(8)				\$0.00	
(9)				\$0.00	
(10) TOTAL MOVING EXPENSES (Enter this amount on Line (1) of Item 8, Section A)				\$1,488.22	
SECTION C: Determination of Reestablishment Expenses (not included in Section B)					
Type of Work Performed (repairs required by law or business operation, exterior signing, licenses/permits, etc.)	Name and Address of Contractor	Payment directly to Contractor?		AMOUNT CLAIMED	FOR AGENCY USE ONLY
		YES	NO		
(1)					
(2)					
(3)					
(4)					
(5)					
(6)					
(7)					
(8)					
(9) Estimated increased cost of operation during the first two years (lease/rent, taxes, insurance, utilities)					
(a) Monthly cost of operation at the displacement site			\$0.00		
(b) Monthly cost of operation at the replacement site			\$0.00		
(c) Monthly cost differential (line (9b) less line (9a))			\$0.00		
(d) Estimated cost differential over two years (line (9c) times 24)				\$0.00	
(10) TOTAL REESTABLISHMENT EXPENSES (Add lines (1) through (9)) Enter this amount, or \$10,000, whichever is less, on Line (2) of Item 8, Section A)				\$0.00	



It is hereby understood and agreed by Carlos Perdomo (called here the "Claimant") and the City of Montclair (called here the "Displacing Agency") that the amount to be paid to the Claimant for the relocation of all equipment, stock, inventory, and other items of personal property itemized on the attached inventory (**Exhibit A**) and not acquired with the real property located at 4848 W. Mission Blvd., Montclair, CA 91762 ("Subject Property") to the replacement location at 4201 State St., Montclair, CA 91763 ("Replacement Site") is **SEVEN HUNDRED FIFTY DOLLARS (\$750.00)**. This payment is based on the amount of the lowest, most reasonable bid, attached hereto as **Exhibit B**.

The parties further agree as follows:

1. A check in the amount of \$750.00 will be released when a representative of Overland, Pacific & Cutler, Inc. the Displacing Agency's relocation representative has personally inspected the Subject/Displacement Property to verify completion of the move.
2. If upon inspection by a representative of Overland, Pacific & Cutler, Inc. any portion of the items on Exhibit "A" were not relocated to the Replacement Site for any reason whatsoever, an appropriate reduction in the agreed amount shall be made by the Displacing Agency.
3. The Claimant shall allow a representative of Overland, Pacific & Cutler, Inc. to monitor the move as it sees fit, and such monitoring shall not carry with it any liability or responsibility on the part of the Displacing Agency or Overland, Pacific & Cutler, Inc.
4. Neither the Displacing Agency nor any employee, officer, or agent thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by Claimant under or in connection with the agreement. It is also understood and agreed that the Claimant shall fully indemnify and hold the Displacing Agency and Overland, Pacific & Cutler, Inc. harmless for any liability imposed by injury or damage to property occurring by reason of anything done or omitted by Claimant in connection with this agreement.
5. In the event the actual cost of the move exceeds the amount agreed upon above, only those additional costs which can be shown to have been actually required in order to complete the move will, within certain limitations, be reimbursed. In this event, the actual cost of the entire move must be itemized and documented in support of the claim. All moving expense records are subject to review and audit by a representative of the Displacing Agency.

This agreement does not include specialized and related moving costs which are to be performed by others. These costs will be handled under a separate claim upon completion of the work and presentation of itemized paid bills. Such specialized and related moving costs may include the following:

None



Carlos Perdomo



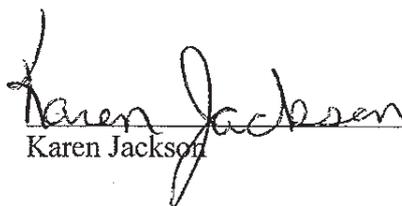
Signature

11-11-09

Date

Recommended:

Overland, Pacific & Cutler, Inc.

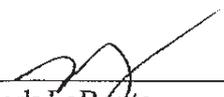


Karen Jackson

Approved:

City of Montclair

Lee C. McDougal, City Manager



Mark LaBorte

Date

Attachments

EXHIBIT "A"

The following items require relocation and have not been acquired with the real property in conjunction with the acquisition of the Subject Property.

Please list and describe all items to be relocated:

2 - 30' Containers

1 Car

1 Boat

I certify under the penalty of perjury that the above listed items are personal property owned by me and are to be relocated to the Replacement Site.

Dated: 11-11-09

By: 

Carlos Perdomo

EXHIBIT "B"

LOWEST, MOST REASONABLE MOVING BID

Please see attached moving bid

Estimate Prepared For: **Carlos Perdomo**

Estimate/Order For Service

Agent Suddath Relocation Systems
 14221 Artesia Blvd.
 La Mirada, CA 90638
 562-404-7794
 562-483-7845
 sbargsten@suddath.com

Sales Person
 Shannon Bargsten
 sbargsten@suddath.com

Origin Information	Destination Information	Service Information
Shipper: Carlos Perdomo Address: 4848 W Mission Blvd Address 2: City St. Zip: Ontario, CA 91762 County: San Bernardino Phone(H): 909-993-2376 Phone(W): Email: kjackson@opcservices.com	Shipper: Carlos Perdomo Address: Address 2: City St. Zip: Ontario, CA 91762 County: San Bernardino Phone(H): Phone(W):	Order No: Estimate Date: 7/23/2009 Pack Date: Load Date: Deliver Date:
Tariff: Local	Effective Date: 7/23/2009	Estimate Weight: 0

Additional Charges

Service Description

Moving 2 30ft container 1 car 1 boat \$750.00

Total Miscellaneous: \$750.00

Local Additional Charges: **\$750.00**

Total Estimated Costs: \$750.00

Valuation Options	Listed below are the minimum Valuation Options that are offered and the total price for the move with each option.		
	Type	Charge	Total
currently applied	0.60/lb	\$0	\$750.00
	3.50/lb - \$0.00	\$0.00	\$750.00
	FVP \$0 - \$0.00	\$0.00	\$750.00
	FVP \$250 - \$0.00	\$0.00	\$750.00
	FVP \$500 - \$0.00	\$0.00	\$750.00

Signature of Salesperson

Date

Signature of Consumer

Date



Claim Transmittal and Check Request

Claimant: Carlos Perdomo	Agency: City of Montclair
Address: 4848 W. Mission Blvd.	Project: Monte Vista Grade Separation Project
Case ID: LIM-005-04848-003	Consultant: Karen Jackson
Date:	THE ATTACHED DOCUMENTS MAY CONTAIN CONFIDENTIAL INFORMATION

To:	From:
Mike Hudson City Engineer City of Montclair 5111 Benito Street P.O. Box 2308 Montclair, CA 91763	Karen Jackson Overland, Pacific & Cutler, Inc. 2280 Market Street, Suite 340 Riverside, CA 92501 Phone: (951) 683-2353 Fax: (951) 683-3901

Attached documents support the following payment request(s):

<input type="checkbox"/>	Residential Moving Expenses	<input checked="" type="checkbox"/>	Business Moving Expense
<input type="checkbox"/>	Rental Assistance	<input type="checkbox"/>	Business Reestablishment
<input type="checkbox"/>	Downpayment Assistance	<input type="checkbox"/>	Business Site Searching
<input type="checkbox"/>	Periodic LRH Payment	<input type="checkbox"/>	Business In-Lieu
<input type="checkbox"/>	Purchase Price Differential	<input type="checkbox"/>	Fixtures and Equipment
<input type="checkbox"/>	Mortgage Interest Differential	<input type="checkbox"/>	All-Inclusive Settlement
<input type="checkbox"/>	Purchase Incidental Expenses	<input type="checkbox"/>	Security Deposit Return
<input type="checkbox"/>	Other Payment:		

Benefit check(s) are requested to be prepared as follows:

Chk	Payable To:	In the Amount:	Check Disposition:
1.	Carlos Perdomo	\$750.00	Hold for pick-up by OPC staff
2.			
3.			

Payment Advance/Final Status:	Notes:
<input type="checkbox"/> Advance Payment	
<input type="checkbox"/> Interim Payment	
<input checked="" type="checkbox"/> Final Payment	

Claim for Actual Reasonable Moving and Related Expenses

Business, Nonprofit Organizations and Farm Operations

INSTRUCTIONS: This claim is for the use of displaced businesses, nonprofit organizations, and farm operations that wish to apply for a PAYMENT FOR ACTUAL REASONABLE MOVING AND REESTABLISHMENT EXPENSES, rather than apply for a FIXED PAYMENT (which has a minimum of \$1,000.00 and a maximum of \$20,000.00). The Agency will explain the differences between the two payments. If you are eligible to choose either payment, the Agency representative will help you determine which is most advantageous, and will help you complete the form. If the full amount of your claim is not approved, the Agency will provide you with a written explanation of the reason. If you are not satisfied with the Agency's determination, you may appeal that determination. The Agency will explain how to make an appeal. This information is being collected under the authority of the Uniform Relocation Assistance and Real Property Policies Act (URA) and/or California Relocation Assistance Act.

FOR AGENCY USE ONLY	
Agency	City of Montclair
Project	Monte Vista Grade Separation
Case #	LIM-005-04848-003
Program Rules	OPC Claim Serial Number
<input checked="" type="checkbox"/> Federal <input type="checkbox"/> State <input type="checkbox"/> Other	RV010082

SECTION A: General

1. Name Under Which Claimant Conducts Operations Carlos Perdomo	2. Name, Title and Phone # of Person Filing Claim on Behalf of Claimant Carlos Perdomo
3a. Address From Which Claimant Moved 4848 W. Mission Blvd. Montclair, CA 91762	3b. Date First Occupied 6/1/2004
4a. Address to Which Claimant Moved 4201 State St. Montclair, CA 91763	3c. Date Move Started 10/6/2009
4b. Date Move Completed Pending	5. Is This a Final Claim? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
6. Type of Operation (Check One): <input checked="" type="checkbox"/> Business <input type="checkbox"/> Farm Operation <input type="checkbox"/> Nonprofit Operation	7. Type of Ownership (Check One): <i>Personal Property only</i> <input type="checkbox"/> Sole Proprietorship <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Nonprofit Org.

8. Computation of Payment		
ITEM	AMOUNT CLAIMED	FOR AGENCY USE ONLY
(1) Moving Expenses (from Section B)	\$750.00	
(2) Reestablishment Expenses (\$10,000 maximum, from Section C)	\$0.00	
(3) Reasonable Searching Expenses (Attach Schedule)	\$0.00	
(4) Storage Expenses (Attach Schedule)	\$0.00	
(5) Actual Direct Loss of Personal Property (Attach Schedule)	\$0.00	
(6) Other Expenses (attach explanation)	\$0.00	
(7) Total Amount Claimed (add lines (1) through (6))	\$750.00	
(8) Amount Previously Received for Expenses Claimed Here (If any)	\$0.00	
(9) Amount Requested (Line (7) minus Line (8))	\$750.00	

9. Certification by Claimant(s)
 WARNING: If you knowingly or deliberately make false statements on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition you may not receive any of the amounts claimed on this form. I CERTIFY that this claim and supporting information are true and complete, that I have not submitted any other claim for the expenses listed and that I have not been paid for the expenses by any other source. My choice of type of payment was made on the basis of full explanation by the displacing Agency representative of the difference between the two types of payments available and the eligibility for each.

Signature(s) of Claimant(s) or Claimant(s) Agent 	Title (Type or Print) <i>OW NEE</i>	Date <i>11-11-09</i>
--	--	-------------------------

FOR AGENCY USE ONLY				
Payment Action	Amount of Payment	Signature	Name (Type or Print)	Date
10. Recommended <i>mj</i>	\$750.00		Karen Jackson Senior Consultant	<i>10/16/09</i>
11. Approved				

SECTION B: Supporting Data for Moving Expenses (not included in Section C)					
Type of Work Performed (moving personal property, phone/utility reconnection, reprinting, etc.)	Name and Address of Contractor	Payment directly to Contractor?		AMOUNT CLAIMED	FOR AGENCY USE ONLY
		YES	NO		
(1) Self move Personal property	Shannon Bargston-Suddath Van Lines 802 S. Clementine, Anaheim, CA 92805		X	\$750.00	
(2)				\$0.00	
(3)				\$0.00	
(4)				\$0.00	
(5)				\$0.00	
(6)				\$0.00	
(7)				\$0.00	
(8)				\$0.00	
(9)				\$0.00	
(10) TOTAL MOVING EXPENSES (Enter this amount on Line (1) of Item 8, Section A)				\$750.00	
SECTION C: Determination of Reestablishment Expenses (not included in Section B)					
Type of Work Performed (repairs required by law or business operation, exterior signing, licenses/permits, etc.)	Name and Address of Contractor	Payment directly to Contractor?		AMOUNT CLAIMED	FOR AGENCY USE ONLY
		YES	NO		
(1)					
(2)					
(3)					
(4)					
(5)					
(6)					
(7)					
(8)					
(9) Estimated increased cost of operation during the first two years (lease/rent, taxes, insurance, utilities)					
(a) Monthly cost of operation at the displacement site			\$0.00		
(b) Monthly cost of operation at the replacement site			\$0.00		
(c) Monthly cost differential (line (9b) less line (9a))			\$0.00		
(d) Estimated cost differential over two years (line (9c) times 24)				\$0.00	
(10) TOTAL REESTABLISHMENT EXPENSES (Add lines (1) through (9)) Enter this amount, or \$10,000, whichever is less, on Line (2) of Item 8, Section A)				\$0.00	



It is hereby understood and agreed by Victor Castro (called here the "Claimant") and the City of Montclair (called here the "Displacing Agency") that the amount to be paid to the Claimant for the relocation of all equipment, stock, inventory, and other items of personal property itemized on the attached inventory (**Exhibit A**) and not acquired with the real property located at 4848 Mission Blvd., Montclair, CA 91762 ("Subject Property") to the replacement location at 4848 Mission Blvd., Montclair, CA 91762 ("Replacement Site") is **ONE THOUSAND ONE HUNDRED DOLLARS** (\$1,100.00). This payment is based on the amount of the lowest, most reasonable bid, attached hereto as **Exhibit B**.

The parties further agree as follows:

1. A check in the amount of \$1,100.00 will be released when a representative of Overland, Pacific & Cutler, Inc. the Displacing Agency's relocation representative has personally inspected the Subject/Displacement Property to verify completion of the move.
2. If upon inspection by a representative of Overland, Pacific & Cutler, Inc. any portion of the items on Exhibit "A" were not relocated to the Replacement Site for any reason whatsoever, an appropriate reduction in the agreed amount shall be made by the Displacing Agency.
3. The Claimant shall allow a representative of Overland, Pacific & Cutler, Inc. to monitor the move as it sees fit, and such monitoring shall not carry with it any liability or responsibility on the part of the Displacing Agency or Overland, Pacific & Cutler, Inc.
4. Neither the Displacing Agency nor any employee, officer, or agent thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by Claimant under or in connection with the agreement. It is also understood and agreed that the Claimant shall fully indemnify and hold the Displacing Agency and Overland, Pacific & Cutler, Inc. harmless for any liability imposed by injury or damage to property occurring by reason of anything done or omitted by Claimant in connection with this agreement.
5. In the event the actual cost of the move exceeds the amount agreed upon above, only those additional costs which can be shown to have been actually required in order to complete the move will, within certain limitations, be reimbursed. In this event, the actual cost of the entire move must be itemized and documented in support of the claim. All moving expense records are subject to review and audit by a representative of the Displacing Agency.

This agreement does not include specialized and related moving costs which are to be performed by others. These costs will be handled under a separate claim upon completion of the work and presentation of itemized paid bills. Such specialized and related moving costs may include the following:

None

Victor CASTRO
Victor Castro

Victor Castro
Signature

11/11/09
Date

Recommended:

Overland, Pacific & Cutler, Inc.

Approved:

City of Montclair

Karen Jackson
Karen Jackson

Lee C. McDougal, City Manager

Mark LaBonte
Mark LaBonte

Date

Attachments

EXHIBIT "A"

The following items require relocation and have not been acquired with the real property in conjunction with the acquisition of the Subject Property.

Please list and describe all items to be relocated:

25 Cars
(Please see attached photo)

I certify under the penalty of perjury that the above listed items are personal property owned by me and are to be relocated to the Replacement Site.

Dated: 11/11/09

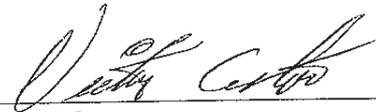
By: 
Victor Castro

Exhibit "A"



victor castio

EXHIBIT "B"

LOWEST, MOST REASONABLE MOVING BID

Please see attached moving bid

Estimate Prepared For: Victor Castro

Estimate/Order For Service

Agent Suddath Relocation Systems
 14221 Artesia Blvd.
 La Mirada, CA 90638
 562-404-7794
 562-483-7845
 sbargsten@suddath.com

Sales Person
 Shannon Bargsten
 sbargsten@suddath.com

Origin Information	Destination Information	Service Information
Shipper: Victor Castro Address: 4848 W Mission Blvd Address 2: City St. Zip: Ontario, CA 91762 County: San Bernardino Phone(H): 909-591-8413 Phone(W): 909-620-4160 Email: kjackson@opcservices.com	Shipper: Victor Castro Address: Address 2: City St. Zip: Ontario, CA 91762 County: San Bernardino Phone(H): _____ Phone(W): _____	Order No: Estimate Date: 7/27/2009 Pack Date: Load Date: Deliver Date:
Tariff: Local	Effective Date: 7/27/2009	Estimate Weight: 0

Additional Charges

Service Description

Moving 10 cars on site	\$500.00
Moving 3 work truck on site	\$300.00
Moving 2 box van and 1 small work cart on site	\$300.00

Total Miscellaneous: \$1,100.00

Local Additional Charges: **\$1,100.00**

Total Estimated Costs: \$1,100.00

Valuation Options	Listed below are the minimum Valuation Options that are offered and the total price for the move with each option.		
	Type	Charge	Total
currently applied	0.60/lb	\$0	\$1,100.00
	3.50/lb - \$0.00	\$0.00	\$1,100.00
	FVP \$0 - \$0.00	\$0.00	\$1,100.00
	FVP \$250 - \$0.00	\$0.00	\$1,100.00
	FVP \$500 - \$0.00	\$0.00	\$1,100.00

Signature of Salesperson

Date

Signature of Consumer

Date



Claim Transmittal and Check Request

Claimant: Victor Castro	Agency: City of Montclair
Address: 4848 Mission Blvd., Montclair, CA	Project: Monte Vista Grade Separation Project
Case ID: LIM-005-04848-013	Consultant: Karen Jackson
Date:	THE ATTACHED DOCUMENTS MAY CONTAIN CONFIDENTIAL INFORMATION

To:	From:
Mike Hudson City Engineer City of Montclair 5111 Benito Street P.O. Box 2308 Montclair, CA 91763	Karen Jackson Overland, Pacific & Cutler, Inc. 2280 Market Street, Suite 340 Riverside, CA 92501 Phone: (951) 683-2353 Fax: (951) 683-3901

Attached documents support the following payment request(s):

<input type="checkbox"/>	Residential Moving Expenses	<input checked="" type="checkbox"/>	Business Moving Expense
<input type="checkbox"/>	Rental Assistance	<input type="checkbox"/>	Business Reestablishment
<input type="checkbox"/>	Downpayment Assistance	<input type="checkbox"/>	Business Site Searching
<input type="checkbox"/>	Periodic LRH Payment	<input type="checkbox"/>	Business In-Lieu
<input type="checkbox"/>	Purchase Price Differential	<input type="checkbox"/>	Fixtures and Equipment
<input type="checkbox"/>	Mortgage Interest Differential	<input type="checkbox"/>	All-Inclusive Settlement
<input type="checkbox"/>	Purchase Incidental Expenses	<input type="checkbox"/>	Security Deposit Return
<input type="checkbox"/>	Other Payment:		

Benefit check(s) are requested to be prepared as follows:

Chk	Payable To:	In the Amount:	Check Disposition:
1.	Victor Castro	\$1,100.00	Hold for pick-up by OPC staff
2.			
3.			

Payment Advance/Final Status:	Notes:
<input type="checkbox"/> Advance Payment	
<input type="checkbox"/> Interim Payment	
<input checked="" type="checkbox"/> Final Payment	

Claim for Actual Reasonable Moving and Related Expenses

Business, Nonprofit Organizations and Farm Operations

INSTRUCTIONS: This claim form is for the use of displaced businesses, nonprofit organizations, and farm operations that wish to apply for a PAYMENT FOR ACTUAL REASONABLE MOVING AND REESTABLISHMENT EXPENSES, rather than apply for a FIXED PAYMENT (which has a minimum of \$1,000.00 and a maximum of \$20,000.00). The Agency will explain the differences between the two payments. If you are eligible to choose either payment, the Agency representative will help you determine which is most advantageous, and will help you complete the form. If the full amount of your claim is not approved, the Agency will provide you with a written explanation of the reason. If you are not satisfied with the Agency's determination, you may appeal that determination. The Agency will explain how to make an appeal. This information is being collected under the authority of the Uniform Relocation Assistance and Real Property Policies Act (URA) and/or California Relocation Assistance Act.

FOR AGENCY USE ONLY	
Agency	City of Montclair
Project	Monte Vista Grade Separation
Case #	LIM-005-04848-013
Program Rules	OPC Claim Serial Number
<input checked="" type="checkbox"/> Federal <input type="checkbox"/> State <input type="checkbox"/> Other	RV010091

SECTION A - General

<p>1. Name Under Which Claimant Conducts Operations Victor Castro</p>	<p>2. Name, Title and Phone # of Person Filing Claim on Behalf of Claimant Victor Castro</p>
<p>3a. Address From Which Claimant Moved 4848 Mission Blvd. Montclair, CA 91762</p>	<p>3b. Date First Occupied 11/1/2004</p> <p>3c. Date Move Started 5/1/2009</p>
<p>4a. Address to Which Claimant Moved 4848 Mission Blvd. Montclair, CA 91762</p>	<p>4b. Date Move Completed 5/12/2009</p> <p>5. Is This a Final Claim? [X] Yes [] No</p>
<p>6. Type of Operation (Check One): [X] Business [] Farm Operation [] Nonprofit Operation</p>	<p>7. Type of Ownership (Check One): Personal Property only [] Sole Propriet. [X] Corporation [] Partnership [] Nonprofit Org.</p>

8. Computation of Payment		
ITEM	AMOUNT CLAIMED	FOR AGENCY USE ONLY
(1) Moving Expenses (from Section B)	\$1,100.00	
(2) Reestablishment Expenses (\$10,000 maximum, from Section C)	\$0.00	
(3) Reasonable Searching Expenses (Attach Schedule)	\$0.00	
(4) Storage Expenses (Attach Schedule)	\$0.00	
(5) Actual Direct Loss of Personal Property (Attach Schedule)	\$0.00	
(6) Other Expenses (attach explanation)	\$0.00	
(7) Total Amount Claimed (add lines (1) through (6))	\$1,100.00	
(8) Amount Previously Received for Expenses Claimed Here (If any)	\$0.00	
(9) Amount Requested (Line (7) minus Line (8))	\$1,100.00	

9. Certification by Claimant(s)
 WARNING: If you knowingly or deliberately make false statements on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition you may not receive any of the amounts claimed on this form. I CERTIFY that this claim and supporting information are true and complete, that I have not submitted any other claim for the expenses listed and that I have not been paid for the expenses by any other source. My choice of type of payment was made on the basis of full explanation by the displacing Agency representative of the difference between the two types of payments available and the eligibility for each.

Signature(s) of Claimant(s) or Claimant(s) Agent 	Title (Type or Print) OWNER	Date 11/11/09.
--	---------------------------------------	--------------------------

FOR AGENCY USE ONLY				
Payment Action	Amount of Payment	Signature	Name (Type or Print)	Date
10. Recommended WJ	\$1,100.00		Karen Jackson Senior Consultant	11/11/09
11. Approved				

SECTION B: Supporting Data for Moving Expenses (not included in Section C)					
Type of Work Performed (moving personal property, phone/utility reconnection, reprinting, etc.)	Name and Address of Contractor	Payment directly to Contractor?		AMOUNT CLAIMED	FOR AGENCY USE ONLY
		YES	NO		
(1) Self move Personal property	Shannon Bargston-Suddath Van Lines 802 S. Clementine, Anaheim, CA 92805		X	\$1,100.00	
(2)				\$0.00	
(3)				\$0.00	
(4)				\$0.00	
(5)				\$0.00	
(6)				\$0.00	
(7)				\$0.00	
(8)				\$0.00	
(9)				\$0.00	
(10) TOTAL MOVING EXPENSES (Enter this amount on Line (1) of Item 8, Section A)				\$1,100.00	

SECTION C: Determination of Reestablishment Expenses (not included in Section B)					
Type of Work Performed (repairs required by law or business operation, exterior signing, licenses/permits, etc.)	Name and Address of Contractor	Payment directly to Contractor?		AMOUNT CLAIMED	FOR AGENCY USE ONLY
		YES	NO		
(1)					
(2)					
(3)					
(4)					
(5)					
(6)					
(7)					
(8)					
(9) Estimated increased cost of operation during the first two years (lease/rent, taxes, insurance, utilities)					
(a) Monthly cost of operation at the displacement site			\$0.00		
(b) Monthly cost of operation at the replacement site			\$0.00		
(c) Monthly cost differential (line (9b) less line (9a))			\$0.00		
(d) Estimated cost differential over two years (line (9c) times 24)				\$0.00	
(10) TOTAL REESTABLISHMENT EXPENSES (Add lines (1) through (9)) Enter this amount, or \$10,000, whichever is less, on Line (2) of Item 8, Section A)				\$0.00	



It is hereby understood and agreed by Tom Beller (called here the "Claimant") and the City of Montclair (called here the "Displacing Agency") that the amount to be paid to the Claimant for the relocation of all equipment, stock, inventory, and other items of personal property as seen on the attached photos (**Exhibit A**) and not acquired with the real property located at 4848 Mission Blvd., Montclair, CA 91762 ("Subject Property") to the replacement location at 4848 Mission Blvd., Montclair, CA 91762 ("Replacement Site") is **TEN THOUSAND TWO HUNDRED FIFTY EIGHT DOLLARS AND SEVENTY FIVE CENTS (\$10,258.75)**. This payment is based on the amount of the lowest, most reasonable bid, attached hereto as **Exhibit B**.

The parties further agree as follows:

1. In order to facilitate the move, the Displacing Agency will process one check for half of the total moving payment in the amount of \$5,129.37 which will be delivered by a representative of Overland, Pacific & Cutler, Inc.
2. The final check in the amount of \$5,129.38 will be released when a representative of Overland, Pacific & Cutler, Inc. the Displacing Agency's relocation representative has personally inspected the Subject/Displacement Property to verify completion of the move.
3. If upon inspection by a representative of Overland, Pacific & Cutler, Inc. any portion of the items on Exhibit "A" were not relocated to the Replacement Site for any reason whatsoever, an appropriate reduction in the agreed amount shall be made by the Displacing Agency.
4. The Claimant shall allow a representative of Overland, Pacific & Cutler, Inc. to monitor the move as it sees fit, and such monitoring shall not carry with it any liability or responsibility on the part of the Displacing Agency or Overland, Pacific & Cutler, Inc.
5. Neither the Displacing Agency nor any employee, officer, or agent thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by Claimant under or in connection with the agreement. It is also understood and agreed that the Claimant shall fully indemnify and hold the Displacing Agency and Overland, Pacific & Cutler, Inc. harmless for any liability imposed by injury or damage to property occurring by reason of anything done or omitted by Claimant in connection with this agreement.
6. In the event the actual cost of the move exceeds the amount agreed upon above, only those additional costs which can be shown to have been actually required in order to complete the move will, within certain limitations, be reimbursed. In this event, the actual cost of the entire move must be itemized and documented in support of the claim. All moving expense records are subject to review and audit by a representative of the Displacing Agency.

This agreement does not include specialized and related moving costs which are to be performed by others. These costs will be handled under a separate claim upon completion of the work and presentation of itemized paid bills. Such specialized and related moving costs may include the following:

None

TOM BELLER
Tom Beller

Thomas Beller
Signature

11-11-09
Date

Recommended:

Overland, Pacific & Cutler, Inc.

Karen Jackson
Karen Jackson

Mark LaBonte
Mark LaBonte

Approved:

City of Montclair

Lee C. McDougal, City Manager

Date

Attachments

EXHIBIT "A"

The following items require relocation and have not been acquired with the real property in conjunction with the acquisition of the Subject Property.

Please list and describe all items to be relocated:

Please see attached Photos

I certify under the penalty of perjury that the above listed items are personal property owned by me and are to be relocated to the Replacement Site.

Dated: 11-11-09

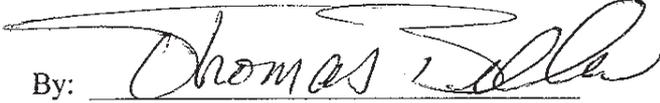
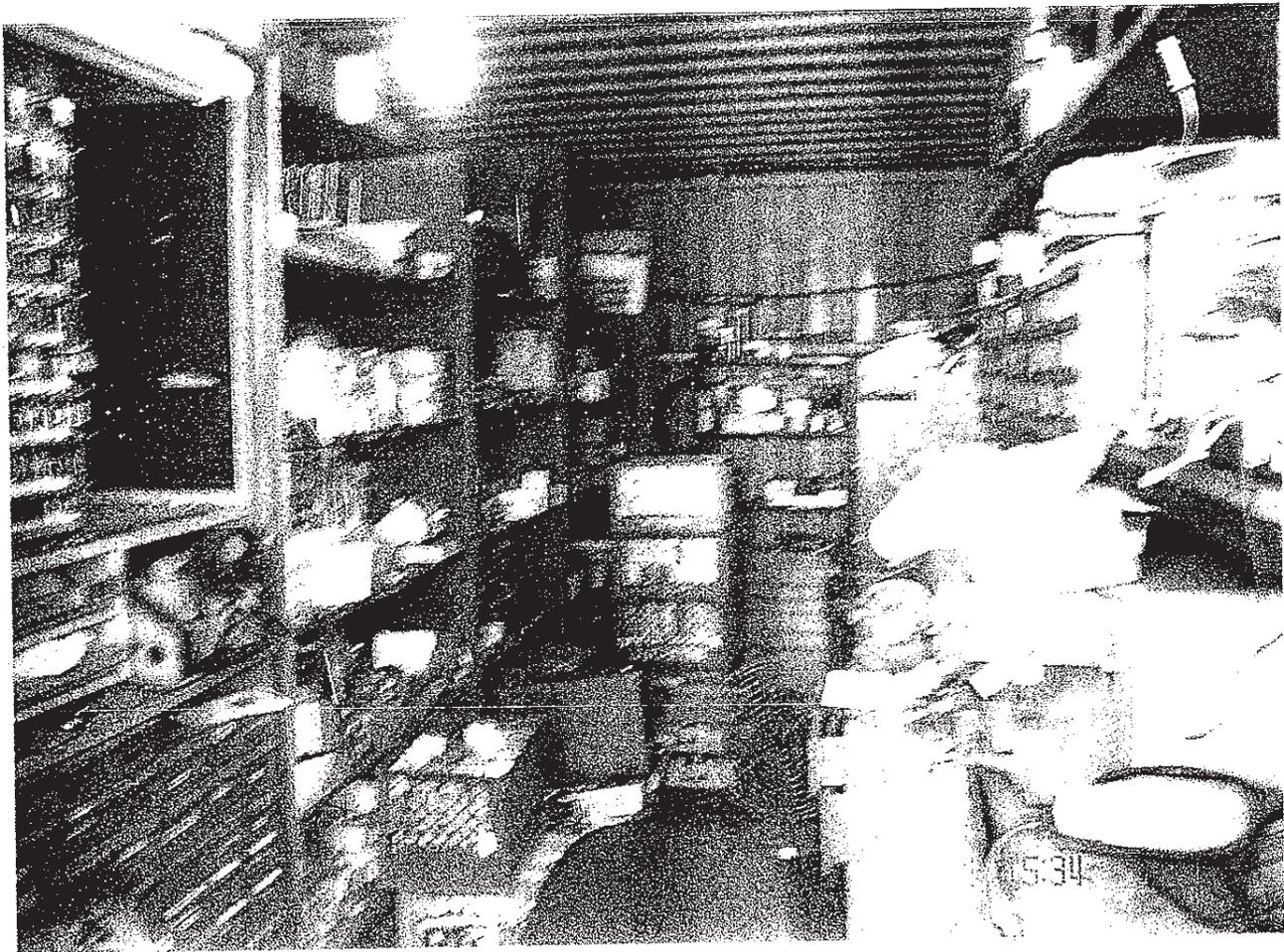
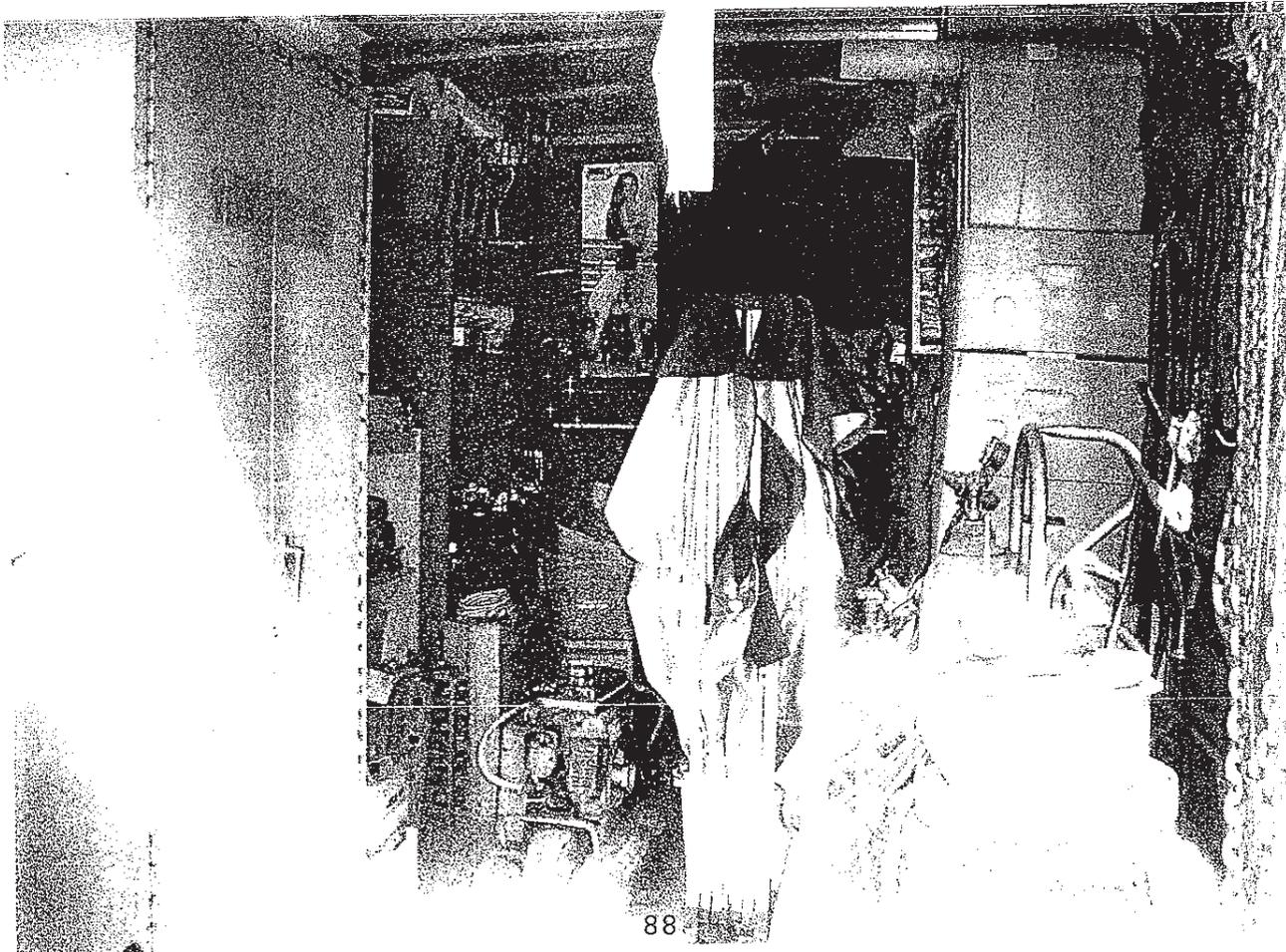
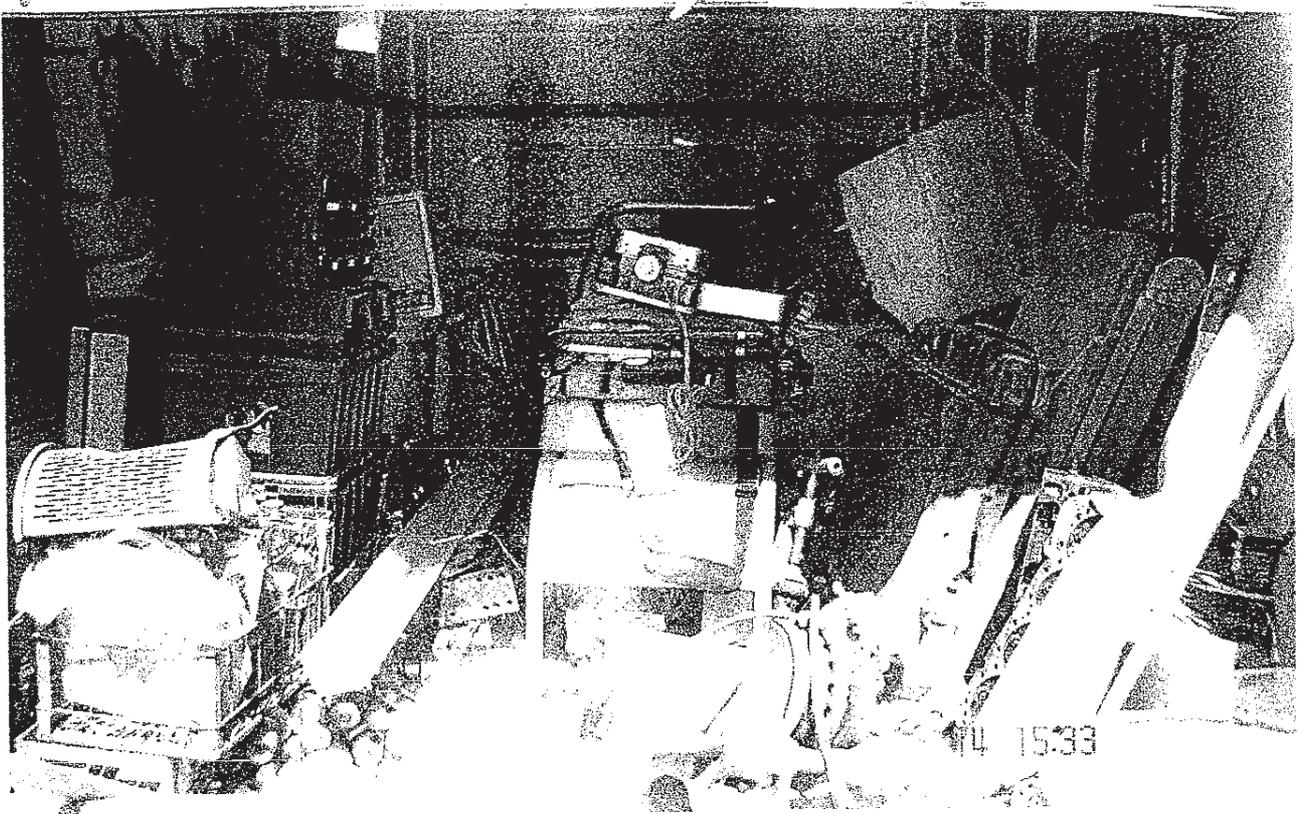
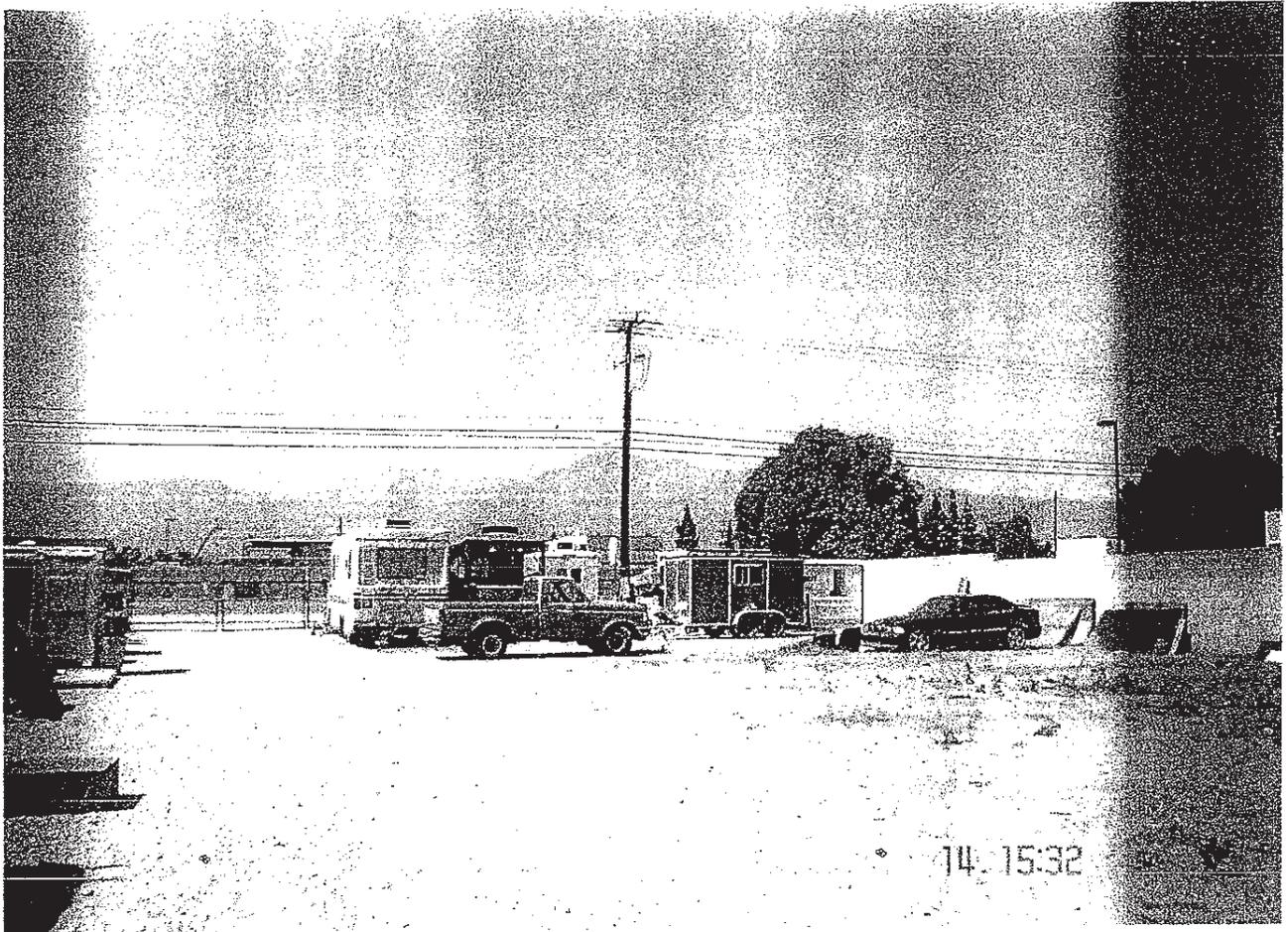
By: 
Tom Beller

Exhibit "A"









Tom Beller

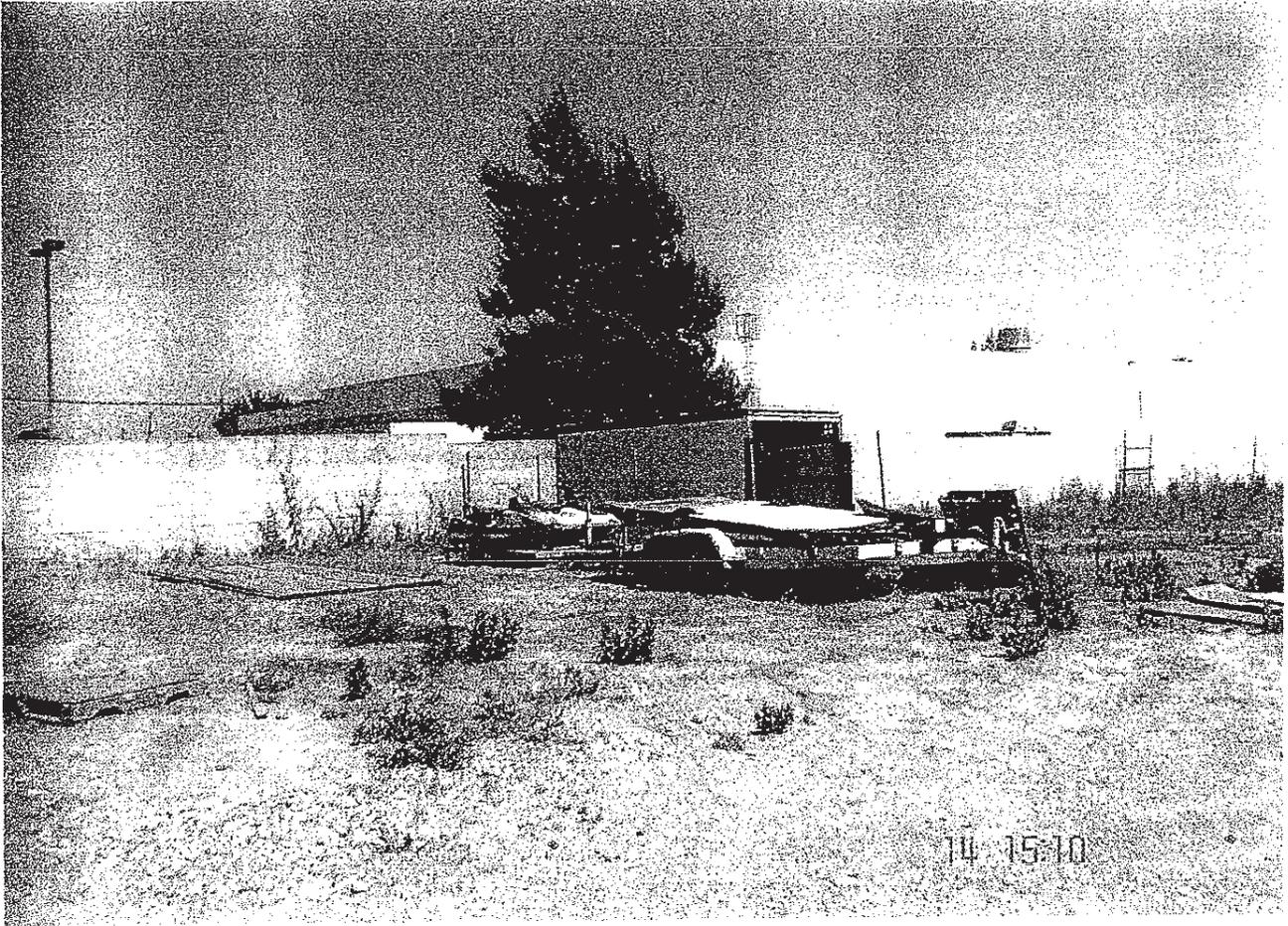


EXHIBIT "B"

LOWEST, MOST REASONABLE MOVING BID

Please see attached moving bid

Estimate Prepared For: Tom Beller

Estimate/Order For Service

Agent Suddath Relocation Systems
 14221 Artesia Blvd.
 La Mirada, CA 90638
 562-404-7794
 562-483-7845
 sbargsten@suddath.com

Sales Person
 Shannon Bargsten
 sbargsten@suddath.com

Origin Information	Destination Information	Service Information
Shipper: Tom Beller Address: 4848 W Mission BV Address 2: City St. Zip: Ontario, CA 91762 County: San Bernardino Phone(H): 909-238-5815 Phone(W): Email: kjackson@opcservices.com	Shipper: Tom Beller Address: Address 2: City St. Zip: Ontario, CA 91762 County: San Bernardino Phone(H): _____ Phone(W): _____	Order No: Estimate Date: 11/9/2009 Pack Date: Load Date: Deliver Date:

Tariff: Local	Effective Date: 11/9/2009	Estimated Weight: 25000
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Local Moving Charges

6 Mover(s), 2 Van(s), 30 Hour(s). Hourly Rate: \$220.00

Local Moving Charges: \$6,600.00

Local Packing Charges

Article	Qty	Cost Ea.	Cost
3.0 cu ft	100	\$10.29	\$1,029.00
SubTotal:			\$1,029.00
			Tax: \$79.75

Packing Total: \$1,108.75

Additional Charges

Service Description

Fork lift and driver 30hr \$2,250.00

Total Miscellaneous: \$2,250.00

Local Fuel Charge \$300.00

Fuel Charge Total: \$300.00

Local Additional Charges: \$2,550.00

Total Estimated Costs: \$10,258.75

Valuation Options	Listed below are the minimum Valuation Options that are offered and the total price for the move with each option.		
	Type	Charge	Total
currently applied	0.60/lb	\$0	\$10,258.75
	3.50/lb - \$87,500.00	\$0.00	\$10,258.75
	FVP \$0 - \$125,000.00	\$0.00	\$10,258.75
	FVP \$250 - \$125,000.00	\$0.00	\$10,258.75
	FVP \$500 - \$125,000.00	\$0.00	\$10,258.75

Signature of Salesperson

Date

Signature of Consumer

Date

Claim Transmittal and Check Request	
Claimant: Tom Beller	Agency: City of Montclair
Address: 4848 Mission Blvd., Montclair, CA	Project: Monte Vista Grade Separation Project
Case ID: LIM-005-04848-002	Consultant: Karen Jackson
Date:	THE ATTACHED DOCUMENTS MAY CONTAIN CONFIDENTIAL INFORMATION

To:	From:
Mike Hudson City Engineer City of Montclair 5111 Benito Street P.O. Box 2308 Montclair, CA 91763	Karen Jackson Overland, Pacific & Cutler, Inc. 2280 Market Street, Suite 340 Riverside, CA 92501 Phone: (951) 683-2353 Fax: (951) 683-3901

Attached documents support the following payment request(s).		
<input type="checkbox"/>	Residential Moving Expenses	<input checked="" type="checkbox"/> Business Moving Expense
<input type="checkbox"/>	Rental Assistance	<input type="checkbox"/> Business Reestablishment
<input type="checkbox"/>	Downpayment Assistance	<input type="checkbox"/> Business Site Searching
<input type="checkbox"/>	Periodic LRH Payment	<input type="checkbox"/> Business In-Lieu
<input type="checkbox"/>	Purchase Price Differential	<input type="checkbox"/> Fixtures and Equipment
<input type="checkbox"/>	Mortgage Interest Differential	<input type="checkbox"/> All-Inclusive Settlement
<input type="checkbox"/>	Purchase Incidental Expenses	<input type="checkbox"/> Security Deposit Return
<input type="checkbox"/>	Other Payment:	

Benefit check(s) are requested to be prepared as follows:			
Chk	Payable To:	In the Amount:	Check Disposition:
1.	Tom Beller	\$5,129.38	Hold for pick-up by OPC staff
2.	Tom Beller	\$5,129.37	
3.			

Payment Advance/Final Status:	Notes:
<input type="checkbox"/> Advance Payment	
<input type="checkbox"/> Interim Payment	
<input checked="" type="checkbox"/> Final Payment	

Claim for Actual Reasonable Moving and Related Expenses

Business, Nonprofit Organizations and Farm Operations

INSTRUCTIONS: This claim is for the use of displaced businesses, nonprofit organizations, and farm operations that wish to apply for a PAYMENT FOR ACTUAL REASONABLE MOVING AND REESTABLISHMENT EXPENSES, rather than apply for a FIXED PAYMENT (which has a minimum of \$1,000.00 and a maximum of \$20,000.00). The Agency will explain the differences between the two payments. If you are eligible to choose either payment, the Agency representative will help you determine which is most advantageous, and will help you complete the form. If the full amount of your claim is not approved, the Agency will provide you with a written explanation of the reason. If you are not satisfied with the Agency's determination, you may appeal that determination. The Agency will explain how to make an appeal. This information is being collected under the authority of the Uniform Relocation Assistance and Real Property Policies Act (URA) and/or California Relocation Assistance Act.

FOR AGENCY USE ONLY	
Agency	City of Montclair
Project	Monte Vista Grade Separation
Case #	LIM-005-04848-002
Program Rules	OPC Claim Serial Number
<input checked="" type="checkbox"/> Federal <input type="checkbox"/> State <input type="checkbox"/> Other	RV010092

SECTION A - General

1. Name Under Which Claimant Conducts Operations Tom Beller	2. Name, Title and Phone # of Person Filing Claim on Behalf of Claimant Tom Beller
3a. Address From Which Claimant Moved 4848 Mission Blvd. Montclair, CA 91762	3b. Date First Occupied 6/1/1998
4a. Address to Which Claimant Moved 4848 Mission Blvd. Montclair, CA 91762	3c. Date Move Started 10/1/2009
4b. Date Move Completed Pending	5. Is This a Final Claim? [X] Yes [] No
6. Type of Operation (Check One): <input checked="" type="checkbox"/> Business <input type="checkbox"/> Farm Operation <input type="checkbox"/> Nonprofit Operation	7. Type of Ownership (Check One): <i>Personal Property only</i> <input type="checkbox"/> Sole Propriet. <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Nonprofit Org.

8. Computation of Payment

ITEM	AMOUNT CLAIMED	FOR AGENCY USE ONLY
(1) Moving Expenses (from Section B)	\$10,258.75	
(2) Reestablishment Expenses (\$10,000 maximum, from Section C)	\$0.00	
(3) Reasonable Searching Expenses (Attach Schedule)	\$0.00	
(4) Storage Expenses (Attach Schedule)	\$0.00	
(5) Actual Direct Loss of Personal Property (Attach Schedule)	\$0.00	
(6) Other Expenses (attach explanation)	\$0.00	
(7) Total Amount Claimed (add lines (1) through (6))	\$10,258.75	
(8) Amount Previously Received for Expenses Claimed Here (If any)	\$0.00	
(9) Amount Requested (Line (7) minus Line (8))	\$10,258.75	

9. Certification by Claimant(s)
 WARNING: If you knowingly or deliberately make false statements on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition you may not receive any of the amounts claimed on this form. I CERTIFY that this claim and supporting information are true and complete, that I have not submitted any other claim for the expenses listed and that I have not been paid for the expenses by any other source. My choice of type of payment was made on the basis of full explanation by the displacing Agency representative of the difference between the two types of payments available and the eligibility for each.

Signature(s) of Claimant(s) or Claimant(s) Agent <i>Thomas Beller</i>	Title (Type or Print) OWNER	Date 11-11-09
--	--------------------------------	------------------

FOR AGENCY USE ONLY

Payment Action	Amount of Payment	Signature	Name (Type or Print)	Date
10. Recommended <i>my</i>	\$10,258.75	<i>Karen Jackson</i>	Karen Jackson Senior Consultant	11/11/09
11. Approved				

SECTION B: Supporting Data for Moving Expenses (not included in Section C)					
Type of Work Performed (moving personal property, phone/utility reconnection, reprinting, etc.)	Name and Address of Contractor	Payment directly to Contractor?		AMOUNT CLAIMED	FOR AGENCY USE ONLY
		YES	NO		
(1) Self move Personal property	Shannon Bargston-Suddath Van Lines 802 S. Clementine, Anaheim, CA 92805		X	\$10,258.75	
(2)				\$0.00	
(3)				\$0.00	
(4)				\$0.00	
(5)				\$0.00	
(6)				\$0.00	
(7)				\$0.00	
(8)				\$0.00	
(9)				\$0.00	
(10) TOTAL MOVING EXPENSES (Enter this amount on Line (1) of Item 8, Section A)				\$10,258.75	
SECTION C: Determination of Reestablishment Expenses (not included in Section B)					
Type of Work Performed (repairs required by law or business operation, exterior signing, licenses/permits, etc.)	Name and Address of Contractor	Payment directly to Contractor?		AMOUNT CLAIMED	FOR AGENCY USE ONLY
		YES	NO		
(1)					
(2)					
(3)					
(4)					
(5)					
(6)					
(7)					
(8)					
(9) Estimated increased cost of operation during the first two years (lease/rent, taxes, insurance, utilities)					
(a) Monthly cost of operation at the displacement site				\$0.00	
(b) Monthly cost of operation at the replacement site				\$0.00	
(c) Monthly cost differential (line (9b) less line (9a))				\$0.00	
(d) Estimated cost differential over two years (line (9c) times 24)				\$0.00	
(10) TOTAL REESTABLISHMENT EXPENSES (Add lines (1) through (9)) Enter this amount, or \$10,000, whichever is less, on Line (2) of Item 8, Section A)				\$0.00	



It is hereby understood and agreed by Albert Weir (called here the "Claimant") and the City of Montclair (called here the "Displacing Agency") that the amount to be paid to the Claimant for the relocation of all equipment, stock, inventory, and other items of personal property as seen on the attached photos (**Exhibit A**) and not acquired with the real property located at 4848 Mission Blvd., Montclair, CA 91762 ("Subject Property") to the replacement location at 22180 Wren St., Apple Valley, CA 92308 ("Replacement Site") is **TWO THOUSAND FIFTY FIVE DOLLARS** (\$2,055.00). This payment is based on the amount of the lowest, most reasonable bid, attached hereto as **Exhibit B**.

The parties further agree as follows:

1. In order to facilitate the move, the Displacing Agency will process one check for half of the total moving payment in the amount of \$1,027.50 which will be delivered by a representative of Overland, Pacific & Cutler, Inc.
2. The final check in the amount of \$1,027.50 will be released when a representative of Overland, Pacific & Cutler, Inc. the Displacing Agency's relocation representative has personally inspected the Subject/Displacement Property to verify completion of the move.
3. If upon inspection by a representative of Overland, Pacific & Cutler, Inc. any portion of the items on Exhibit "A" were not relocated to the Replacement Site for any reason whatsoever, an appropriate reduction in the agreed amount shall be made by the Displacing Agency.
4. The Claimant shall allow a representative of Overland, Pacific & Cutler, Inc. to monitor the move as it sees fit, and such monitoring shall not carry with it any liability or responsibility on the part of the Displacing Agency or Overland, Pacific & Cutler, Inc.
5. Neither the Displacing Agency nor any employee, officer, or agent thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by Claimant under or in connection with the agreement. It is also understood and agreed that the Claimant shall fully indemnify and hold the Displacing Agency and Overland, Pacific & Cutler, Inc. harmless for any liability imposed by injury or damage to property occurring by reason of anything done or omitted by Claimant in connection with this agreement.
6. In the event the actual cost of the move exceeds the amount agreed upon above, only those additional costs which can be shown to have been actually required in order to complete the move will, within certain limitations, be reimbursed. In this event, the actual cost of the entire move must be itemized and documented in support of the claim. All moving expense records are subject to review and audit by a representative of the Displacing Agency.

EXHIBIT "A"

The following items require relocation and have not been acquired with the real property in conjunction with the acquisition of the Subject Property.

Please list and describe all items to be relocated:

Please see attached Photos

I certify under the penalty of perjury that the above listed items are personal property owned by me and are to be relocated to the Replacement Site.

Dated: 10/27/09

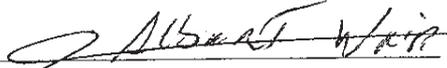
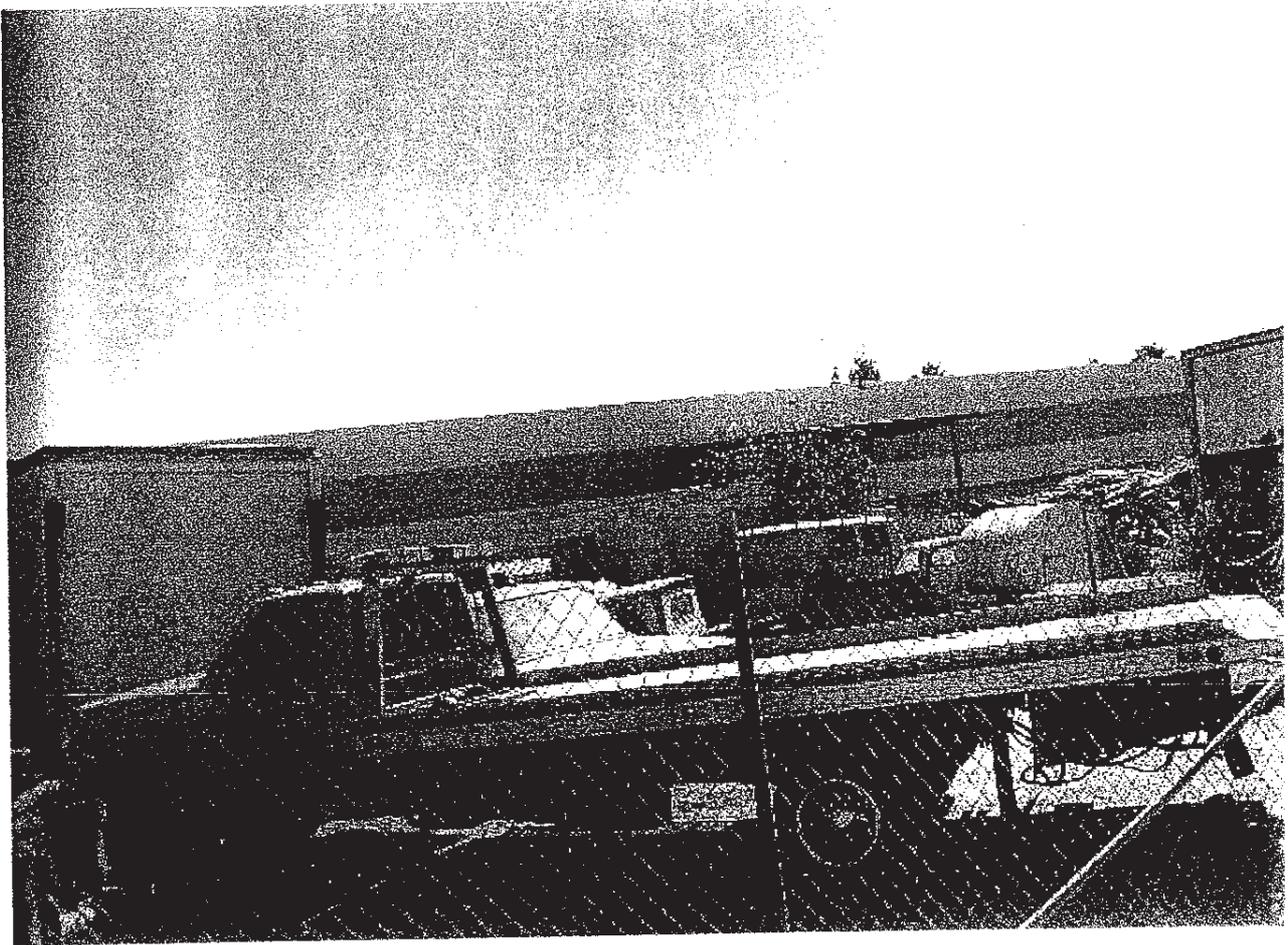
By: 
Albert Weir

Exhibit "A"



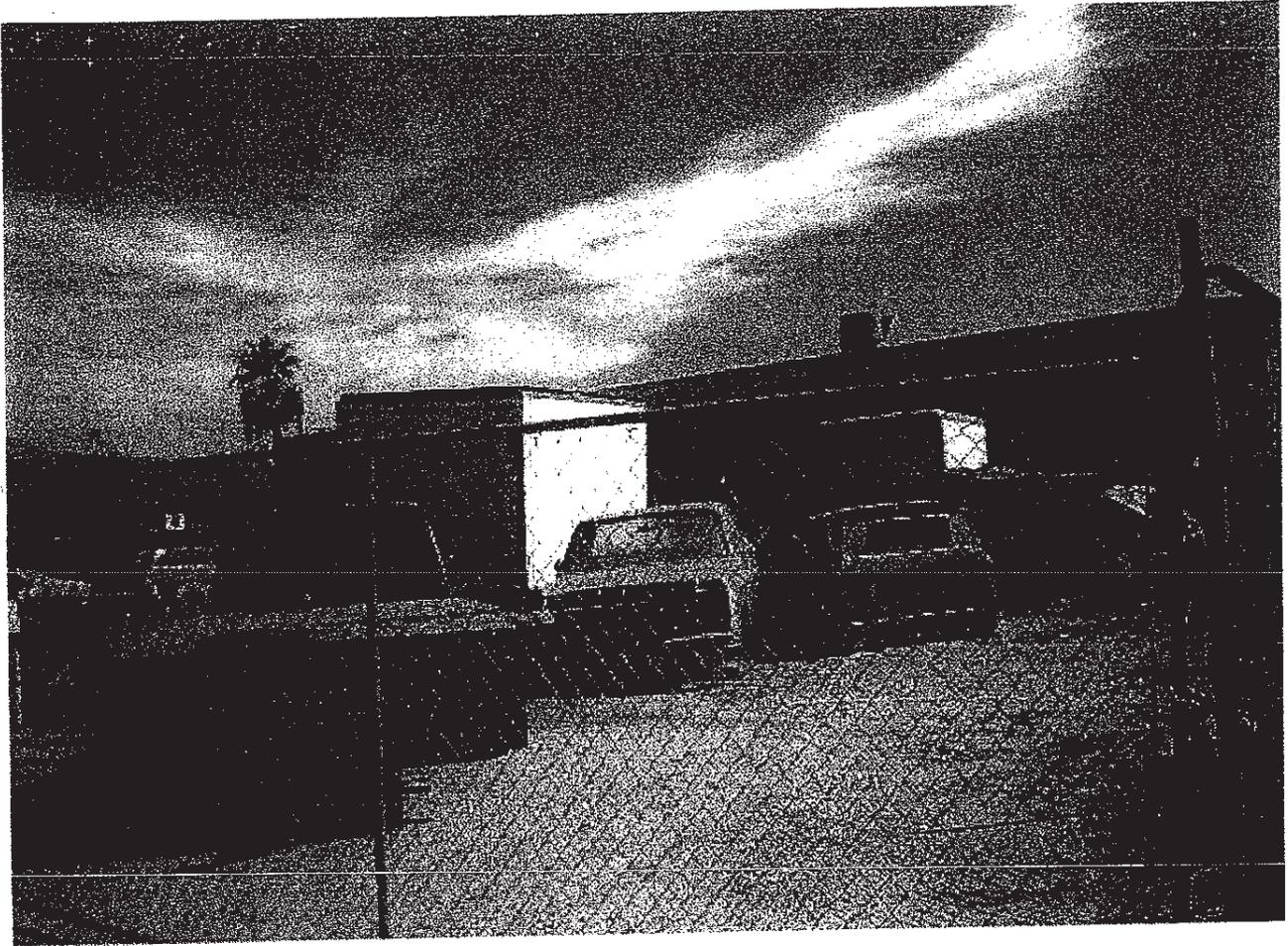


EXHIBIT "B"

LOWEST, MOST REASONABLE MOVING BID

Please see attached moving bid

Estimate Prepared For: Albert Weir

Estimate/Order For Service

Agent Suddath Relocation Systems
 14221 Artesia Blvd.
 La Mirada, CA 90638
 562-404-7794
 562-483-7845
 sbargsten@suddath.com

Sales Person
 Shannon Bargsten
 sbargsten@suddath.com

Origin Information		Destination Information		Service Information	
Shipper:	Albert Weir	Shipper:	Albert Weir	Order No:	
Address:	4848 W Mission Blvd	Address:		Estimate Date:	7/23/2009
Address 2:		Address 2:		Pack Date:	
City St. Zip:	Ontario, CA 91762	City St. Zip:	Ontario, CA 91762	Load Date:	
County:	San Bernardino	County:	San Bernardino	Deliver Date:	
Phone(H):	_____	Phone(H):	_____		
Phone(W):	_____	Phone(W):	_____		
Email:	kjackson@opcservices.com				
Tariff: Local		Effective Date: 7/23/2009		Estimated Weight: 6000	

Local Moving Charges

3 Mover(s), 1 Van(s), 7 Hour(s). Hourly Rate: \$110.00
 Travel Time: 1 hours. Hourly Rate: \$110.00 per hour

Local Moving Charges: \$880.00

Additional Charges

Service Description

Moving 3 bobtale 1 truck 2tralor 1 car boddy 1 fork lift \$1,150.00

Total Miscellaneous: \$1,150.00

Local Fuel Charge \$25.00

Fuel Charge Total: \$25.00

Local Additional Charges: \$1,175.00

Total Estimated Costs: \$2,055.00

Valuation Options	Listed below are the minimum Valuation Options that are offered and the total price for the move with each option.		
	Type	Charge	Total
currently applied	0.60/lb	\$0	\$2,055.00
	3.50/lb - \$21,000.00	\$0.00	\$2,055.00
	FVP \$0 - \$30,000.00	\$0.00	\$2,055.00
	FVP \$250 - \$30,000.00	\$0.00	\$2,055.00
	FVP \$500 - \$30,000.00	\$0.00	\$2,055.00

Signature of Salesperson

Date

Signature of Consumer

Date



Claim Transmittal and Check Request

Claimant: Albert Weir	Agency: City of Montclair
Address: 4848 Mission Blvd., Montclair, CA	Project: Monte Vista Grade Separation Project
Case ID: LIM-005-04848-008	Consultant: Karen Jackson
Date:	THE ATTACHED DOCUMENTS MAY CONTAIN CONFIDENTIAL INFORMATION

To:	From:
Mike Hudson City Engineer City of Montclair 5111 Benito Street P.O. Box 2308 Montclair, CA 91763	Karen Jackson Overland, Pacific & Cutler, Inc. 2280 Market Street, Suite 340 Riverside, CA 92501 Phone: (951) 683-2353 Fax: (951) 683-3901

Attached documents support the following payment request(s):		
<input type="checkbox"/>	Residential Moving Expenses	<input checked="" type="checkbox"/> Business Moving Expense
<input type="checkbox"/>	Rental Assistance	<input type="checkbox"/> Business Reestablishment
<input type="checkbox"/>	Downpayment Assistance	<input type="checkbox"/> Business Site Searching
<input type="checkbox"/>	Periodic LRH Payment	<input type="checkbox"/> Business In-Lieu
<input type="checkbox"/>	Purchase Price Differential	<input type="checkbox"/> Fixtures and Equipment
<input type="checkbox"/>	Mortgage Interest Differential	<input type="checkbox"/> All-Inclusive Settlement
<input type="checkbox"/>	Purchase Incidental Expenses	<input type="checkbox"/> Security Deposit Return
<input type="checkbox"/>	Other Payment:	

Benefit check(s) are requested to be prepared as follows:			
Chk	Payable To:	In the Amount:	Check Disposition:
1.	Albert Weir	\$2,055.00	Hold for pick-up by OPC staff
2.			
3.			

Payment Advance/Final Status:		Notes:
<input type="checkbox"/>	Advance Payment	
<input type="checkbox"/>	Interim Payment	
<input checked="" type="checkbox"/>	Final Payment	

Claim for Actual Reasonable Moving and Related Expenses

Business, Nonprofit Organizations and Farm Operations

INSTRUCTIONS: This claim form is for the use of displaced businesses, nonprofit organizations, and farm operations that wish to apply for a PAYMENT FOR ACTUAL REASONABLE MOVING AND REESTABLISHMENT EXPENSES, rather than apply for a FIXED PAYMENT (which has a minimum of \$1,000.00 and a maximum of \$20,000.00). The Agency will explain the differences between the two payments. If you are eligible to choose either payment, the Agency representative will help you determine which is most advantageous, and will help you complete the form. If the full amount of your claim is not approved, the Agency will provide you with a written explanation of the reason. If you are not satisfied with the Agency's determination, you may appeal that determination. The Agency will explain how to make an appeal. This information is being collected under the authority of the Uniform Relocation Assistance and Real Property Policies Act (URA) and/or California Relocation Assistance Act.

FOR AGENCY USE ONLY	
Agency	City of Montclair
Project	Monte Vista Grade Separation
Case #	LIM-005-04848-008
Program Rules	OPC Claim Serial Number
<input checked="" type="checkbox"/> Federal <input type="checkbox"/> State <input type="checkbox"/> Other	RV010086

SECTION A: General

<p>1. Name Under Which Claimant Conducts Operations Albert Weir</p> <p>3a. Address From Which Claimant Moved 4848 Mission Blvd. Montclair, CA 91762</p> <p>4a. Address to Which Claimant Moved 22180 WREN ST * Apple Valley, CA 92308</p> <p>6. Type of Operation (Check One): <input checked="" type="checkbox"/> Business <input type="checkbox"/> Farm Operation <input type="checkbox"/> Nonprofit Operation</p>	<p>2. Name, Title and Phone # of Person Filing Claim on Behalf of Claimant Albert Weir</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">3b. Date First Occupied x 7/1/04</td> <td style="width: 50%;">3c. Date Move Started x 10/15/09</td> </tr> <tr> <td>4b. Date Move Completed Pending</td> <td>5. Is This a Final Claim? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</td> </tr> </table> <p>7. Type of Ownership (Check One): Personal Property only <input type="checkbox"/> Sole Propriet. <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Nonprofit Org.</p>	3b. Date First Occupied x 7/1/04	3c. Date Move Started x 10/15/09	4b. Date Move Completed Pending	5. Is This a Final Claim? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
3b. Date First Occupied x 7/1/04	3c. Date Move Started x 10/15/09				
4b. Date Move Completed Pending	5. Is This a Final Claim? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No				

8. Computation of Payment

ITEM	AMOUNT CLAIMED	FOR AGENCY USE ONLY
(1) Moving Expenses (from Section B)	\$2,055.00	
(2) Reestablishment Expenses (\$10,000 maximum, from Section C)	\$0.00	
(3) Reasonable Searching Expenses (Attach Schedule)	\$0.00	
(4) Storage Expenses (Attach Schedule)	\$0.00	
(5) Actual Direct Loss of Personal Property (Attach Schedule)	\$0.00	
(6) Other Expenses (attach explanation)	\$0.00	
(7) Total Amount Claimed (add lines (1) through (6))	\$2,055.00	
(8) Amount Previously Received for Expenses Claimed Here (If any)	\$0.00	
(9) Amount Requested (Line (7) minus Line (8))	\$2,055.00	

9. Certification by Claimant(s)

WARNING: If you knowingly or deliberately make false statements on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition you may not receive any of the amounts claimed on this form. I CERTIFY that this claim and supporting information are true and complete, that I have not submitted any other claim for the expenses listed and that I have not been paid for the expenses by any other source. My choice of type of payment was made on the basis of full explanation by the displacing Agency representative of the difference between the two types of payments available and the eligibility for each.

Signature(s) of Claimant(s) or Claimant(s) Agent x	Title (Type or Print) x ALBERT WEIR	Date x 10/27/09
---	--	--------------------

FOR AGENCY USE ONLY

Payment Action	Amount of Payment	Signature	Name (Type or Print)	Date
10. Recommended	\$2,055.00		Karen Jackson Senior Consultant	11/9/09
11. Approved				

SECTION B: Supporting Data for Moving Expenses (not included in Section C)

Type of Work Performed (moving personal property, phone/utility reconnection, reprinting, etc.)	Name and Address of Contractor	Payment directly to Contractor?		AMOUNT CLAIMED	FOR AGENCY USE ONLY
		YES	NO		
(1) Self move Personal property	Shannon Bargston-Suddath Van Lines 802 S. Clementine, Anaheim, CA 92805		X	\$2,055.00	
(2)				\$0.00	
(3)				\$0.00	
(4)				\$0.00	
(5)				\$0.00	
(6)				\$0.00	
(7)				\$0.00	
(8)				\$0.00	
(9)				\$0.00	
(10) TOTAL MOVING EXPENSES (Enter this amount on Line (1) of Item 8, Section A)				\$2,055.00	

SECTION C: Determination of Reestablishment Expenses (not included in Section B)

Type of Work Performed (repairs required by law or business operation, exterior signing, licenses/permits, etc.)	Name and Address of Contractor	Payment directly to Contractor?		AMOUNT CLAIMED	FOR AGENCY USE ONLY
		YES	NO		
(1)					
(2)					
(3)					
(4)					
(5)					
(6)					
(7)					
(8)					
(9) Estimated increased cost of operation during the first two years (lease/rent, taxes, insurance, utilities)					
(a) Monthly cost of operation at the displacement site			\$0.00		
(b) Monthly cost of operation at the replacement site			\$0.00		
(c) Monthly cost differential (line (9b) less line (9a))			\$0.00		
(d) Estimated cost differential over two years (line (9c) times 24)				\$0.00	
(10) TOTAL REESTABLISHMENT EXPENSES (Add lines (1) through (9)) Enter this amount, or \$10,000, whichever is less, on Line (2) of Item 8, Section A)				\$0.00	



It is hereby understood and agreed by Donald Green (called here the "Claimant") and the City of Montclair (called here the "Displacing Agency") that the amount to be paid to the Claimant for the relocation of all equipment, stock, inventory, and other items of personal property itemized on the attached inventory (**Exhibit A**) and not acquired with the real property located at 4848 W. Mission Blvd., Montclair, CA 91762 ("Subject Property") to the replacement location at 131 S. 9th Ave., Industry, CA 91746 ("Replacement Site") is **TWO THOUSAND THREE HUNDRED SIXTY NINE DOLLARS AND EIGHTY SIX CENTS** (\$2,369.86). This payment is based on the amount of the lowest, most reasonable bid, attached hereto as **Exhibit B**.

The parties further agree as follows:

1. In order to facilitate the move, the Displacing Agency will process one check for half of the total moving payment in the amount of \$1,184.93 which will be delivered by a representative of Overland, Pacific & Cutler, Inc.
2. The final check in the amount of \$1,184.93 will be released when a representative of Overland, Pacific & Cutler, Inc. the Displacing Agency's relocation representative has personally inspected the Subject/Displacement Property to verify completion of the move.
3. If upon inspection by a representative of Overland, Pacific & Cutler, Inc. any portion of the items on Exhibit "A" were not relocated to the Replacement Site for any reason whatsoever, an appropriate reduction in the agreed amount shall be made by the Displacing Agency.
4. The Claimant shall allow a representative of Overland, Pacific & Cutler, Inc. to monitor the move as it sees fit, and such monitoring shall not carry with it any liability or responsibility on the part of the Displacing Agency or Overland, Pacific & Cutler, Inc.
5. Neither the Displacing Agency nor any employee, officer, or agent thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by Claimant under or in connection with the agreement. It is also understood and agreed that the Claimant shall fully indemnify and hold the Displacing Agency and Overland, Pacific & Cutler, Inc. harmless for any liability imposed by injury or damage to property occurring by reason of anything done or omitted by Claimant in connection with this agreement.
6. In the event the actual cost of the move exceeds the amount agreed upon above, only those additional costs which can be shown to have been actually required in order to complete the move will, within certain limitations, be reimbursed. In this event, the actual cost of the entire move must be itemized and documented in support of the claim. All moving expense records are subject to review and audit by a representative of the Displacing Agency.

EXHIBIT "A"

The following items require relocation and have not been acquired with the real property in conjunction with the acquisition of the Subject Property.

Please list and describe all items to be relocated:

66 Chevelle
69 Nova
82 Nissan
66 Chevelle
68 Camaro
04 Lincoln
96 Impala
67 Chevelle
04 Expedition
92 Buick
40 Chevy Truck
18' Boat
42' Container full of possessions
Misc. car parts

I certify under the penalty of perjury that the above listed items are personal property owned by me and are to be relocated to the Replacement Site.

Dated: 9.25.09

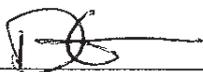
By: 
Donald Green

EXHIBIT "B"

LOWEST, MOST REASONABLE MOVING BID

Please see attached moving bid

Exhibit "B"

Estimate Prepared For: **Donald Green**

Estimate/Order For Service

Agent Suddath Relocation Systems
 14221 Artesia Blvd.
 La Mirada, CA 90638
 562-404-7794
 562-483-7845
 sbargsten@suddath.com

Sales Person
 Shannon Bargsten
 sbargsten@suddath.com

Origin Information		Destination Information		Service Information	
Shipper:	Donald Green	Shipper:	Donald Green	Order No:	
Address:	4848 W Mission Blvd	Address:		Estimate Date:	7/23/2009
Address 2:		Address 2:		Pack Date:	
City St. Zip:	Ontario, CA 91762	City St. Zip:	Ontario, CA 91762	Load Date:	
County:	San Bernardino	County:	San Bernardino	Deliver Date:	
Phone(H):	909-993-6144	Phone(H):	_____		
Phone(W):	310-819-0553	Phone(W):	_____		
Email:	kjackson@opcservices.com				

Tariff: Local	Effective Date: 7/23/2009	Estimated Weight: 6000
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Local Moving Charges

2 Mover(s), 1 Van(s), 7 Hour(s). Hourly Rate: \$90.00
 Travel Time: 1 hours. Hourly Rate: \$90.00 per hour

Local Moving Charges: \$720.00

Additional Charges

Service Description

Moving 9 cars, 1 boat, 2 trucks & 42' container on site \$1,624.86

Total Miscellaneous: \$1,624.86

Local Fuel Charge \$25.00

Fuel Charge Total: \$25.00

Local Additional Charges: \$1,649.86

Total Estimated Costs: \$2,369.86

Valuation Options	Listed below are the minimum Valuation Options that are offered and the total price for the move with each option.		
	Type	Charge	Total
currently applied	0.60/lb	\$0	\$2,369.86
	3.50/lb - \$21,000.00	\$0.00	\$2,369.86
	FVP \$0 - \$30,000.00	\$0.00	\$2,369.86
	FVP \$250 - \$30,000.00	\$0.00	\$2,369.86
	FVP \$500 - \$30,000.00	\$0.00	\$2,369.86

Signature of Salesperson

Date

Signature of Consumer

Date



Claim Transmittal and Check Request

Claimant: Donald Green	Agency: City of Montclair
Address: 4848 Mission Blvd.	Project: Monte Vista Grade Separation Project
Case ID: LIM-005-04848-012	Consultant: Karen Jackson
Date:	THE ATTACHED DOCUMENTS MAY CONTAIN CONFIDENTIAL INFORMATION

To: Mike Hudson City Engineer City of Montclair 5111 Benito Street P.O. Box 2308 Montclair, CA 91763	From: Karen Jackson Overland, Pacific & Cutler, Inc. 2280 Market Street, Suite 340 Riverside, CA 92501 Phone: (951) 683-2353 Fax: (951) 683-3901
--	--

Attached documents support the following payment request(s):			
<input type="checkbox"/>	Residential Moving Expenses	<input checked="" type="checkbox"/>	Business Moving Expense
<input type="checkbox"/>	Rental Assistance	<input type="checkbox"/>	Business Reestablishment
<input type="checkbox"/>	Downpayment Assistance	<input type="checkbox"/>	Business Site Searching
<input type="checkbox"/>	Periodic LRH Payment	<input type="checkbox"/>	Business In-Lieu
<input type="checkbox"/>	Purchase Price Differential	<input type="checkbox"/>	Fixtures and Equipment
<input type="checkbox"/>	Mortgage Interest Differential	<input type="checkbox"/>	All-Inclusive Settlement
<input type="checkbox"/>	Purchase Incidental Expenses	<input type="checkbox"/>	Security Deposit Return
<input type="checkbox"/>	Other Payment:		

Benefit check(s) are requested to be prepared as follows:			
Chk	Payable To:	In the Amount:	Check Disposition:
1.	Donald Green	\$2,369.86	Hoid for pick-up by OPC staff
2.			
3.			

Payment Advance/Final Status:		Notes:
<input type="checkbox"/>	Advance Payment	
<input type="checkbox"/>	Interim Payment	
<input checked="" type="checkbox"/>	Final Payment	

Claim for Actual Reasonable Moving and Related Expenses

Business, Nonprofit Organizations and Farm Operations

INSTRUCTIONS: This claim form is for the use of displaced businesses, nonprofit organizations, and farm operations that wish to apply for a PAYMENT FOR ACTUAL REASONABLE MOVING AND REESTABLISHMENT EXPENSES, rather than apply for a FIXED PAYMENT (which has a minimum of \$1,000.00 and a maximum of \$20,000.00). The Agency will explain the differences between the two payments. If you are eligible to choose either payment, the Agency representative will help you determine which is most advantageous, and will help you complete the form. If the full amount of your claim is not approved, the Agency will provide you with a written explanation of the reason. If you are not satisfied with the Agency's determination, you may appeal that determination. The Agency will explain how to make an appeal. This information is being collected under the authority of the Uniform Relocation Assistance and Real Property Policies Act (URA) and/or California Relocation Assistance Act.

FOR AGENCY USE ONLY	
Agency	City of Montclair
Project	Monte Vista Grade Separation
Case #	LIM-005-04848-012
Program Rules	OPC Claim Serial Number
<input checked="" type="checkbox"/> Federal <input type="checkbox"/> State <input type="checkbox"/> Other	RV010090

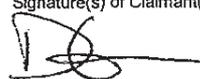
SECTION A: General

1. Name Under Which Claimant Conducts Operations Donald Green	2. Name, Title and Phone # of Person Filing Claim on Behalf of Claimant Donald Green
3a. Address From Which Claimant Moved 4848 Mission Blvd. Montclair, CA 91762	3b. Date First Occupied 1/1/2007
4a. Address to Which Claimant Moved 131 S. 9th Ave. City of Industry, CA 91746	3c. Date Move Started 10/1/2009
4b. Date Move Completed Pending	5. Is This a Final Claim? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
6. Type of Operation (Check One): <input checked="" type="checkbox"/> Business <input type="checkbox"/> Farm Operation <input type="checkbox"/> Nonprofit Operation	7. Type of Ownership (Check One): <i>Personal Property only</i> <input type="checkbox"/> Sole Propriet. <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Nonprofit Org.

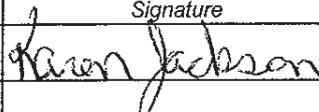
8. Computation of Payment

ITEM	AMOUNT CLAIMED	FOR AGENCY USE ONLY
(1) Moving Expenses (from Section B)	\$2,369.86	
(2) Reestablishment Expenses (\$10,000 maximum, from Section C)	\$0.00	
(3) Reasonable Searching Expenses (Attach Schedule)	\$0.00	
(4) Storage Expenses (Attach Schedule)	\$0.00	
(5) Actual Direct Loss of Personal Property (Attach Schedule)	\$0.00	
(6) Other Expenses (attach explanation)	\$0.00	
(7) Total Amount Claimed (add lines (1) through (6))	\$2,369.86	
(8) Amount Previously Received for Expenses Claimed Here (If any)	\$0.00	
(9) Amount Requested (Line (7) minus Line (8))	\$2,369.86	

9. Certification by Claimant(s)
 WARNING: If you knowingly or deliberately make false statements on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition you may not receive any of the amounts claimed on this form. I CERTIFY that this claim and supporting information are true and complete, that I have not submitted any other claim for the expenses listed and that I have not been paid for the expenses by any other source. My choice of type of payment was made on the basis of full explanation by the displacing Agency representative of the difference between the two types of payments available and the eligibility for each.

Signature(s) of Claimant(s) or Claimant(s) Agent 	Title (Type or Print) owner	Date 11-11-09
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FOR AGENCY USE ONLY

Payment Action	Amount of Payment	Signature	Name (Type or Print)	Date
10. Recommended <i>7/17</i>	\$2,369.86		Karen Jackson Senior Consultant	11/9/09
11. Approved				

SECTION B: Supporting Data for Moving Expenses (not included in Section C)					
Type of Work Performed (moving personal property, phone/utility reconnection, reprinting, etc.)	Name and Address of Contractor	Payment directly to Contractor?		AMOUNT CLAIMED	FOR AGENCY USE ONLY
		YES	NO		
(1) Self move Personal property	Shannon Bargston-Suddath Van Lines 802 S. Clementine, Anaheim, CA 92805		X	\$2,369.86	
(2)				\$0.00	
(3)				\$0.00	
(4)				\$0.00	
(5)				\$0.00	
(6)				\$0.00	
(7)				\$0.00	
(8)				\$0.00	
(9)				\$0.00	
(10) TOTAL MOVING EXPENSES (Enter this amount on Line (1) of Item 8, Section A)				\$2,369.86	
SECTION C: Determination of Reestablishment Expenses (not included in Section B)					
Type of Work Performed (repairs required by law or business operation, exterior signing, licenses/permits, etc.)	Name and Address of Contractor	Payment directly to Contractor?		AMOUNT CLAIMED	FOR AGENCY USE ONLY
		YES	NO		
(1)					
(2)					
(3)					
(4)					
(5)					
(6)					
(7)					
(8)					
(9) Estimated increased cost of operation during the first two years (lease/rent, taxes, insurance, utilities)					
(a) Monthly cost of operation at the displacement site			\$0.00		
(b) Monthly cost of operation at the replacement site			\$0.00		
(c) Monthly cost differential (line (9b) less line (9a))			\$0.00		
(d) Estimated cost differential over two years (line (9c) times 24)				\$0.00	
(10) TOTAL REESTABLISHMENT EXPENSES (Add lines (1) through (9)) Enter this amount, or \$10,000, whichever is less, on Line (2) of Item 8, Section A)				\$0.00	

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT
NO. 09-126 WITH HOBBY CLUB USA FOR
ACQUISITION OF REAL PROPERTY AT
10763-10771 MONTE VISTA AVENUE
AND ACCEPTANCE OF QUITCLAIM DEED

CONSIDER AUTHORIZATION OF CITY
MANAGER TO EXECUTE AGREEMENT
NO. 09-126

DATE: December 7, 2009

SECTION: AGREEMENTS

ITEM NO.: 4

FILE I.D.: STA110

DEPT.: PUBLIC WORKS

BUSINESS

PLAN: STRATEGIC PRIORITY NO. 6

REASON FOR CONSIDERATION: As part of ongoing efforts to secure right-of-way for the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project, the City has recently closed escrow to purchase certain real property in the City of Montclair. One tenant located at 10763-10771 Monte Vista Avenue has agreed to leave certain items behind and quitclaim them to the City rather than relocate them. Approval of proposed Agreement No. 09-126 and acceptance of the Quitclaim Deed requires City Council approval.

Approval of Agreement No. 09-126 and acceptance of the quitclaim deed satisfies a portion of Strategic Priority No. 6 as contained in Montclair's "Business Plan."

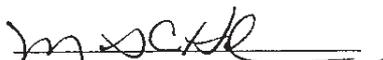
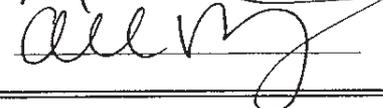
BACKGROUND: With the passage of the Traffic Congestion Relief Act of 2000, funding was made available for the construction of grade separations between streets and railroad tracks in several areas of the state. The Act provided \$95 million for grade separations in San Bernardino County, including one between Monte Vista Avenue and the Union Pacific Railroad tracks. A consultant was hired by the City to assist with the environmental clearance, design, and right-of-way acquisition.

On June 8, 2008, the City entered into Agreement No. 08-35, a purchase and sale agreement with Harold W. and Peggy C. McCoy and Carl L. McCoy (McCoys) for property located at 10763-10771 Monte Vista Avenue. Escrow for the purchase of this property closed in November.

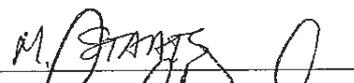
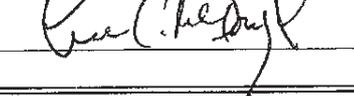
A tenant of the McCoys, Hobby Club USA, has agreed to leave certain items behind rather than have them relocated at the City's expense. The value of the items was less than the cost of relocation. Agreement No. 09-126 and the associated Quitclaim Deed transfers ownership of those items to the City.

FISCAL IMPACT: Approval of Agreement No. 09-126 and acceptance of the Quitclaim Deed would eliminate any future claim for compensation by Hobby Club USA. The value of the property is \$16,935 and would be reimbursed to the City by the state.

Prepared by:

Reviewed and
Approved by:

Proofed by:

Presented by:

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

1. Approve Agreement No. 09-126 with Hobby Club USA for acquisition of real property at 10763-10771 Monte Vista Avenue.
2. Accept Quitclaim Deed.
3. Authorize City Manager to Execute Agreement No. 09-126.

PARCEL NO. 1011-301-24
PROJECT: Monte Vista Grade Separation Project
TENANT-SELLER: Hobby Club USA

**AGREEMENT FOR ACQUISITION OF TENANT-SELLER'S
INTEREST IN REAL PROPERTY**

THIS AGREEMENT ("Agreement") is entered into this _____ day of _____, 200____ by and between the **City of Montclair** (hereinafter called "Buyer"), and the undersigned **Stephen A. Parola & Terri D. Parola, dba Hobby Club USA** (hereinafter called "Tenant-Seller"), for the acquisition by Buyer of certain interests in real property hereinafter set forth.

IT IS HEREBY AGREED BETWEEN THE PARTIES AS FOLLOWS;

1. AGREEMENT. Tenant-Seller agrees to sell and convey to Buyer, and Buyer agrees to purchase and acquire from Tenant-Seller, upon the terms and for the consideration set forth in this Agreement, (a) all right, title and interest, in and to certain improvements, including fixtures and equipment (collectively "Conveyed Improvements") located in, on, or affixed in any manner to the premises known and numbered as 10771 Monte Vista Ave., Montclair, CA 91762, California ("Premises") which Premises are part of that real property described below, located in the City of Montclair, , County of San Bernardino, State of California, and (b) any tenancy interest of Tenant-Seller ("Tenancy Interest") in and to said real property:

SEE EXHIBIT "A" ATTACHED HERETO AND
BY THIS REFERENCE MADE A PART HEREOF

Commonly known as 10763 – 10771 Monte Vista, Ave., Montclair, CA 91762 ("Property").

The Conveyed Improvements are a part of the Premises, and specifically include, without limitation, the items under the name of Tenant-Seller contained in the list of "Improvements Pertaining to the Realty" attached hereto as Exhibit "B" and incorporated herein as part of this Agreement. Tenant-Seller may retain, salvage and remove from the Premises those improvements described in Exhibit "C" attached hereto ("Retained Improvements").

2. PURCHASE PRICE. The total purchase price, payable in cash through this Agreement, shall be the sum of:

SIXTEEN THOUSAND NINE HUNDRED THIRTY FIVE and no/100 dollars
(\$ 16,935.00)

which is computed as follows:

Value of the Conveyed Improvements as shown on <u>Exhibit "B"</u>		\$17,055.00
Value of the Retained Improvements as shown on <u>Exhibit "C"</u>	\$7,295.00	
Less the Salvage Value thereof	\$120.00	\$120.00
TOTAL AMOUNT PAYABLE THROUGH THIS AGREEMENT		<hr/> \$16,935.00

3. CONVEYANCE OF INTEREST IN REAL PROPERTY. Tenant-Seller agrees to execute a Quitclaim Deed in the same form as that attached hereto as Exhibit "D" in favor of Buyer ("Quitclaim Deed"), relinquishing, releasing, and forever quitclaiming all right title and interest in and to the Tenancy Interest.

4. CONVEYANCE OF INTEREST IN CONVEYED IMPROVEMENTS. The Quitclaim Deed described in Paragraph 3 above and attached hereto as Exhibit "D" will also convey from Tenant-Seller to Buyer all of Tenant-Seller's interest in and to the Conveyed Improvements, which conveyance shall be free and clear of all recorded and unrecorded encumbrance, liens, assessments, leases, and taxes. Unless otherwise provided, recording of the Quitclaim Deed and closing of the transaction described herein shall be subject to Tenant-Seller's vacation of the Premises.

5. RECORDING. Recordation of any documents delivered through this transaction is authorized, if necessary or proper, upon acceptance by Buyer, as described herein.

6. CERTIFICATION OF OWNERSHIP. Tenant-Seller hereby warrants that no document has been signed by or on behalf of Tenant-Seller for the purpose of creating any lien, encumbrance, or security interest in any of the Improvements, and that the Tenant-Seller does not know of any claim of lien, encumbrance, or other security interest therein, EXCEPT: a) Trust Deeds on the Property, duly recorded; b) real and personal property taxes; c) street and utility easements of record. In order to establish proof of clear title to the Retained Improvements, Buyer may obtain a title report and/or a report from the Secretary of State's Office as to filings of security interests covering the Retained Improvements. By agreeing to this provision, Buyer absolves Tenant-Seller from all liability for unclear title.

7. PERMISSION TO ENTER ON PREMISES. Tenant-Seller hereby grants Buyer, or its authorized agent, permission to enter upon the Premises at all reasonable times prior to close of this transaction for the purpose of making necessary inspections.

8. BULK SALE. In order to establish proof of clear title to the Conveyed Improvements, Buyer must publish a Notice to Creditors pursuant to the Bulk Sales Law of the State of California and obtain a title report and/or a report from the Secretary of State's Office as to filings of security interests covering the Conveyed Improvements as set forth in Exhibit "B" attached hereto in the name of the Tenant-Seller.

9. CONFLICTING INTERESTS. A general creditor's claim shall not be deemed to be a claim against any specific item of Conveyed Improvements, and Tenant-Seller hereby agrees to accept all responsibility therefore. Unless otherwise provided, it shall be presumed that Tenant-Seller is entitled to

payment under this transaction if the Conveyed Improvements are listed under the name of Tenant-Seller on Exhibit "B"; otherwise it shall be presumed that the Property owner is the person entitled thereto.

10. BUYER IS HEREBY AUTHORIZED TO, AND SHALL:

- A. Disburse funds when conditions of this transaction have been fulfilled by Buyer and Tenant-Seller.

11. FULL AND COMPLETE SETTLEMENT. Tenant-Seller hereby acknowledges that the compensation paid to Tenant-Seller through this Agreement, excluding relocation benefits to which Tenant-Seller is entitled constitutes the full and complete settlement of any and all claims against Buyer, by reason of Buyer's acquisition of the Property, the Tenancy Interest, and the Conveyed Improvements, specifically including, but not limited to the value of the Conveyed Improvements, any other leasehold improvements, any and all claims for rental or leasehold value and loss of business goodwill, if any, and any and all claims in inverse condemnation and for precondemnation damages, and any and all other claim that Tenant-Seller may have, whether or not specifically mentioned here, relating directly or indirectly to the acquisition by Buyer of the Property, the Conveyed Improvements and the Tenancy Interest, however, Tenant-Seller and Buyer, and each and all of their individual collective agents' representatives, attorneys, principals, predecessors, successors, assigns, administrators, executors, heirs, and beneficiaries, hereby release the other party, and each of them from any and all obligations, liabilities, claims, costs, expenses, demands, debts, controversies, damages, causes of action, including without limitations those relating to just compensation, damages, which any of them now have, or might hereafter have by reason of any matter or thing arising out or in any way relating to any condemnation action affecting the Property, the Conveyed Improvements and the Tenancy Interest.

12. ACKNOWLEDGMENT CONCERNING CIVIL CODE SECTION 1542. Tenant-Seller acknowledges that Tenant-Seller has been advised by Tenant-Seller's attorneys concerning, and are familiar with, the provisions of California Civil Code §1542, which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

Tenant-Seller acknowledges that they and any others they are acting on behalf of herein may have sustained damage, loss, cost, or expenses that are presently unknown and unsuspected, and such damage, loss, costs, or expenses which may have been sustained may give rise to additional damages, loss, costs, or expenses in the future. Nevertheless, Tenant-Seller acknowledges that this Agreement has been negotiated and agreed upon in light of that situation, and hereby expressly waives any and all rights which they or those that they are acting on behalf of may have under California Civil Code § 1542, or under any statute or common law or equitable principle of similar effect.

This waiver by Tenant-Seller does not release buyer from it's obligation to provide relocation assistance and benefits to which Tenant-Seller is entitled.

13. CONTINGENCY. It is understood and agreed between the parties hereto that this transaction is subject to and contingent upon receipt by Buyer of the duly executed Quitclaim Deed in favor of Buyer from Tenant-Seller with respect to the Tenancy Interest and the Conveyed Improvements.

14. REMOVAL OF RETAINED IMPROVEMENTS. Buyer and Tenant-Seller further mutually agree that the Retained Improvements shown in Exhibit "C" shall be removed from the Premises at no expense

to Buyer herein, on or before the date Tenant-Seller vacates the Premises. Said removal shall be accomplished without damage or waste to the Premises and shall not render the Premises unsafe. It is further understood and agreed that any Retained Improvements remaining in or on said Premises at the end of the vacation date shall be considered abandoned and Buyer may dispose of same in any manner without any further obligation whatsoever to Tenant-Seller.

15. AUTHORIZATION TO EXECUTE. The Tenant-Seller and Buyer, in signing this Agreement on behalf of themselves and each and all of their individual and collective agents, representatives, attorneys, principals, predecessors, successors, assigns, administrators, executors, heirs, and beneficiaries, hereby represent and warrant that they are duly authorized, and each of them sign this Agreement and act on behalf of said persons and entities.

16. SURVIVAL OF RIGHTS AND OBLIGATIONS. Notwithstanding the releases contained herein and agreement concerning this transaction, all the rights and obligations created under and pursuant to this Agreement shall survive the execution of the Agreement, the releases contained herein, and the close of this transaction.

17. WARRANTIES, REPRESENTATIONS, AND COVENANTS OF TENANT-SELLER. Tenant-Seller hereby warrants, represents, and/or covenants to Buyer that:

- A. To the best of Tenant-Seller's knowledge, there are no actions, suits, material claims, legal proceedings, or any other proceedings affecting the Conveyed Improvements, the Tenancy Interest or any portion thereof, at law, or in equity before any court or governmental agency, domestic or foreign.
- B. Until the closing, Tenant-Seller shall maintain the Conveyed Improvements and the Premises in good condition and state of repair and maintenance, and shall perform all of its obligations under any service contracts or other contracts affecting the Conveyed Improvements and the Premises.
- C. Until the closing, Tenant-Seller shall not do anything which would impair Tenant-Seller's title to the Premises, the Conveyed Improvements or the Tenancy Interest.
- D. Until the closing, Tenant-Seller shall, upon receipt of express written information of any fact or condition which would cause any of the warranties and representations in this Paragraph 20 not to be true as of closing, immediately give written notice of such fact or condition to Buyer.

18. BINDING EFFECT. The terms, conditions, covenants, and agreements set forth herein shall apply to and bind the heirs, executors, administrators, assigns and successors of the parties hereto.

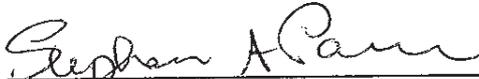
19. ENTIRE AGREEMENT. This Agreement contains the entire agreement between both parties, neither party relies upon any warranty or representation not contained in this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year set forth hereinabove.

Mailing Address of Tenant-Seller

Hobby Club USA
C/O Stephen & Terri Parola
10771 Monte Vista Ave.
Montclair, CA 91762

Tenant-Seller



Stephen A. Parola

11-6-09

Date



Terri D. Parola

11-6-09

Date

Mailing Address of Buyer

City of Montclair
5111 Benito Street
P.O. Box 2308
Montclair, CA 91763
Lee C. McDougal
City Manager

Buyer

Lee C. McDougal, City Manager

Date

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

EXHIBIT "A"

A PARCEL OF LAND DESCRIBED IN DEED TO HAROLD W. MC COY & PEGGY C. MC COY, TRUSTEES OF THE HAROLD W. MC COY AND PEGGY C. MC COY REVOCABLE LIVING TRUST DATED JULY 19, 1990, AS TO AN UNDIVIDED ½ INTEREST AND CARL L. MC COY, TRUSTEE OF THE CARL L. MC COY REVOCABLE LIVING TRUST DATED MAY 17, 1990 AS TO AN UNDIVIDED ½ INTEREST RECORDED FEBRUARY 12, 1991 DOCUMENT NO. 91050374 OF OFFICIAL RECORDS OF SAN BERNARDINO COUNTY SAID PARCEL DESCRIBED IN SAID DEED AS FOLLOWS: (RESTATED AS RECORDED)

ALL THAT PORTION OF LOT 2, BLOCK 29, ACCORDING TO MAP OF MONTE VISTA TRACT, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 11, PAGE 34 OF MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 2, SAID POINT BEING ON THE EAST LINE OF MONTE VISTA AVENUE; THENCE NORTH 234.00 FEET ALONG THE EAST LINE OF SAID MONTE VISTA AVENUE TO THE NORTHWEST CORNER OF THE LAND DESCRIBED IN THE DEED TO HAROLD W. MC COY ET UX, BY DEED RECORDED OCTOBER 30, 1963 IN BOOK 6019, PAGE 65 OF OFFICIAL RECORDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, TO THE TRUE POINT OF BEGINNING.

THENCE EAST ALONG THE NORTH LINE OF SAID MC COY LAND TO THE EASTERLY LINE OF THE LAND CONVEYED TO ROY W. PHELPS ET UX., AND RAYMOND W. ALBRECHT, ET UX., BY DEED RECORDED NOVEMBER 9, 1960 IN BOOK 5278, PAGE 376; THENCE NORTHERLY ALONG SAID EASTERLY LINE TO THE NORTH LINE OF PHELPS LAND, THENCE WEST ALONG SAID NORTH LINE TO THE EAST LINE OF SAID MONTE VISTA AVENUE; THENCE SOUTH ALONG THE EAST LINE OF SAID MONTE VISTA AVENUE, TO THE TRUE POINT OF BEGINNING.

ACCEPTING THEREFROM THE SOUTH 60.84 FEET.

THE ABOVE PARCEL OF LAND CONTAINS 0.49 ACRES (21,383 SF) MORE OR LESS.

PREPARED BY ME OR UNDER MY DIRECTION

BY: Larry E. Barnes 2.16.06
DATE



EXHIBIT B
CONVEYED IMPROVEMENTS

HOBBY CLUB USA
IMPROVEMENTS PERTAINING TO THE REALTY

EXHIBIT "B"

Item No.	Qty.	Description
1	1,284	Square feet of pegboard, painted, furred
2	10	Fluorescent light fixtures, 8', 2-bulb, pendant-hung
3	5	Flourescent light fixtures, 4' 2- bulb, pendant-hung
4	1	Lot of supplemental electric, consisting of: 12 Duplex receptacles 130 Linear feet of 1/2" conduit wiring
5	80	Linear feet of model railroad train tracks, G scale wood base, ceiling suspended
6	170	Linear feet of shelving with metal brackets
7	1	Television shelf, 2' x 4', with chain link support
8	128	Square feet of overhead shelf, 2" x 4" frame, 3/4" particle board
9	1	Alarm system, conststing of: 1 keypad 1 Horn 2 Door sensors 3 Warehouse door sensors 2 Motion sensors 1 Remote panic button (Verified - onwed by Hobby Club USA with Miguel Celis at Stanley Security Systems)
10	1	Lot of vinyl window lettering
11	1	Sign, vinyl letters on base, 8' x 4', consisting of: 1 "Hobby Club, 8" letters 1 "USA", 21 letters 1 "R.C. Planes & Trains and 10771 Monte Vista- Ontario- 909 628 4300, 3" letters 1 Graphic of train 1 Graphic of plane
12	4	Surveillance cameras, wireless, Century, Model no.: 05400
13	300	Square feet of display wall, 2" x 4" framing, painted

HOBBY CLUB USA
IMPROVEMENTS PERTAINING TO THE REALTY

EXHIBIT "B"

Item No.	Qty.	Description
14	5	Telephone Jacks

EXHIBIT C
RETAINED IMPROVEMENTS

HOBBY CLUB USA
 IMPROVEMENTS PERTAINING TO THE REALTY
 ITEMS BEING RETAINED BY TENANT-SELLER

EXHIBIT "C"

Item No.	Qty.	Description
1	10	Fluorescent light fixtures, 8', 2-bulb, pendant-hung
2	5	Flourescent light fixtures, 4' 2- bulb, pendant-hung
3	80	Linear feet of model railroad train tracks, G scale wood base, ceiling suspended
4	170	Linear feet of shelving with metal brackets
5	1	Television shelf, 2' x 4', with chain link support
6	1	Sign, vinyl letters on base, 8' x 4', consisting of: 1 "Hobby Club, 8" letters 1 "USA", 21 letters 1 "R.C. Planes & Trains and 10771 Monte Vista- Ontario- 909 628 4300, 3" letters 1 Graphic of train 1 Graphic of plane

EXHIBIT D
QUITCLAIM DEED

RECORDING REQUESTED BY:

City of Montclair
5111 Benito Street
Montclair, CA 91764

WHEN RECORDED MAIL TO:

Same as above

RECORDER:

Record without fee subject to Govt. Code
6103. Recordation required to complete
chain of title.

INCORPORATED AREA A.P.N.: 1011-301-24	QUITCLAIM DEED	DOCUMENT TRANSFER TAX \$ 0.00 PER REVENUE & TAXATION CODE SECTION 11922
--	-----------------------	---

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

Stephen A. Parola & Terri D. Parola, dba Hobby Club USA

do(es) hereby REMISE, RELEASE AND FOREVER QUITCLAIM to:

City of Montclair

all right, title and interest in and to (a) the real property described in Exhibit "1" ("Property"); and (b) any improvements owned by the conveying party that are attached or affixed in any manner to the Property and which are not removed by the conveying party ("Retained Improvements") prior to the date of recording of this Quitclaim Deed. The Property is located in the City of Montclair, County of San Bernardino, State of California, and is described as follows:

SEE EXHIBIT "1" ATTACHED HERETO AND
BY THIS REFERENCE MADE A PART HEREOF

Stephen A. Parola 11-17-09
 Stephen A. Parola Date

Terri D. Parola 11-17-09
 Terri D. Parola Date

ACCEPTANCE:

This is to certify that the interest in the LANDS conveyed by the within instrument to the City of Montclair, a municipal corporation, is hereby accepted by the undersigned officer/agent on behalf of the City Council, and the Grantee consents to the recordation thereof by its duly authorized officer/agent.

Title: _____ Date: _____
City Clerk

MAIL TAX STATEMENTS TO PARTY SHOWN ON FOLLOWING LINE

Not Applicable

Name

Street Address

City & State

NOTARY ACKNOWLEDGMENT

State of California }
County of San Bernardino } ss.

On November 17, 2009, before me, Raimok Dawit, a Notary Public,
personally appeared Stephen A. Parola and Terri D. Parola,

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

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

WITNESS my hand and official seal.

Raimok Dawit
Signature of Notary

Notary Seal

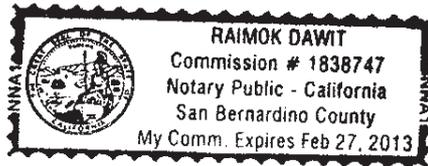


EXHIBIT "1"

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ACCEPTING THEREFROM THE SOUTH 60.84 FEET.

THE ABOVE PARCEL OF LAND CONTAINS 0.49 ACRES (21,383 SF) MORE OR LESS.

PREPARED BY ME OR UNDER MY DIRECTION

BY: Jerry E. Barnes 2.16.06
DATE



AGENDA REPORT

SUBJECT: CONSIDER AWARD OF CONTRACT TO CAL GROVE CORP. IN THE AMOUNT OF \$62,550 CONSIDER APPROVAL OF AGREEMENT NO. 09-127 WITH CAL GROVE CORP. FOR CONSTRUCTION OF THE MONTERA ELEMENTARY SOCCER PARK PROJECT CONSIDER AUTHORIZATION OF A \$5,000 CONSTRUCTION CONTINGENCY	DATE: December 7, 2009 SECTION: AGREEMENTS ITEM NO.: 5 FILE I.D.: PRK375 DEPT.: PUBLIC WORKS
--	---

BUSINESS PLAN: STRATEGIC PRIORITY NO. 3, GOAL 3

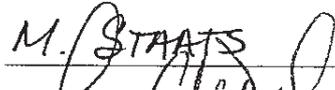
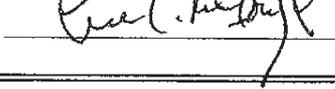
REASON FOR CONSIDERATION: Awards of contracts and agreements with the City require City Council approval.

Approval of Agreement No. 09-127 would satisfy a portion of Strategic Priority No. 3, Goal 3, as contained in Montclair's "Business Plan."

BACKGROUND: The City Council, at its meeting of December 12, 2008, authorized staff to advertise for bids for construction of the Montera Elementary Soccer Project. This project would construct three soccer fields at Montera Elementary School.

On Tuesday, November 24, 2009, the City Clerk received and opened nine bid proposals for the construction of the Montera Elementary Soccer Park Project. The bid results are as follows:

<i>Contractor</i>	<i>Bid Amount</i>
Cal Grove Corp.	\$ 62,550.00
Nature Tech Landscaping, Inc.	\$ 75,000.00
Engineers Estimate	\$ 75,000.00
Cornerstone Concrete & Construction, Inc.	\$ 90,000.00
Unique Performance Construction, Inc.	\$ 94,000.00
KRC Construction	\$ 95,044.00
TSR Construction and Inspection	\$ 99,400.00
S. Parker Engineering, Inc.	\$108,000.00
Norse Corporation	\$135,000.00
Cornerstone General Inc.	\$229,429.00

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

All bid proposals were reviewed for completeness and accuracy following the bid opening. Cal Grove Corp. provided all the required documents and was deemed to be the lowest, responsible, responsive bidder for the project.

Cal Grove Corp. has no previous history working for the City. Based on past projects and reference checks, Cal Grove Corp. is believed to have the personnel, equipment, and job experience necessary to complete this contract in accordance with the plans and specifications.

FISCAL IMPACT: The Montera Elementary Soccer Park Project is entirely funded by the 2000 Parks Bond Act - Youth Soccer/Baseball Grant.

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

1. Award contract to Cal Grove Corp. in the amount of \$62,550.
2. Approve Agreement No. 09-127 with Cal Grove Corp. for construction of the Montera Elementary Soccer Park Project.
3. Authorize a \$5,000 construction contingency.

KNOW ALL MEN BY THESE PRESENTS: That the following Agreement is made and entered into as of the date executed by the City Clerk and the Mayor, by and between **Cal Grove Corp.**, hereinafter referred to as "CONTRACTOR" and the CITY OF MONTCLAIR, hereinafter referred to as "CITY."

A. Recitals.

- (i) Pursuant to Notice Inviting Sealed Bids or Proposals, bids were received, publicly opened, and declared on the date specified in said notice.
- (ii) CITY did accept the bid of CONTRACTOR.
- (iii) CITY has authorized the City Clerk and Mayor to enter into a written contract with CONTRACTOR for furnishing labor, equipment, and material for the construction of:

**FOR THE CONSTRUCTION OF
MONTERA ELEMENTARY SOCCER PARK PROJECT**

"PROJECT" hereinafter.

B. Resolution.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed:

1. GENERAL SCOPE OF WORK: CONTRACTOR shall furnish all necessary labor, tools, materials, appliances, and equipment for and do all work contemplated and embraced for the PROJECT. Said PROJECT to be performed in accordance with specifications and standards on file in the Office of the City Engineer and in accordance with bid prices hereinafter mentioned and in accordance with the instructions of the Engineer.
2. INCORPORATED DOCUMENTS TO BE CONSIDERED COMPLEMENTARY: The aforesaid specifications are incorporated herein by reference thereto and made a part hereof with like force and effect as if all of said documents were set forth in full herein. Said documents, the Notice Inviting Bids, the Instructions to Bidders, the Proposal and any City-issued addenda, together with this written Agreement, shall constitute the contract between the parties. This contract is intended to require a complete and finished piece of work and anything necessary to complete the work properly and in accordance with the law and lawful governmental regulations shall be performed by the CONTRACTOR whether set out specifically in the contract or not. Should it be ascertained that any inconsistency exists between the aforesaid documents and this written Agreement, the provisions of this written Agreement shall control.
3. TERMS OF CONTRACT: The CONTRACTOR agrees to execute the contract within ten (10) calendar days from the date of notice of award of the contract and to

complete his portion of PROJECT within the time specified in the Special Provisions. CONTRACTOR agrees further to the assessment of liquidated damages in the amount specified in the Special Provisions or the Standard Specifications, whichever is higher, for each calendar day PROJECT remains incomplete beyond the expiration of the completion date. CITY may deduct the amount thereof from any moneys due or that may become due the CONTRACTOR under this contract. Progress payments made after the scheduled date of completion shall not constitute a waiver of liquidated damages.

4. **INSURANCE:** The CONTRACTOR shall not commence work under this contract until he has obtained all insurance required hereunder in a company or companies acceptable to CITY nor shall the CONTRACTOR allow any subcontractor to commence work on his subcontract until all insurance required of the subcontractor has been obtained. The CONTRACTOR shall take out and maintain at all times during the life of this contract the following policies of insurance:

a. **Compensation Insurance:** Before beginning work, the CONTRACTOR shall furnish to the Engineer a policy of insurance or proper endorsement as proof that he has taken out full compensation insurance for all persons whom he may employ directly or through subcontractors in carrying out the work specified herein, in accordance with the laws of the State of California. Such insurance shall be maintained in full force and effect during the period covered by this contract.

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

"I am aware of the provisions of § 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this contract."

b. For all operations of the CONTRACTOR or any subcontractor in performing the work provided for herein, insurance with the following minimum limits and coverage:

- (1) Public Liability - Bodily Injury (not auto) \$1,000,000 each person; \$2,000,000 each accident.
- (2) Public Liability - Property Damage (not auto) \$500,000 each accident; \$1,000,000 aggregate.
- (3) Contractor's Protective - Bodily Injury \$1,000,000 each person; \$2,000,000 each accident.
- (4) Contractor's Protective - Property Damage \$500,000 each accident; \$1,000,000 aggregate.

- (5) Automobile - Bodily Injury \$1,000,000 each person; \$2,000,000 each accident.
- (6) Automobile - Property Damage \$500,000 each accident.
- c. The policy of insurance provided for in subparagraph a. shall contain an endorsement which:
 - (1) Waives all right of subrogation against all persons and entities specified in subparagraph 4.d.(2) hereof to be listed as additional insureds in the policy of insurance provided for in paragraph b. by reason of any claim arising out of or connected with the operations of CONTRACTOR or any subcontractor in performing the work provided for herein;
 - (2) Provides it shall not be canceled or altered without thirty (30) days' written notice thereof given to CITY by registered mail.
- d. Each such policy of insurance provided for in paragraph b. shall:
 - (1) Be issued by an insurance company approved in writing by CITY, which is qualified to do business in the State of California;
 - (2) Name as additional insureds the CITY, its officers, agents and employees, and any other parties specified in the bid documents to be so included;
 - (3) Specify it acts as primary insurance and that no insurance held or owned by the designated additional insureds shall be called upon to cover a loss under said policy;
 - (4) Contain a clause substantially in the following words:

"It is hereby understood and agreed that this policy may not be canceled nor the amount of the coverage thereof reduced until thirty (30) days after receipt by CITY of a written notice of such cancellation or reduction of coverage as evidenced by receipt of a registered letter."
 - (5) Otherwise be in form satisfactory to CITY.
- e. The CONTRACTOR shall at the time of the execution of the contract present the original policies of insurance required in paragraphs a. and b., hereof, or present an endorsement of the insurance company, showing the issuance of such insurance, and the additional insureds and other provisions required herein.

5. CONTRACTOR'S LIABILITY: The City of Montclair and its respective officers, agents and employees shall not be answerable or accountable in any manner for any loss or damage that may happen to the project or any part thereof, or for any of the materials or other things used or employed in performing the project; or for injury or damage to any person or persons, either workmen, employees of the CONTRACTOR or his subcontractors or the public, whatsoever arising out of or in connection with the performance of the project. The CONTRACTOR shall be responsible for any damage or injury to any person or property resulting from defects or obstructions or from any cause whatsoever, except the sole negligence or willful misconduct of CITY, its employees, servants, or independent contractors who are directly responsible to CITY during the progress of the project or at any time before its completion and final acceptance. The CONTRACTOR will indemnify CITY against and will hold and save CITY harmless from any and all actions, claims, damages to persons or property, penalties, obligations, or liabilities that may be asserted or claimed by any person, firm, entity, corporation, political subdivision, or other organization arising out of or in connection with the work, operation, or activities of the CONTRACTOR, his agents, employees, subcontractors, or invitees provided for herein, whether or not there is concurrent passive or active negligence on the part of CITY, but excluding such actions, claims, damages to persons or property, penalties, obligations, or liabilities arising from the sole negligence or willful misconduct of CITY, its employees, servants, or independent contractors who are directly responsible to CITY, and in connection therewith:

- a. The CONTRACTOR will defend any action or actions filed in connection with any of said claims, damages, penalties, obligations, or liabilities and will pay all costs and expenses, including attorneys' fees incurred in connection therewith.
- b. The CONTRACTOR will promptly pay any judgment or award rendered against the CONTRACTOR or CITY covering such claims, damages, penalties, obligations, and liabilities arising out of or in connection with such work, operations, or activities of the CONTRACTOR hereunder or reasonable settlement in lieu of judgment or award, and the CONTRACTOR agrees to save and hold the CITY harmless therefrom.
- c. In the event CITY is made a party to any action or proceeding filed or prosecuted against the CONTRACTOR for damages or other claims arising out of or in connection with the project, operation, or activities of the CONTRACTOR hereunder, the CONTRACTOR agrees to pay to CITY any and all costs and expenses incurred by CITY in such action or proceeding together with reasonable attorneys' fees.

Money due to the CONTRACTOR under and by virtue of the contract, as shall be considered necessary by CITY, may be retained by CITY until disposition has been made of such actions or claims for damage as aforesaid.

6. **NONDISCRIMINATION:** No discrimination shall be made in the employment of persons upon public works because of the race, color, sex, sexual preference, sexual orientation, or religion of such persons, and every contractor for public works violating this section is subject to all the penalties imposed for a violation of Division 2, Part 7, Chapter 1 of the Labor Code in accordance with the provisions of § 1735 of said Code.

7. **INELIGIBLE SUBCONTRACTORS:** The CONTRACTOR shall be prohibited from performing work on this project with a subcontractor who is ineligible to perform on the project pursuant to § 1777.1 and § 1777.7 of the Labor Code.

8. **CONTRACT PRICE AND PAYMENT:** CITY shall pay to the CONTRACTOR for furnishing the material and doing the prescribed work the unit prices set forth in accordance with CONTRACTOR's Proposal dated **November 24, 2009**.

9. **ATTORNEYS' FEES:** In the event that any action or proceeding is brought by either party to enforce any term or provision of this Agreement, the prevailing party shall recover its reasonable attorneys' fees and costs incurred with respect thereto.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed with all the formalities required by law on the respective dates set forth opposite their signatures.

CITY OF MONTCLAIR, CALIFORNIA

By: _____
Mayor

Attest: _____
City Clerk

CONTRACTOR:

_____ **Cal Grove Corp.**

_____ 2521 Apollo Dr.

_____ Los Angeles, CA. 90046

By: _____
Title

By: _____
Title

By: _____
Title

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 09-128 WITH THE COUNTY OF SAN BERNARDINO FOR PARTICIPATION IN THE AVOID THE 25 CAMPAIGN AND AWARENESS PROGRAM	DATE: December 7, 2009 SECTION: AGREEMENTS ITEM NO.: 6 FILE I.D.: PDT265 DEPT.: POLICE
BUSINESS PLAN: N/A	

REASON FOR CONSIDERATION: The Montclair Police Department would like to participate in the Avoid the 25 Campaign and Awareness Program being implemented by the San Bernardino County Sheriff's Department (SBSD). Proposed Agreement No. 09-128 with the County of San Bernardino for participation in this much-needed antidrunk driving enforcement and educational campaign is attached for the City Council's review and consideration.

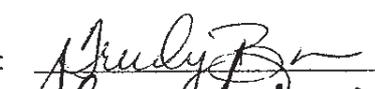
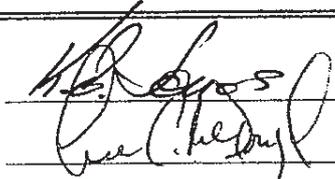
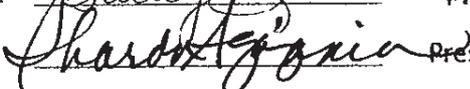
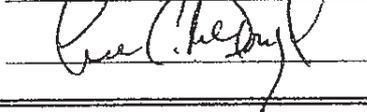
BACKGROUND: The SBSB has been awarded a California Office of Traffic Safety grant for the Avoid the 25 Campaign and Awareness Program. The performance period for the program is October 1, 2009, through September 30, 2012. The program is designed to coordinate law enforcement efforts in targeting drunk driving, reducing the number of deaths and injuries caused by alcohol-related traffic collisions, and conducting public awareness campaigns during the course of the program period.

The Montclair Police Department has been invited to participate in this collaborative anti-driving under the influence (DUI) enforcement effort. As a participating agency, Department personnel would take part in DUI and driver's license checkpoints, saturation patrols, and literature dissemination.

The SBSB is obligated to pay for services rendered under proposed Agreement No. 09-128. However, reimbursement would be provided for Police Officer overtime, not including benefits, for actual hours worked during the performance of DUI enforcement activities during the course of the grant period.

FISCAL IMPACT: Approval of proposed Agreement No. 09-128 would require the City to pay the salary and benefits for participating Police Officers and submit a request for reimbursement to the County of San Bernardino. Employee benefits paid to participating Police Officers would not be reimbursed.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 09-128 with the County of San Bernardino for participation in the Avoid the 25 Campaign and Awareness Program.

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

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE SAN BERNARDINO COUNTY SHERIFF'S DEPARTMENT
AND THE AVOID THE 25 CAMPAIGN AND AWARENESS PROGRAM**

This **MEMORANDUM OF UNDERSTANDING BETWEEN THE SAN BERNARDINO COUNTY SHERIFF'S DEPARTMENT AND THE AVOID THE 25 CAMPAIGN AND AWARENESS PROGRAM** ("Agreement") is made and entered in this ____ day of ____, 2009, by and between, the County of San Bernardino, through its Sheriff's Department ("Sheriff") and the City of _____, through its Police Department ("Participating Agency"), to work cooperatively to reduce alcohol related fatal and injury traffic collisions in San Bernardino County. In furtherance of that goal, the parties agree to fully support the goals and objectives of the California Office of Traffic Safety ("OTS"), Avoid the 25 Campaign and Awareness program.

WITNESSETH THAT:

WHEREAS, the Sheriff has received an award from OTS, CFDA No. 20.600, for the project entitled Avoid the 25 Campaign and Awareness program; and

WHEREAS, this program allows the Sheriff to reimburse designated police agencies that participate in the Avoid the 25 Program for authorized DUI operations on an overtime basis (no benefits included). Participating Agencies retained for the purpose of performing professional services for the Avoid the 25 Program may include the following: City of Barstow, City of Chino, City of Colton, City of Fontana, City of Montclair, City of Ontario, City of Redlands, City of Rialto, City of San Bernardino, City of Upland, and California State University of San Bernardino Police;

WHEREAS, the Sheriff desires to obtain the cooperation of the Participating Agency to perform in all project-related enforcement activities;

WHEREAS, the Participating Agency has represented to the Sheriff that it is knowledgeable, qualified, and possesses the skills required for this project; and,

NOW THEREFORE, the Sheriff and Participating Agency, for the consideration hereinafter described, mutually agrees as follows:

ARTICLE I. SCOPE OF WORK; COOPERATION.

The Participating Agency agrees to undertake and carry out active services to reduce alcohol related activities for the Sheriff. Such services may include, but are not limited to, the following:

- Conduct DUI/DL checkpoints during each of the four (4) major holiday mobilization periods Winter Holiday mid-December to January 1; Memorial Day weekend;

Independence Day weekend; and Summer from mid August through the Labor Day weekend.

- Conduct saturation patrols during each of the four (4) major mobilization periods, including special events such as Super Bowl Sunday, St. Patrick's Day, Cinco de Mayo and Halloween.

In addition to the specific services and formal reports required hereunder, Participating Agency agrees that it will at all times during the performance of this agreement maintain close liaison with the Sheriff project director in order to assure a well integrated effort.

ARTICLE II. STATUS OF PARTIES.

The Participating Agency is acting as an independent entity in the performance of work under this agreement.

ARTICLE III. KEY PERSONNEL.

Key personnel for this Project shall include:

Dave Phelps, Sergeant, serving as the Sheriff's Project Director
Gabriella Garcia, serving as the Sheriff's Fiscal Coordinator
Claudia Davalos, serving as the Sheriff's Grant Coordinator
Judy Preciado, serving as the Sheriff's Fiscal Point of Contact
Steve Lux, serving as the Participating Agency Project Director
Trudy Burson serving as the Participating Agency, Fiscal Point of Contact

The Participating Agency shall not replace or substitute another individual as its project director without the expressed written prior approval of the Sheriff.

All fiscal/contractual issues and/or changes must be submitted to and authorized in writing by the project director listed above. Any other communication is not deemed binding under this agreement.

ARTICLE IV. PERIOD OF PERFORMANCE.

The period of performance of this agreement shall be from October 1, 2009 to September 30, 2012. Continuation of project activity beyond September 30, 2012 is subject to receipt of funding from OTS.

ARTICLE V. COMPENSATION AND MAXIMUM COST.

- A. In full consideration of the services provided during enforcement periods, the amount that the Sheriff shall be obligated to pay for services rendered under this Agreement shall not exceed the dollar amounts set forth in the Avoid the 25 grant for the term of this Agreement, which is attached hereto and incorporated herein by reference. Funds are to be used solely for reimbursement of officer overtime (no benefits included) incurred while staffing DUI Enforcement activities in support of the Avoid the 25 Campaign and Awareness program during the time period of October 1, 2009 through September 30, 2012.

- B. Participating Agency will receive reimbursement for officer overtime (no benefits included) through the Avoid the 25 Program as set forth in this Agreement. The amount reimbursed will not exceed the total sum allocated in the approved grant budget, Category C-Contractual Services, in the amount of \$282,168 for all Participating Agencies. The amount the Participating Agency will receive will be based on actual staff hours worked for the Avoid the 25 grant program. Funding is solely for reimbursement of officer overtime incurred during Avoid the 25 enforcement activities conducted during the Avoid the 25 enforcement period.

ARTICLE VI. SUBCONTRACT ADMINISTRATION.

This agreement shall be administered in accordance with the applicable provisions of:

OMB Circular A-87
Cost Principles for State and Local Governments

OMB Circulars A-110 and A-102
Uniform Administrative Requirements

OMB Circular A-122
Cost Principles for Non-Profit Organizations

OMB Circular A-133
Audits of States, Local Governments, and Non-Profit Organizations

Documents referenced above are available electronically:
Office of Management and Budget – OMB Circulars
<http://www.whitehouse.gov/omb>

Title 49 CFR, Part 18, Uniform Administrative Requirements for Grants
and Cooperative Agreements

Title 49 CFR, 18.35, Debarred and suspended parties, Grantees, sub grantees, contractors, and subcontractors must not make any award or permit any award (sub grant or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549.

Title 49 CFR, Part 19, Uniform Administrative Requirements for Grants
and Agreements with Institutions of Higher Education, Hospitals and
Other Non-Profit Organizations

Title 49 CFR, Part 26, Participation by Disadvantaged Business
Enterprises in Department of Transportation Financial Assistance
Programs

Title 41, CFR, Part 105-71, Uniform Administrative Requirements for
Grants and Cooperative Agreements

California Office of Traffic Safety
Grant Program Manual – Program Management & Reporting (Rev 2/08)
Accessible on-line at www.ots.ca.gov

American Recovery and Reinvestment Act Funding (ARRA) **Exhibit A**

If there is conflict between the main Agreement Articles and the general principles of the agreement administration documents incorporated above, the Agreement Articles shall take precedence.

ARTICLE VII. PAYMENT.

Participating Agency shall submit reimbursement claims to the Sheriff's Project Director, in an "OTS Avoid the 25 Overtime Claim" form (**Exhibit B**). All claims must be signed by the Participating Agency project director.

Cost incurred before the starting grant performance date will not be eligible for reimbursement. Payment to the Participating Agency shall be made within thirty (30) days upon receipt and approval by Sheriff's Bureau of Administration (B of A). **Claim forms must be submitted no later than fifteen (15) days following the event period.**

All claims must be submitted with documentation of hours worked (pay report, time card, etc.); documentation of rate of pay for each employee (no benefits included); statistical report for enforcement operation (**Exhibit C**).

ARTICLE VIII. FINANCIAL MANAGEMENT SYSTEMS.

Participating Agency shall maintain acceptable financial management system during the term of the Agreement. Such systems shall provide:

- accurate, current and complete disclosure of the financial activity under this Agreement;
- records that identify the source and application of Avoid the 25 funds;
- effective control over and accountability for all funds, property and other assets;
- comparison of actual outlays with budgeted Agreement amounts;
- consistency with the applicable regulatory cost principles; and,
- accounting records supported by source documentation such as time and effort reporting documents, which include payroll records and rosters.

If Participating Agency is an organization subject to the uniform administrative requirements of OMB Circulars A-110 or A-102 or arranges for audits that comply with OMB Circulars A-133 or equivalent guidelines, Participating Agency shall provide Sheriff's B of A with a copy of all written reports that were prepared by the Participating Agency's independent accounting in order to be in compliance with the appropriate Circular.

Failure to comply with the terms of this Article may lead to Participating Agency termination in accordance with Article VIII.

ARTICLE IX. RECORDS RETENTION AND AUDIT.

Sheriff's B of A, OTS, Federal or State agencies, or any of their duly authorized representatives shall have unrestricted access to and the right to examine and Audit directly pertinent books, documents, papers and records of Participating Agency including financial transactions and supporting documents, general accounting system, internal controls, management practices, policies and procedures. Such books, documents, papers and records shall be retained by Participating Agency for a period of three (3) years following the date of the final payment under this Agreement.

It is understood and agreed, that in the event Sheriff's B of A is subject to an audit conducted by OTS that results in the identification of unallowable costs associated with this Agreement, Participating Agency shall reimburse the Sheriff within 30 days for eventual repayment to OTS.

ARTICLE X. EQUAL OPPORTUNITY/NON-DISCRIMINATION/AFFIRMATIVE ACTION.

Participating Agency shall comply with the provisions of Title VII of the Civil Rights Act of 1964 (42 USC 2000 as amended by the Equal Opportunity Act of March 24, 1972, Public Law No. 92-261) in that it shall not discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges of employment; or discriminate in any way which would deprive or intend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee because of such individual's race, color, religion, sex, national origin, age, handicap, medical condition, or marital status.

Participating Agency shall ensure that services and benefits are provided without regard to race, color, religion, sex, age, or national origin in accordance with Title VII of the Civil Rights Act of 1964. Participating Agency shall comply with Section 503 of the Rehabilitation Act of 1973, as amended (29 USC 794), pertaining to the prohibition of discrimination against qualified handicapped persons.

Participating Agency is required to submit an acceptable Equal Employment Opportunity Plan that is approved by Office for Civil Rights, failure to submit is a violation of its certified Assurances and may result in suspension or termination of funding until such time as the recipient is in compliance.

ARTICLE XI. HOLD HARMLESS.

Participating Agency agrees to indemnify, defend 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 expensed 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 indemnities. 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” within the meaning of Civil Code Section 2782.

Both Participating Agency and County are authorized self-insured public entities for purposes of Professional Liability, General Liability, Automobile Liability, and Workers’ Compensation. Participating Agency 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.

ARTICLE XII. DRUG-FREE WORKPLACE.

Participating Agency shall comply with the Drug-Free Workplace Act of 1988, Title 45, Code of Federal Regulations, Part 76, Subpart F, which requires prime recipients and any sub tier contractors and/or sub-grantees to certify that they will maintain a drug-free workplace. The Participating Agency certification is a material representation of fact upon which reliance will be placed when the Sheriff determines to award this Agreement. False certification or violation of the certification is a material representation of fact upon which reliance will be placed when Sheriff determines to award this Agreement. False certification or violation of the certification shall be grounds for suspension of payments under this Agreement, or suspension or termination of this Agreement. Participating Agency acknowledges that by executing this Agreement, it is making the certification required by the Drug Free Workplace Act. The Participating Agency must submit a copy to Sheriff's B of A, of their Act signed by all the participants under this project.

ARTICLE XIII. ENTIRE AGREEMENT.

This Agreement and the Attachments hereto contain the entire agreement of the parties, and no representation, provision, warranty, term, condition, promise duty or liability, expressed or implied, shall be binding upon or applied to either party, except as herein stated. No amendment or modification of any term, provision or condition of this Agreement shall be binding or enforceable unless in writing and signed by each of the parties.

ARTICLE XIV. FUNDING

Participating Agency understands that the source of funds for the payment of Participating Agency’s services hereunder is an award between the San Bernardino County Sheriff’s Department and the California Office of Traffic Safety. The continuation of this program is contingent upon fund availability from the grantor.

ARTICLE XV. WARRANTY OF ORIGINALITY

Participating Agency warrants that all material produced by the Participating Agency and delivered to the Sheriff’s hereunder shall be original, except for such portion as included with permission of the copyright owners thereof, that it shall contain no libelous or unlawful statements or materials, and will not infringe upon any copyright, trademark, patent, statutory or other proprietary rights of others and that it will hold harmless the Sheriff’s from any costs, expenses and damages resulting from any breach of this warranty.

Memorandum of Understanding
San Bernardino County Sheriff's Department
Avoid the 25 - Project# AL1069

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date hereof.

COUNTY OF SAN BERNARDINO

PARTICIPATING AGENCY
(City of _____)

Approved by:

Reviewed and Accepted by Participating
Agency:

Gary C. Ovitt, Chairman
Board of Supervisors

Signature

Attest:

Name

Title

Laura H. Welch
Clerk of the Board

Date

Signature

Name

Title

Date

Approved as to Form:

Steven J. Singley
County Counsel - Deputy

This is to notify you of your obligations relating to the American Recovery and Reinvestment Act of 2009, pursuant to the Contract ___-___ with San Bernardino County effective _____, 2009.

AMERICAN RECOVERY AND REINVESTMENT ACT FUNDING (ARRA) Exhibit A

Use of ARRA Funds and Requirements

This Contract may be funded in whole or in part with funds provided by the American Recovery and Reinvestment Act of 2009 ("ARRA"), signed into law on February 17, 2009. Section 1605 of ARRA prohibits the use of recovery funds for a project for the construction, alteration, maintenance or repair of a public building or public work (both as defined in 2 CFR 176.140) unless all of the iron, steel and manufactured goods (as defined in 2 CFR 176.140) used in the project are produced in the United States. A waiver is available under three limited circumstances: (i) Iron, steel or relevant manufactured goods are not produced in the United States in sufficient and reasonable quantities and of a satisfactory quality; (ii) Inclusion of iron, steel or manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent; or (iii) Applying the domestic preference would be inconsistent with the public interest. This is referred to as the "Buy American" requirement. Request for a waiver must be made to the County for an appropriate determination.

Section 1606 of ARRA requires that laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 31). This is referred to as the "wage rate" requirement.

The above described provisions constitute notice under ARRA of the Buy American and wage rate requirements. Contractor must contact the County contact if it has any questions regarding the applicability or implementation of the ARRA Buy American and wage rate requirements. Contractor will also be required to provide detailed information regarding compliance with the Buy American requirements, expenditure of funds and wages paid to employees so that the County may fulfill any reporting requirements it has under ARRA. The information may be required as frequently as monthly or quarterly. Contractor agrees to fully cooperate in providing information or documents as requested by the County pursuant to this provision. Failure to do so will be deemed a default and may result in the withholding of payments and termination of this Contract.

Contractor may also be required to register in the Central Contractor Registration (CCR) database at <http://www.ccr.gov> and may be required to have its subcontractors also register in the same database. Contractor must contact the County with any questions regarding registration requirements.

Schedule of Expenditure of Federal Awards

In addition to the requirements described in "Use of ARRA Funds and Requirements," proper accounting and reporting of ARRA expenditures in single audits is required. Contractor agrees to separately identify the expenditures for each grant award funded under ARRA on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by the Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Nonprofit Organizations." This identification on the SEFA and SF-SAC shall include the Federal award number, the Catalog of Federal Domestic Assistance (CFDA) number, and amount such that separate accountability and disclosure is provided for ARRA funds by Federal award number consistent with the recipient reports required by ARRA Section 1512 (c).

In addition, Contractor agrees to separately identify to each subcontractor and document at the time of sub-contract and at the time of disbursement of funds, the Federal award number, any special CFDA number assigned for ARRA purposes, and amount of ARRA funds.

Contractor may be required to provide detailed information regarding expenditures so that the County may fulfill any reporting requirements under ARRA described in this section. The information may be required as frequently as monthly or quarterly. Contractor agrees to fully cooperate in providing information or documents as requested by the County pursuant to this provision. Failure to do so will be deemed a default and may result in the withholding of payments and termination of this Contract.

American Recovery and Reinvestment Act (ARRA)
Exhibit - A

I do hereby acknowledge receipt of the American Recovery and Reinvestment Act (ARRA) Funding requirements that became effective August 12, 2009, and understand and agree to the contractual obligations stipulated herein for contracts with San Bernardino County.

Printed Name

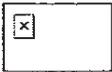
Signature

Title

Company or Organization

Program Name

Date



COUNTY OF SAN BERNARDINO
SHERIFF'S DEPARTMENT



"Avoid the 25" Operations Statistical Report

Agency: _____ Region: _____

Period of Operation: _____

Date(s) of Operations					Period Totals
Type of Operation					
# of Officers Deployed					0

DUI/DL Checkpoint:					
Vehicles Through Checkpoint					0
Drivers Screened					0
FST's Administered					0
DUI Arrests					0
Drug Arrests					0
Other Arrests (in custody)					0
Unlicensed Drivers (12500)					0
Suspended/Revoked (14601)					0
All Other Citations					0
ALL Vehicle Impounds					0
Recovered Stolen Vehicles					0

Saturation Patrol:					
Vehicle Stops					0
FST's Administered					0
DUI Arrests					0
Drug Arrests					0
Other Arrests (in custody)					0
Unlicensed Driver (12500)					0
Suspended/Revoked (14601)					0
All other Citations					0
ALL Vehicle Impounds					0
Recovered Stolen Vehicles					0

Media Efforts:

Press Release Attached	
News Article Attached	

Alcohol Involved Collisions:

Fatalities
Injuries

Other: Describe below-

SUBMITTED BY _____ TITLE _____
SIGNATURE _____ DATE _____

RETURN THIS FORM AT THE END OF SHIFT TO:
SGT. DAVE PHELPS – SAN BERNARDINO COUNTY SHERIFFS DEPT
– BUREAU OF ADMINISTRATION

FAX (909) 387-3444 EMAIL: dphelps@sbcisd.org

Documents with original signature are required for reimbursement. Please mail originals to
San Bernardino County Sheriff's Department, Attn: Dave Phelps, 655 E. 3rd Street, San Bernardino CA 92415

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 09-05, A RESOLUTION OF THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY MAKING A FINDING THAT THE PLANNING AND ADMINISTRATIVE EXPENSES FUNDED FROM THE LOW- AND MODERATE-INCOME HOUSING FUND ARE NECESSARY FOR THE PRODUCTION, IMPROVEMENT, OR PRESERVATION OF THE COMMUNITY'S SUPPLY OF LOW- AND MODERATE-INCOME HOUSING	DATE: December 7, 2009
	SECTION: RESOLUTIONS
	ITEM NO.: 1
	FILE I.D.: RDA575
	DEPT.: REDEVELOPMENT

BUSINESS

PLAN: N/A

REASON FOR CONSIDERATION: State law allows redevelopment agencies to use low-to-moderate-income housing funds to pay for certain administrative and planning costs related to the production, improvement, and preservation of affordable housing. Section 33334.3 of the Health and Safety Code requires the Redevelopment Agency make a finding that administrative and planning expenses are necessary and related to the production, improvement, and preservation of the community's supply of affordable housing.

BACKGROUND: The City of Montclair Redevelopment Agency administers various programs and participates in various projects to benefit low- and moderate-income households. Examples of such programs include the Exterior Housing Improvement Program (EHIP), the Rehabilitation Loan Program, the Rehabilitation Grant Program for Seniors, the acquisition and rehabilitation of housing by the Agency operated by the Montclair Housing Corporation, and the cooperative partnerships that the Redevelopment Agency has with National Community Renaissance of California (National CORE) for the construction of new affordable housing units. These programs and projects generate administrative costs in the form of Redevelopment Agency staff time, occasional use of consulting services, legal fees, and costs for supplies.

The primary focus for use of Redevelopment Agency low- and moderate-income housing funds must be program and project costs. The Redevelopment Agency Board of Directors is charged with making a finding that the amount of administrative and planning costs charged to the Housing Fund are necessary. In the Fiscal Year 2009-10 Budget, the following administrative and planning costs have been appropriated to the Housing Fund as shown in Table A:

Prepared by: <u>M. STAATS</u>	Reviewed and Approved by: <u>M. STAATS</u>
Proofed by: <u>Christine Waldwell</u>	Presented by: <u>Christine Waldwell</u>

Table A <i>Administrative and Planning Costs</i>	
Personnel	\$200,615
Legal services	\$ 46,000
Contract services	\$ 26,750
Other expenses	\$ 34,256
Total	\$307,621

The total Fiscal Year 2009-10 Housing Fund Budget is \$7,556,621. The personnel costs shown in Table A represent partial salaries and benefits for Redevelopment Agency staff members involved in housing programs and members of the Finance Division that are tasked with accounting functions related to the Housing Fund. If taken in total, the partial salaries and benefits would represent 3.12 full-time positions. The legal services and contract services are relatively self explanatory. Contract services include charges for audit fees and servicing fees related to the Homebuyer Assistance Program. Other expenses include supplies but also include the Housing Fund's portion of SB 2557 charges. SB 2557 charges are the tax collection fees charged by the County for collection of property tax.

Table B illustrates the relationship between administrative and planning costs to the total Redevelopment Agency Housing Fund over the last four years:

Table B Housing Fund Expenditures			
<i>Fiscal Year</i>	<i>Total Expenditures</i>	<i>Administrative and Planning Expenditures</i>	<i>Percentage</i>
FY 2006-07 (audited)	\$ 802,210	\$ 357,707	44
FY 2007-08 (audited)	\$ 3,965,545	\$ 277,047	7
FY 2008-09 (budgeted)	\$ 6,591,131	\$ 323,621	5
FY 2009-10 (budgeted)	\$ 7,556,621	\$ 307,621	4
Total	\$18,915,507	\$1,265,996	7

As Table B reveals, direct expenditures can vary widely from year to year because of the timing of large projects in which the Redevelopment Agency is purchasing land or contributing large sums such as those projects the Redevelopment Agency has entered with

National CORE. The table also indicates that administrative and planning expenditures have roughly remained in the \$300,000 range. Variances in administrative and planning expenditures largely relate to legal and consultant fees regarding new project or program development. The average cost of administrative and planning expenses relative to total costs for the 2009–10 fiscal year is 4 percent. The four-year average percentage of administrative and planning costs to total expenses is 7 percent.

Staff believes the Redevelopment Agency's use of low- and moderate-income housing funds for administrative and planning purposes is reasonable and is not disproportionate to the costs incurred for projects and programs managed by the Redevelopment Agency. Therefore, staff recommends the Redevelopment Agency Board of Directors adopt Resolution No. 09–05, which finds that Housing Fund expenditures for administrative and planning purposes are necessary.

FISCAL IMPACT: The Redevelopment Agency Board of Directors' adoption of proposed Resolution No. 09–05 would cause no fiscal impact for the Redevelopment Agency.

RECOMMENDATION: Staff recommends the Redevelopment Agency Board of Directors adopt Resolution No. 09–05 making a finding that the planning and administrative expenses funded from the Low- and Moderate-Income Housing Fund are necessary for the production, improvement, and preservation of the community's supply of low- and moderate-income housing.

RESOLUTION NO. 09-05

A RESOLUTION OF THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY MAKING A FINDING THAT THE PLANNING AND ADMINISTRATIVE EXPENSES FUNDED FROM THE LOW- AND MODERATE-INCOME HOUSING FUND ARE NECESSARY FOR THE PRODUCTION, IMPROVEMENT, OR PRESERVATION OF THE COMMUNITY'S SUPPLY OF LOW- AND MODERATE-INCOME HOUSING

WHEREAS, the City of Montclair Redevelopment Agency ("Agency") is authorized by Section 33334.3 of the Health and Safety Code to use a portion of its low- and moderate-income housing funds to pay for planning and general administrative costs that are directly related to the provision of housing assistance in accordance with Section 33334.2 of the Health and Safety Code; and

WHEREAS, the Agency has engaged in a number of projects consistent with Section 33334.2 to increase, improve, and preserve low-to-moderate income housing and the Agency reasonably expects to continue such activity in accordance with the budget for 2009-10; and

WHEREAS, the Agency will expend staff time and resources to carry out the projects and programs listed in Exhibit A attached hereto; and

WHEREAS, Section 33334.3 requires the Agency to make a finding that the planning and administrative expenses are reasonable given the expected level of activity for low- and moderate-income housing projects.

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

Section 1. Pursuant to the requirements of Section 33334.2 of the Health and Safety Code, the reasonable budget allocation of Agency staff expenses directly related to the production, rehabilitation, or preservation of low-and-moderate income housing is illustrated in Exhibit B attached hereto.

Section 2. The Agency asserts that, in the event of substantial changes in project activity, it will reevaluate the allocations and only assess the low-and-moderate income housing fund for that portion of administrative expenses that are reasonably related to the purposes allowable under law.

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. 09-05 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
CITY OF MONTCLAIR REDEVELOPMENT AGENCY
LOW- AND MODERATE-INCOME HOUSING FUND
FISCAL YEAR 2009-10
PROJECTS AND PROGRAMS JUSTIFYING USE OF
ADMINISTRATIVE FUNDS

San Antonio Gateway Area Projects

- **Senior Housing Project:** The City of Montclair Redevelopment Agency (Agency) has partnered with the nonprofit housing developer National Community Renaissance of California (National CORE) on development of an 85-unit affordable senior project at Mills Avenue in the area called the San Antonio Gateway. The total cost of the project is approximately \$13 million. The project has been financed with HUD 202 funds and a residual receipts loan from the Agency for approximately \$1.2 million including land and some construction costs. The Disposition and Development Agreement (DDA) with the Agency was approved in June 2008. The project should be completed by December 2009. However, an amendment to the DDA will be necessary to cover additional entitlement costs.
- **Mills Family Project:** The Mills Family Project is located directly south of the Senior Housing Project on Mills Avenue. The Agency has partnered with National CORE on the development of a 50-unit affordable family rental housing project. The total cost of the project is approximately \$18 million. The Agency entered into an Affordable Housing Agreement with National CORE in 2008. The DDA originally authorized Agency participation in the amount of \$3.6 million. However, the Agency agreed to amend the DDA in 2009 to provide the project with an additional \$2.65 million. The Mills Family Project received a 9 percent allocation of tax credits and is now fully financed. The Agency is assisting National CORE with relocation of a certain business tenant on the property where the project is to be located.
- **Special Needs Housing Project:** The Agency purchased a one half acre property at 4113 Kingsley Street in 2009. The property is located adjacent to the Mills Family Project. The Agency has partnered with National CORE on the development of a special needs housing project on the site. National CORE executed an option agreement with the Agency regarding purchase of the site on October 19, 2009. National CORE intends to apply for HUD

Section 811 financing for the project. The Agency would contribute approximately \$1.3 in acquisition and construction costs. Plans for the proposed project are being developed. It is estimated that 18 units for developmentally disabled persons will be constructed. The Agency will consider a DDA with National CORE after it is determined if HUD financing is available.

Acquisition Purchases

The Agency is pursuing replacement properties for the single family home acquired for the special needs housing project and the duplex that was acquired as a part of the senior housing project. The Agency is also looking for sites suitable for use for Habitat for Humanity homes. Staff is also attempting to seek sites suitable for affordable projects when an opportunity presents itself.

Single-Family Housing Rehabilitation Program

The Agency oversees the implementation of a rehabilitation program offered through Neighborhood Partnership Housing Services (NPHS) for income-qualified Montclair owners of houses or mobile homes. The Agency provides the funding up to \$35,000 for rehabilitation loans to homeowners at a low- or zero-interest rate. NPHS administers the programs for the Agency. The Agency enters into a fee for services contract with NPHS and monitors contract compliance issues related to the loan program.

Single-Family Rehabilitation Grant Program for Seniors

The Agency oversees implementation of a rehabilitation grant program for income-qualified Montclair residents of houses or mobile homes. Grants of \$1,500 are offered to qualified seniors for minor or emergency home repairs. The program is administered by NPHS on a fee-for-services basis. The Agency monitors contract compliance issues related to the grant program.

Multifamily Property Rehabilitation Loan

The nonprofit Montclair Housing Corporation manages and operates 76 multifamily units and 15 single-family homes owned by the Agency. These units are rented to income-qualifying families at very low-, low-, and moderate-income rents. The income from the units generally offsets operating expenses. However, when major improvements are necessary, the Agency lends funds to the Montclair Housing Corporation for such improvements.

Exterior Housing Improvement Program

The Agency administers a program designed to assist income-qualifying homeowners with a grant up to \$7,000 for certain landscape maintenance and building code compliance issues. The Housing Fund is limited for use to those items related to building code compliance. Approximately 50 grants each year are completed.

Affordable Housing Covenant Compliance

Agency staff monitors covenant compliance with 297 mobile home units, 236 multifamily units, and 15 single-family homes restricted to very low-, low-, and moderate-income rental units. Upon completion, the Agency will also be charged with monitoring covenants for the 50-unit National CORE Project and the 18-Unit Special Needs Housing Project.

Housing Element

The Agency works in collaboration with the City Planning Division staff to develop and implement the update of the Housing Element of the General Plan.

Implementation Plans

Agency staff worked to prepare the required Implementation Plan updates for Redevelopment Project Area Nos. I, II, III, IV, and V. In addition, staff prepared the Implementation Plan update for the Mission Boulevard Joint Redevelopment Project Area. Staff developed the Implementation Plans to ensure the housing production, replacement, and proportionality requirements of the Health and Safety Code are met.

Administration

Staff works to track the Low- And Moderate-Income Housing Fund tax increment receipts, administers accounts payable, prepares budget documents, coordinates financing and compliance reports including, but not limited to, check registers, financial statements, the State Controller's Report, the Statement of Indebtedness, the annual State Department of Housing and Community Development housing report, and other required reporting requirements.

EXHIBIT B

CITY OF MONTCLAIR REDEVELOPMENT AGENCY
LOW- AND MODERATE-INCOME HOUSING FUND
FISCAL YEAR 2009-10

<i>Planning and Administrative Costs</i>	
Personnel	\$200,615
Legal services	\$ 46,000
Contract services	\$ 26,750
Other expenses	\$ 34,256
Total	\$307,621

<i>Direct Program and Project Costs*</i>	\$7,249,000
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TOTAL	\$7,556,621
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*Includes funds encumbered but not yet paid to National CORE for Mills Family Project and Special Needs Housing Project

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION
NO. 09-2822 FIXING THE SALARIES FOR
CERTAIN POLICE DEPARTMENT EMPLOYEES
REPRESENTED BY THE MONTCLAIR POLICE
OFFICERS ASSOCIATION

DATE: December 7, 2009

SECTION: RESOLUTIONS

ITEM NO.: 2

FILE I.D.: MPO500

DEPT.: ADMIN. SVCS.

BUSINESS

PLAN: N/A

REASON FOR CONSIDERATION: The City Council is requested to consider adoption of Resolution No. 09-2822 implementing wage provisions contained in the Memorandum of Understanding (MOU) with the Montclair Police Officers Association (MPOA).

BACKGROUND: At its regular meeting of March 3, 2003, the City Council approved a five-year MOU with MPOA. Extensions were provided taking the current MOU to June 30, 2011. This MOU included increases in salaries and benefits for the classifications represented by MPOA. Fiscal Year 2009-10 salary adjustments for MPOA members were agreed to at 1 percent. MPOA salary adjustments are shown on Schedule "A" of Resolution No. 09-2822. If approved by the City Council and in accordance with the MPOA MOU, the salary adjustments contained in Schedule "A" would become effective January 4, 2010.

FISCAL IMPACT: Within Council-established parameters—1 percent for Police Officers and Sergeants, or approximately \$17,796 for the remainder of Fiscal Year 2009-10 and an annual cost of \$35,592.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 09-2822 fixing the salaries for certain Police Department employees represented by MPOA.

Prepared by:

Lisa L. Glannon

Reviewed and
Approved by:

[Signature]

Proofed by:

Kathy Patton

Presented by:

[Signature]

RESOLUTION NO. 09-2822

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MONTCLAIR FIXING THE
SALARIES FOR CERTAIN POLICE DEPART-
MENT EMPLOYEES REPRESENTED BY THE
MONTCLAIR POLICE OFFICERS ASSOCIA-
TION

WHEREAS, pursuant to Government Code Section 3500, *et seq.*, the City of Montclair representatives have met and conferred with the representatives of the Montclair Police Officers Association (MPOA); and

WHEREAS, the City Council has determined that it is in the best interest of the City of Montclair to make adjustments in employees' salaries, as shown on the attached schedule.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair does hereby find and determine that the salaries of the City employees represented by MPOA shall be as shown in Schedule "A" attached to this Resolution; and

BE IT FURTHER RESOLVED that such adjustments shown in Schedule "A" shall become effective January 4, 2010.

BE IT FURTHER RESOLVED that the previous salaries and benefits provided by the City and affected by these changes shall be hereafter null and void.

BE IT FURTHER RESOLVED that the City Clerk shall certify to the passage of this resolution and the Mayor shall sign the same.

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. 09-2822 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: None
NOES: None
ABSTAIN: None
ABSENT: None

Donna M. Jackson
City Clerk

SCHEDULE "A"

Salary Adjustments for Classifications Represented by the Montclair Police Officers Association

<i>Classification</i>	<i>Present Range</i>	<i>Proposed Range</i>
Police Officer	\$5,040 – \$6,126	\$5,090 – \$6,187
Police Sergeant	\$6,698 – \$8,142	\$6,765 – \$8,223

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION
NO. 09-2823 SUPPORTING WILDERNESS
AND WILD RIVER DESIGNATIONS FOR
THE SAN GABRIEL MOUNTAINS

DATE: December 7, 2009

SECTION: RESOLUTIONS

ITEM NO.: 3

FILE I.D.: ENV317

**BUSINESS
PLAN:** N/A

DEPT.: ADMIN. SVCS.

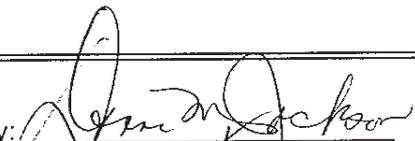
REASON FOR CONSIDERATION: The Wilderness Society has requested an endorsement from the City of Montclair supporting the wilderness and wild river designations for the San Gabriel Mountains. Proposed Resolution No. 09-2823 affirming the City's support of these natural resources is attached for the City Council's review and consideration.

BACKGROUND: Following a presentation by representatives of the San Gabriel Mountains Forever campaign at the November 16, 2009 regular joint meeting, during which the City was requested to support wilderness and wild river designations for the San Gabriel Mountains, Mayor Pro Tem Dutrey asked that an item be placed on this evening's agenda affirming the City's support of the protection and preservation of these natural resources and to provide for the expansion of recreational opportunities including hiking, horseback riding, rock climbing, photography, and camping to promote public health.

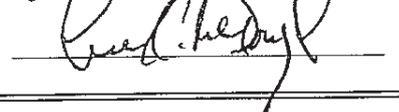
FISCAL IMPACT: Adoption of Resolution No. 09-2823 would create no fiscal impact to the General Fund.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 09-2823 supporting wilderness and wild river designations for the San Gabriel Mountains.

Prepared by:




Reviewed and
Approved by:

Proofed by:

Presented by:

RESOLUTION NO. 09-2823

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MONTCLAIR SUPPORTING
WILDERNESS AND WILD RIVER DESIGNA-
TIONS FOR THE SAN GABRIEL MOUNTAINS**

WHEREAS, San Gabriel Mountains Forever is an alliance of community groups, faith leaders, conservation groups, and local businesses; and

WHEREAS, marine vessels burn fuel with extremely high sulfur content known as "bunker" fuel, which averages approximately 27,000 parts per million (ppm) sulfur; and

WHEREAS, most equipment in the United States is required, or will be required, to burn fuel with no more than 15 ppm sulfur; and

WHEREAS, bunker fuel is a viscous substance laden with heavy metals, sulfur, and other polluting chemicals and is the dirtiest fuel in use anywhere; and

WHEREAS, emissions from marine vessels in and around U.S. ports have severe health effects, containing mono-nitrogen oxides (NOx) and sulfur oxides (SOx) that are precursors of smog and particulates and release cancer-causing diesel particulate matter that affects surrounding ports as well as downwind regions; and

WHEREAS, foreign-flagged ships are responsible for about 90 percent of marine vessel emissions; and

WHEREAS, the high sulfur content of bunker fuel causes ships to emit over 50 percent of the SOx pollution in Southern California; and

WHEREAS, ship emissions in that region will also soon become the single largest source of NOx; and

WHEREAS, if that region is to attain the federal PM2.5 standard by the 2014 deadline, marine vessel SOx emissions must be reduced by over 90 percent; and

WHEREAS, such attainment by the federal deadline is not possible without the prompt adoption and implementation of vessel controls, such as low sulfur fuels; and

WHEREAS, a recent analysis by the South Coast Air Quality Management District concluded that over 700 premature deaths would be prevented every year in the South Coast Air Basin if the marine vessel controls in the State Implementation Plan (SIP) were implemented; this accounts for over one third of the health benefits of the entire SIP to attain the annual PM2.5 standard in the Basin; and

WHEREAS, ship emissions also contribute to particulates, ozone, and toxins in many other areas of the country; and

WHEREAS, studies confirm that exposure to harmful air pollutants emitted by ships, including toxic diesel emissions, increases premature mortality and hospital, physician, and emergency room visits and exacerbates respiratory illnesses including asthma, pneumonia, and bronchitis; and

WHEREAS, globally, it is estimated that premature mortality caused by ship emissions ranges from 19,000 to 64,000 annual deaths caused by cardiopulmonary disease and lung cancer; and

WHEREAS, the marine vessel emissions problem is only expected to worsen since goods movement and cargo through U.S. ports is projected to substantially increase over the next 10 to 20 years; and

WHEREAS, premature mortalities on a global scale are estimated to grow by about 40 percent in 2012 as a result of immense growth in global shipping activity; and

WHEREAS, the Marine Vessel Emissions Reduction Act would achieve landmark reductions in emissions; the bill would require the U.S. Environmental Protection Agency (EPA) to establish rules limiting fuel sulfur content in both domestic and foreign-flagged ships traveling to U.S. ports, both along the coastal waters and within the Great Lakes; and

WHEREAS, such limits would apply only within a certain number of miles from the U.S. coastline to reduce fuel sulfur content to 1,000 to 2,000 ppm sulfur by 2011, a substantial but feasible reduction from current fuel sulfur levels of 27,000 ppm in large ocean-going ships; and

WHEREAS, the bill would also require the EPA to establish "maximum achievable" NOx, SOx, and particulate emissions reduction standards for main and auxiliary ship engines.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair strongly urges Congress to designate new wilderness and wild and scenic rivers in the San Gabriel Mountains and to provide for the expansion of recreational opportunities to promote public health.

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. 09-2823 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: None
NOES: None
ABSTAIN: None
ABSENT: None

Donna M. Jackson
City Clerk

**MINUTES OF THE REGULAR MEETING OF
THE PUBLIC WORKS COMMITTEE HELD ON
THURSDAY, OCTOBER 15, 2009, AT 2:00 P.M. IN
THE CITY HALL CONFERENCE ROOM, 5111 BENITO
STREET, MONTCLAIR, CALIFORNIA**

I. CALL TO ORDER

Acting Chair Mayor Eaton called the meeting to order at 2:00 p.m., noting Council Member Raft was substituting for Council Member/Committee Chair Paulitz.

II. ROLL CALL

Present: Acting Chair Mayor Eaton; Alternate Committee Member Raft; City Engineer Hudson; Public Works Superintendent Orioli; Director of Redevelopment/Public Works Staats; Community Development Director Lustro; Building Maintenance Supervisor McGehee; Assistant Public Works Superintendent Mendez; Ontario Montclair School District Representative Huyck

Absent: Police Chief Jones

III. APPROVAL OF MINUTES

A. Minutes of Regular Public Works Committee of October 15, 2009

The Public Works Committee approved the minutes of the Public Works Committee meeting of July 16, 2009.

IV. PUBLIC COMMENT - None

V. TRAFFIC SAFETY/CIRCULATION ISSUES

A. Ontario-Montclair School District Issues

1. Removal of Certain Crosswalks on Kingsley Street

Public Works Superintendent Orioli met with Perry Huyck and Lynn Gage from Ontario Montclair School District to discuss the removal of one or more of the four crosswalks located on Kingsley Street between Benson Avenue and Vernon Avenue. The crosswalks located at Bel Air, Santa Anita, and Del Mar Avenues. There is a crossing guard at the intersection of Benson Avenue and Kingsley Street. School staff can do a good job monitoring that crosswalk, but they were having a hard time monitoring all the crosswalks. Three of the crosswalks on Kingsley Street will be removed. A 30-day Public Notice must be given when a

crosswalk is going to be removed. Ontario Montclair School District Representative Huyck will also send notices to the school and have the school pass them out to the kids and parents.

2. Parking Restrictions to Bus Turnout at Kingsley Elementary

People are using the bus turnout on the south side of Kingsley Street for parking. This parking is causing a problem for the school buses. Ontario Montclair School District Representative Huyck is requesting a sign stating "bus zone only from 6:30 a.m. to 8:30 a.m." Public Works Superintendent Orioli would like to add it to the parking resolution and take it to City Council for approval at the November 2nd meeting.

B. Traffic Safety

1. Sign and Signalization Upgrades at Central Avenue and Palo Verde Street

The City received a complaint about the intersection at Central Avenue and Palo Verde Street. There are a significant number of U-turn movements from southbound to northbound, most of it coming from Costco Wholesale, Inc. With a high volume of northbound traffic and also people making right turns from westbound to northbound against a red light, an accident history has developed. Staff has now posted signage prohibiting the right turn on red, and made signal modifications eliminating the protected/permissive left/U turns. The work at this intersection took a day to complete. The "no right turn on red" was a problem the first few weeks because the signal was not detecting the cars in the right lane. The detection zone has now been expanded to the curb line.

VI. POLICE DEPARTMENT UPDATES – None

VII. DEVELOPMENT PROJECT UPDATES

The City received a submittal for the construction of 384 residential units on the old Sam's Club site. There are a few issues to be resolved, so it is uncertain how long it is going to take to get to the Planning Commission.

VIII. MAINTENANCE ACTIVITIES UPDATES

Irrigation at the Mini Park on Monte Vista and Moreno is complete. The park will be seeded next week and Public Works Superintendent Orioli is proposing putting a temporary fence up to let the seeds germinate. He will advise OPARC because OPARC clients are the main users of the park.

IX. DISCUSS PARKING ON AMHERST AVENUE SOUTH OF HOLT BOULEVARD

Alternate Committee Member Raft brought up the issue of cars parked bumper to bumper down Amherst Avenue and Kingsley Street. She spoke to the ex Police Chief of La Verne and he said in La Verne they are allowed to park cars in front of their address until a certain time. If they do not have room to park in their driveway they have to get a permit to park on the street, but the car must be registered to the address using the street parking.

Alternate Committee Member Raft would like to do a parking restriction or parking permits on Amherst Avenue. The City would have to regulate and enforce the parking permits. This matter will be studied by staff and brought back to the Committee after research is completed.

X. CONSIDER REQUEST BY COUNTY OF SAN BERNARDINO TO PARTICIPATE IN THE IMPROVEMENT OF PHILLIPS BOULEVARD BETWEEN FREMONT AND MONTE VISTA AVENUES

The County of San Bernardino has come up with a project to do some street resurfacing. The County would like to split the costs with the City, so the City's portion would be \$180,000. Much of the proposed work is in the County, so we do not have any legal responsibility to do the work. With financing limited, staff does not recommend participation in the project at this time. The Committee concurred with staff's determination.

XI. TREE REMOVAL REQUESTS

A. Discuss Removal of Oak Tree on Private Property at 9133 Camulos Avenue Regarding City Tree Policy

In response to a complaint regarding a tree located on private property at 9133 Camulos Avenue, staff brought the issue to the Public Works Committee for discussion. The City has a City Tree policy but lacks any ordinances to enforce it. The policy discourages the removal of oak trees, but if they must be removed, then a certain amount of trees have to be planted in their place.

A property owner (complainant) has stated that the neighbors oak tree, located between the two houses, is ruining a wall. The property owner indicates that the owner of the home with the oak tree is saying that the oak tree is a protected tree and the City will not allow its removal. City Attorney Robbins recommends advising the property owners raising the complaint that the City, "based on their arborist report, has no objection to having the tree removed if the involved parties or a court determines the outcome of this matter."

B. Consider Recommendation to Remove Pine Trees West of the Library Caused by Construction

As part of the construction contract for the Senior Center, a new telephone service was installed near the Library building. Significant root damage resulted to a few trees. West Coast Arborists was contacted to analyze the trees and the roots. West Coast Arborist recommended removing the two trees because they are unstable and believe the trees could fall on the roof or some place else. The Committee agreed to have the trees removed.

XII. DISCUSS REQUEST FROM GREEN TREE CONDOMINIUM ASSOCIATION TO CLOSE THE WALKWAY WEST OF THE SAN ANTONIO CHANNEL BETWEEN MORENO AND SAN JOSE STREETS

Because of some problems with vandalism and kids jumping over a fence, the Green Tree Condominium Association is requesting that we close the walkway adjacent to the east side of their property. The walkway parallels the San Antonio Channel. The walkway is used by students and parents to get to and from school, so it is not recommended that it be closed. Public Works Superintendent Orioli contacted Police Chief Jones regarding patrol of the walkway. The homeowners association also suggested putting some lights up for safety. There is chain link fencing along the walkway so it would be hard to put up lighting. The Committee directed staff to let the association know that the Police Department has been asked to do more patrols in the area.

XIII. DISCUSS STORM DRAIN FROM THIRD STREET TO MISSION BOULEVARD (BOISSE PROPERTY)

When the City annexed the area west of the Mission Drive-in Theater, it inherited some drainage problems. The owner of a property fronting on Mission Boulevard, Mr. Boisse, has asked if something can be done to prevent drainage onto his property. The City proposed a storm drain system running from Third Street south through his property to Mission Boulevard, but it would be necessary to acquire some right-of-way through his property. Mr. Boisse offered to give the right-of-way to the City in exchange for the improvements. The design is complete but now Mr. Boisse is having a problem with the Planning Department and Code Enforcement. Since Code Enforcement has asked him to clean up his building he is not willing to give the City the right-of-way. Community Development Director Lustro has met with him and he now seems willing to allow us the right-of-way. City Engineer Hudson will contact him again to see if he is willing to provide the right-of-way.

XIV. DISCUSS RESIDENT REQUEST FOR IMPLEMENTATION OF OVERNIGHT PARKING RESTRICTIONS

The resident requesting the restriction was not in attendance, so the item was removed from consideration.

XV. PROHIBITING TRUCK PARKING IN FRONT OF BUSINESS ON BROOKS STREET (ADDED ITEM)

For several years City staff has been addressing park trucking issues throughout the City. The only place trucks can legally park on the street is on Brooks Street. Unfortunately, there are a considerable number of trucks parked on Brooks Street on a routine basis. Sight distance for motorists exiting driveways is becoming a problem. Recently, the City prohibited truck parking in front of 4733 Brooks, but now the trucks are parking in front of the business to the west and it has created a further sight distance issue when exiting the business. Now the business owner has requested that truck parking be prohibited in front of his business. Staff can move the sign down to prohibit truck parking this area and add the address to the parking resolution. However, it will only be a matter of time until the next business owner complains. The Committee recommended adding the location to the parking resolution.

XVI. CAPITAL PROJECTS UPDATE

A. Mission Boulevard Improvement Project

Phase 5 and 6 (the segment from Monte Vista Avenue to Central Avenue), was completed several months ago but the City decided to extend the maintenance portion of the contract to the end of the calendar year. Bids were opened on Phase 7 (around Pipeline Avenue) on October 15, 2009. The engineer's estimate was \$1.7 million and the low bid came in at \$1.1 million. The low bidder was Gentry Brothers, Inc., who has done a previous phase of the Mission Boulevard project. The City has an opportunity to get \$300,000 of Federal money for Phase 8 (from Central to Benson) if the project is awarded by the end of December.

B. Ramona Grade Separation Project

The contractor has started installing falsework support for the bridge. The railroad was out today removing the safety gates and the signal house. Hopefully, the project may be complete and opened to traffic by May 5, 2010. A Grand Opening/Ribbon Cutting will be scheduled for the project when it is complete.

C. Monte Vista Grade Separation Project

This project is still in the right-of-way acquisition phase. The City has made quite a few acquisitions in the last few months, acquiring the majority of the properties needed.

D. Youth/Senior Center Facilities

The progress is steady but a little slow. The sewer line for the Senior Center was completed. The electrical work should be completed in the next couple of weeks. By the end of the month

the contractor will be able to grade for the foundation for the Senior Center and then they will start the plumbing and electrical to get the slab poured. The completion date is July 1, 2010, for the Senior Center. The completion date for the Youth Center is November 21, 2009. The City should hopefully be able to open the Youth Center the first week of December. Staff plans to have a combined Grand Opening/Ribbon Cutting for both projects.

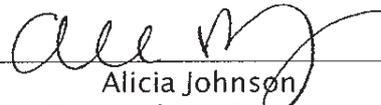
E. Montera Elementary School Soccer Field

The project will go out to bid next week.

XVII. ADJOURNMENT

At 3:10 p.m., Acting Chair Mayor Eaton adjourned the Public Works Committee.

Submitted for Public Works Committee approval,

A handwritten signature in cursive script, appearing to read 'Alicia Johnson', is written over a horizontal line.

Alicia Johnson
Transcribing Secretary

**MINUTES OF THE MEETING OF THE MONTCLAIR
CODE ENFORCEMENT COMMITTEE HELD ON
MONDAY, NOVEMBER 16, 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 5:58 p.m.

II. ROLL CALL

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

III. APPROVAL OF MINUTES

**A. Minutes of Code Enforcement Committee Meeting of
September 21, 2009.**

It was the consensus of the Code Enforcement Committee to approve the minutes of the Code Enforcement Committee meeting of September 21, 2009.

IV. PUBLIC COMMENT - None

V. OLD BUSINESS

- A. Proposed Ordinance No. 09-910 amending Chapter 1.04 of the Montclair Municipal Code related to the issuance of administrative citations and collection of administrative fines is set for a second reading at the City Council meeting tonight, November 16, 2009.
- B. The Public Nuisance Ordinance is currently being revised by City Prosecutor Eckart and will be placed on the City Council meeting agenda in December.

VI. NEW BUSINESS - None

VII. ROUNDTABLE DISCUSSION ON PROBLEM PROPERTIES

Mayor Pro Tem Dutrey inquired as to whether or not the graffiti he reported at a previous meeting on the corner of Monte Vista Avenue and Mission Boulevard was abated. Fire Chief Ament stated that the graffiti was abated the following day.

Council Member Paulitz asked if there has been an increase in the number of foreclosures in the City. Fire Chief Ament responded that

there has not been an increase and that the number of foreclosures in the City appears to have leveled off.

VIII. NEXT MEETING

The Code Enforcement Committee will be dark in December.

The next meeting is scheduled for Tuesday, January 19, 2010, at 6:00 p.m.

IX. ADJOURNMENT

At 6:08 p.m., Council Member Paulitz adjourned the Code Enforcement Committee Meeting.

Submitted for Code Enforcement
Committee approval,



Angelic J. Bird
Receptionist/Office Specialist

**MINUTES OF THE MEETING OF THE MONTCLAIR
PERSONNEL COMMITTEE HELD ON MONDAY,
NOVEMBER 16, 2009, AT 7:40 P.M. IN THE CITY
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,
MONTCLAIR, CALIFORNIA**

I. CALL TO ORDER

Mayor Eaton called the meeting to order at 7:40 p.m.

II. ROLL CALL

Present: Mayor Eaton; Mayor Pro Tem Dutrey; 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
November 2, 2009.**

Moved by Deputy City Manager/Administrative Services Director
Starr, seconded by Mayor Pro Tem Dutrey, and carried
unanimously to approve the minutes of the Personnel Committee
meeting of November 2, 2009.

IV. PUBLIC COMMENT - None

V. CLOSED SESSION

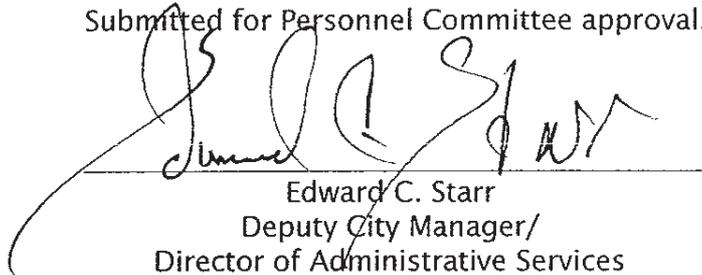
At 7:41 p.m., the Personnel Committee went into Closed Session
regarding personnel matters related to appointments, resignations/
terminations, and evaluations of employee performance.

At 7:49 p.m., the Personnel Committee returned from Closed Session.
Mayor Eaton stated that no announcements would be made at this time.

VI. ADJOURNMENT

At 7:49 p.m., Mayor Eaton adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



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

**MINUTES OF THE REGULAR JOINT MEETING
OF THE MONTCLAIR CITY COUNCIL AND
REDEVELOPMENT AGENCY AND MONTCLAIR
HOUSING CORPORATION BOARDS HELD ON
MONDAY, OCTOBER 19, 2009, AT 7:00 P.M. IN
THE CITY COUNCIL CHAMBERS, 5111 BENITO
STREET, MONTCLAIR, CALIFORNIA**

I. CALL TO ORDER

Mayor/Chairman Eaton called the meeting to order at 7:00 p.m.

II. INVOCATION

Mayor/Chairman Eaton gave the Invocation.

III. PLEDGE OF ALLEGIANCE

Mayor Pro Tem/Vice Chairman Dutrey led those assembled in the Pledge.

IV. ROLL CALL

City Clerk Jackson noted for the record that Council Member/Director Paulitz is absent from tonight's meeting.

Present: Mayor/Chairman Eaton; Mayor Pro Tem/Vice Chairman Dutrey; Council Members/Directors Raft, and Ruh; City Manager/Executive Director McDougal; Deputy City Manager/ Director of Administrative Services Starr; Director of Redevelopment/Public Works Staats; Director of Community Development/Agency Planner Lustro; City Attorney/Agency Counsel Robbins; City Clerk/Agency Secretary Jackson

Absent: Council Member/Director Paulitz (excused)

V. PRESENTATIONS - None

VI. PUBLIC COMMENT - None

VII. PUBLIC HEARINGS - None

VIII. CONSENT CALENDAR

Mayor Pro Tem Dutrey requested that Item C-1 be removed from the Consent Calendar for comment.

Moved by Mayor/Chairman Eaton, seconded by Council Member/Director Raft, and carried to approve the following Consent Items as presented:

A. Approval of Minutes – None

B. Administrative Reports

1. Receiving and Filing of City Treasurer's Report

The City Council received and filed the City Treasurer's Report for the month ending September 30, 2009.

2. Approval of City Warrant Register and Payroll Documentation

The City Council approved the City Warrant Register dated October 19, 2009, totaling \$1,273,911.57 and the Payroll Documentation dated August 2, 2009, amounting to \$612,090.79, with \$442,134.98 being the total cash disbursement.

3. Receiving and Filing of Agency Treasurer's Report

The Redevelopment Agency Board received and filed the Redevelopment Agency Treasurer's Report for the month ending September 30, 2009.

4. Approval of Agency Warrant Register

The Redevelopment Agency Board approved the Redevelopment Agency Warrant Register dated 9.01.09–9.30.09 in the amounts of \$67,780.03 for Project I; \$4,849.71 for Project II; \$938,777.20 for Project III; \$444,761.45 for Project IV; \$35,068.17 for Project V, and \$71,390.26 for the Mission Boulevard Joint Redevelopment Project.

5. Receiving and Filing of Montclair Housing Corporation Treasurer's Report

The Montclair Housing Corporation (MHC) Board received and filed the MHC Treasurer's Report for the month ending September 30, 2009.

6. Approval of MHC Warrant Register

The MHC Board approved the MHC Warrant Register dated 9.01.09–9.30.09 in the amount of \$125,943.78.

7. **Setting a Public Hearing to Consider Ordinance No. 09-910 Amending Chapter 1.04 of the Montclair Municipal Code Related to issuance of Administrative Citations and Collection of Administrative Citation Fines**

The City Council set a public hearing for Monday, November 2, 2009, at 7:00 p.m. in the City Council Chambers to consider proposed Ordinance No. 09-910 related to the issuance of Administrative Citations and collection of Administrative Citation fees.

8. **Approval of Fire Department Reorganization Proposal Presented at the October 5, 2009 Adjourned Joint Meeting**

The City Council approved the Fire Department reorganization proposal presented at the October 5, 2009 adjourned joint meeting.

9. **Approval of the Filing of a *Notice of Completion*, Reduction of *Faithful Performance Bond* to 10 Percent, and Retention of *Payment Bond* for Six Months for Montclair Police Department Facility Bid Package No. 11-Drywall, Studs, Lath, and Plaster**

Release of Retention 30 Days After Recordation of *Notice of Completion*

The City Council approved the following related to completion of Montclair Police Department Facility Bid Package No. 11-Drywall, Studs, Lath, and Plaster:

- (a) Filing of a *Notice of Completion* with the Office of the San Bernardino County Recorder.
- (b) Reduction of the *Faithful Performance Bond* to 10 percent.
- (c) Retention of the *Payment Bond* for six months.
- (d) Release of retention 30 days after recordation of *Notice of Completion*.

10. **Approval of the Filing of a *Notice of Completion*, Reduction of *Faithful Performance Bond* to 10 Percent, and Retention of *Payment Bond* for Six Months for Montclair Police Department Facility Bid Package No. 16-Painting, Coatings, and Wall Coverings**

Release of Retention 30 Days After Recordation of *Notice of Completion*

The City Council approved the following related to completion of Montclair Police Department Facility Bid Package No. 16- Painting, Coatings, and Wall Coverings:

- (a) Filing of a *Notice of Completion* with the Office of the San Bernardino County Recorder.
- (b) Reduction of the *Faithful Performance Bond* to 10 percent.
- (c) Retention of the *Payment Bond* for six months.
- (d) Release of retention 30 days after recordation of *Notice of Completion*.

11. "No Action" on Alcoholic Beverage Permit Application - Sushi Town

The City Council voted "No action" on the "On-Sale Beer and Wine" license application of Michael and Sue Roybal for Sushi Town, 9047 Central Avenue, Montclair, California.

C. Agreements

2. Approval of Agreement No. 09-98 Authorizing Mayor Eaton to Sign Amendment No. 3 to State Agreement No. 75GS6090 Extending Its Expiration Date to June 30, 2010

The City Council approved *Agreement No. 09-98* authorizing Mayor Eaton to sign *Amendment No. 3 to State Agreement No. 75GS6090* extending its expiration date to June 30, 2010.

3. Authorization for City Manager McDougal to Award a Contract for the Fremont Avenue Improvement Project to Kormx, Inc., in the Amount of \$112,955

Authorization for City Manager McDougal to Sign Agreement No. 09-99 With Kormx, Inc.

Authorization for a \$15,000 Construction Contingency

The City Council authorized the following:

- (a) City Manager McDougal to award a contract for the Fremont Avenue Improvement Project to Kormx, Inc., in the amount of \$112,955.
- (b) City Manager McDougal to sign *Agreement No. 09-99* with Kormx, Inc.

(c) A \$15,000 construction contingency.

D. Resolutions – None

IX. PULLED CONSENT CALENDAR ITEMS

C. Agreements

1. **Redevelopment Agency Board of Directors' Approval of Agreement No. 09-97, an Option Agreement by and Between the City of Montclair Redevelopment Agency and National Community Renaissance of California Regarding Property Located at 4113 Kingsley Street**

Vice Chairman Dutrey advised that this item is unique in that it would provide affordable housing for special needs households. He noted the majority of funding for the project would be provided by the U.S. Housing and Urban Development Section 811 Program. He asked if National Community Renaissance of California (NCR) has been successful in partnering with OPARC regarding tenancy and social service needs for the proposed project.

Mr. Alfredo Izmajtovich, Vice President of Acquisitions, NCR, advised that NCR is in discussions and negotiations with OPARC, which has expressed a strong interest, as well as with United Cerebral Palsy as potential partners in the proposed Special Needs Housing Project.

Vice Chairman Dutrey received clarification from **Mr. Izmajtovich** that both organizations are interested in participating and providing different services to potential residents and that NCR would remain the owner of the development. He asked about the status of the Section 811 application process.

Mr. Izmajtovich advised that the application is due November 16, 2009, noting approval of proposed *Option Agreement No. 09-97* is one of the threshold items for the application to be processed.

Vice Chairman Dutrey asked when construction is slated to begin.

Mr. Izmajtovich answered, "Late 2010."

Vice Chairman Dutrey thanked **Mr. Izmajtovich** for the information.

Moved by Vice Chairman Dutrey and seconded by Director Ruh that the Redevelopment Agency Board approve *Agreement No. 09-97*, an *Option Agreement* by and between the City of Montclair Redevelopment Agency and National Community Renaissance of California regarding property located at 4113 Kingsley Street.*

Director Ruh reiterated that the proposed project is quite unique. He noted the City of Monrovia recently was in the process (through a very complicated situation) "of evicting some of the developmentally disabled from some apartments, and it took intervention by the Governor to prevent those evictions. So I think that we are very unique in our forward thinking on this type of a project because it is certainly necessary, not just here in Montclair but certainly throughout the region. It is a wonderful opportunity, and I am pleased to see that OPARC and United Cerebral Palsy will be partnering together with NCR to offer their individual services to potential residents, perhaps setting an example to other communities of the ability that we have to be inclusive of all of our residents."

*Motion carried as follows:

AYES: Ruh, Raft, Dutrey, Eaton
NOES: None
ABSTAIN: None
ABSENT: Paulitz

X. RESPONSE - None

XI. COMMUNICATIONS

A. City Attorney/Agency Counsel

1. Oral Report on Written Decision in the Matter of the Appeal of Matthew Eaton

City Attorney Robbins reported that an Appeal Hearing took place on September 29, 2009; and at that time, the City Council unanimously voted to deny the appeal of Mr. Eaton and uphold the written decision of the Hearing Officer.

2. Closed Session Pursuant to Section 54956.8 of the Government Code Regarding Real Property Negotiations

Property: 10307 Mills Avenue

Negotiating Parties: City of Montclair Redevelopment Agency, Montclair Family Housing Partners, L.P., and Len's Market

Negotiators: Director of Redevelopment/Public Works Staats; Assistant Director of Redevelopment Caldwell; Alfredo Izmajtovich, Vice President of Acquisitions, National Community Renaissance of California (property owner); and Chris Choe, Owner, Len's Market

*Under Recommendations Regarding Purchase of Lease
Negotiation: Interest*

Agency Counsel Robbins requested a Closed Session on the above matter pursuant to Section 54956.8 of the Government Code.

B. City Manager/Executive Director - No comments

1. In follow up to his memorandum to the Council last week, City Manager McDougal advised that the **Kaiser Permanente Medical Care**, Ontario, facility canceled his third knee surgery because the facility is unable to accommodate patients, such as himself, suffering from sleep apnea. He noted his surgery is being rescheduled at **Kaiser Permanente Fontana Medical Center**.

C. Mayor/Chairman - No comments

D. City Council/Agency Board

1. Mayor Pro Tem/Vice Chairman Dutrey commented as follows:
 - (a) He noted his attendance on October 10, 2009, at the Fire Department Open House and Pancake Breakfast, which had an excellent turnout because of the Fire Department's special outreach to community schools. He recognized Fire Department staff and the Montclair Fire Fighters Association and **Mt. San Antonio College Fire Technology Club**, among other organizations, for their contributions toward making the event a success.
 - (b) He noted he toured the Ramona Avenue/Union Pacific Railroad Grade Separation Project with City Engineer Hudson last Friday. He noted the project has come a long way in the last four weeks, with the bridge beginning to appear. He advised that the project should be completed by May or June 2011. He added that City Engineer Hudson is optimistic that construction of the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project would begin in 2011.

Mayor Pro Tem Dutrey thanked City Engineer Hudson for the tour and encouraged anyone interested to contact City Engineer Hudson for a tour of the project.

2. Council Member/Director Ruh commented as follows:
 - (a) He noted he was unable to attend the Fire Department Open House because he was out of town at a work conference. He noted he was pleased with the large turnout at the event and expressed his hope that it generated more subscriptions to the Emergency Medical Services Subscription Program.
 - (b) He noted the Montclair Medical Clinic would conduct an H1N1 flu vaccine clinic on Tuesday, October 20, 2009, from 9:00 a.m. to 12:00 p.m. He noted the vaccinations would cost \$2 apiece, advising that Montclair is one of the few cities in the area offering low-cost flu vaccinations. He expressed his hope that residents and the public would take advantage of the City's flu vaccine clinic.
 - (c) He announced the City would hold its annual Halloween Fun Day on Saturday, October 31, 2009, at 4:30 p.m. in the Montclair Community Center. The City encourages all children and the "young at heart" to participate wearing their costumes to the festive fun-filled event, he added.
 - (d) He noted he would give the Council a copy of a report developed by a consortium of chamber of commerce, business, labor, and green environmental interests on meeting the demands of a 21st Century economy that discusses California's forgotten middle-skill jobs that are relatively high paying and critical to the state's economic success. He noted **Chaffey College** offers an excellent vocational training program for many of these types of professions, advising that what is unique about these jobs is that they require lifetime education to be maintained. He suggested the City and region consider attracting the types of businesses that cater to the middle-skill workforce to solidify retailing in the community "as we move forward into a new economy." Pursuant to the report, by 2014, 50 percent of the jobs needed in California will be of middle-skill professions, he added.

E. Committee Meeting Minutes

1. Minutes of Public Works Committee Meeting of July 16, 2009

The City Council received and filed the Public Works Committee meeting minutes of July 16, 2009, for informational purposes.

2. Minutes of Personnel Committee Meeting of October 5, 2009

The City Council received and filed the Personnel Committee meeting minutes of October 5, 2009, for informational purposes.

XII. COUNCIL/AGENCY WORKSHOP

A. Presentation of Annexation Fiscal Impact Study

Moved by Mayor Pro Tem/Vice Chairman Dutrey, seconded by Council Member/Director Raft, and carried unanimously to continue this item to an adjourned joint meeting on Monday, November 2, 2009, at 5:45 p.m. in the City Council Chambers.

XIII. ADJOURNMENT OF CITY COUNCIL AND MONTCLAIR HOUSING CORPORATION BOARD OF DIRECTORS

At 7:26 p.m., Mayor Eaton adjourned the City Council to Monday, November 2, 2009, at 5:45 p.m. in the City Council Chambers.

At 7:26 p.m., Chairman Eaton adjourned the Montclair Housing Corporation Board of Directors.

At 7:26 p.m., the Redevelopment Agency Board went into Closed Session regarding real property negotiations pursuant to Section 54956.8 of the Government Code.

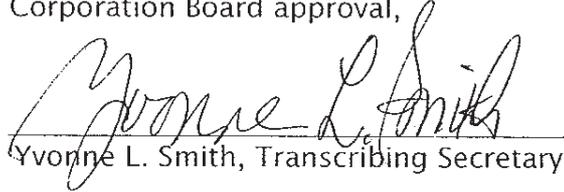
XIV. CLOSED SESSION ANNOUNCEMENTS

At 7:35 p.m., the Redevelopment Agency Board returned from Closed Session. Chairman Eaton announced the Redevelopment Agency Board met in Closed Session regarding real property negotiations, information was received and direction given to staff, and no further announcements would be made at this time.

XV. ADJOURNMENT OF REDEVELOPMENT AGENCY BOARD OF DIRECTORS

At 7:36 p.m., Chairman Eaton adjourned the Redevelopment Agency Board of Directors to Monday, November 2, 2009, at 5:45 p.m. in the City Council Chambers.

Submitted for City Council/Redevelopment Agency Board/Montclair Housing Corporation Board approval,


Yvonne L. Smith, Transcribing Secretary

MINUTES OF THE REGULAR JOINT MEETING
OF THE MONTCLAIR CITY COUNCIL AND
REDEVELOPMENT AGENCY AND MONTCLAIR
HOUSING CORPORATION BOARDS HELD ON
MONDAY, NOVEMBER 2, 2009, AT 7:00 P.M. IN
THE CITY COUNCIL CHAMBERS, 5111 BENITO
STREET, MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

Mayor/Chairman Eaton called the meeting to order at 7:00 p.m.

II. INVOCATION

Mayor/Chairman Eaton gave the Invocation.

III. PLEDGE OF ALLEGIANCE

Council Member/Director Raft led those assembled in the Pledge.

IV. ROLL CALL

Present: Mayor/Chairman Eaton; Mayor Pro Tem/Vice Chairman Dutrey; Council Members/Directors Paulitz, Raft, and Ruh; City Manager/Executive Director McDougal; Deputy City Manager/Director of Administrative Services Starr; Director of Redevelopment/Public Works Staats; Director of Community Development/Agency Planner Lustro; City Attorney/Agency Counsel Robbins; City Clerk/Agency Secretary Jackson

V. PRESENTATIONS - None

VI. PUBLIC COMMENT - None

VII. PUBLIC HEARINGS

A. First Reading - Adoption of Ordinance No. 09-910 Amending Chapter 1.04 of the Montclair Municipal Code Related to the Issuance of Administrative Citations and Collection of Administrative Citation Fines

Mayor Eaton declared it the time and place set for public hearing to consider adoption of Ordinance No. 09-910 amending Chapter 1.04 of the Montclair Municipal Code related to the issuance of Administrative Citations and collection of Administrative Citation fines and invited comments from the public.

There being no one in the audience wishing to speak, Mayor Eaton closed the public hearing and returned the matter to the City Council for its consideration.

Moved by Mayor Pro Tem Dutrey and seconded by Council Member Raft that Ordinance No. 09-910, entitled "**An Ordinance of the City Council of the City of Montclair Amending Chapter 1.04 of the Montclair Municipal Code Related to the Issuance of Administrative Citations and Collection of Administrative Fines,**" be read by number and title only, further reading be waived, and this be declared its first reading.

The City Council unanimously waived the reading of the Ordinance.

First Reading of Ordinance No. 09-910 was unanimously adopted by the following vote:

AYES: Ruh, Raft, Paulitz, Dutrey, Eaton
NOES: None
ABSTAIN: None
ABSENT: None

Mayor Pro Tem Dutrey advised that the Code Enforcement Committee, comprised of Council Member Paulitz and himself, revised the Montclair Municipal Code Section related to Administrative Citations to expedite the recovery and collection of delinquent administrative fines.

VIII. CONSENT CALENDAR

Council Member Raft requested that Item A-2 be removed from the Consent Calendar for comment.

Mayor Pro Tem Dutrey requested that Item C-4 be removed from the Consent Calendar for comment.

Moved by Mayor Pro Tem/Vice Chairman Dutrey, seconded by Council Member/Director Raft, and carried unanimously to approve the following Consent Items as presented:

A. Administrative Reports

1. Consider Setting a Public Hearing to Receive Public Comment on the Allocation and Expenditure of Supplemental Law Enforcement Services Grant Funds

The City Council set as public hearing for Monday, November 16, 2009, at 7:00 p.m. in the City Council Chambers to receive public comment on the allocation and

expenditure of Supplemental Law Enforcement Services Grant funds.

3. Provision of Conceptual Approval to Participate With the San Bernardino Associated Governments in a Coordinated Regional Greenhouse Gas Inventory and Reduction Plan and Related Environmental Impact Report

The City Council provided conceptual approval to participate with the San Bernardino Associated Governments in a coordinated regional Greenhouse Gas Inventory and Reduction Plan and related Environmental Impact Report.

4. Acceptance of Quitclaim Deed From Harold W. and Peggy C. McCoy and Carl L. McCoy for Property Located on the East Side of Monte Vista Avenue, South of State Street, in the City of Montclair

The City Council accepted a Quitclaim Deed from Harold W. and Peggy C. McCoy and Carl L. McCoy for property located on the east side of Monte Vista Avenue, south of State Street, in the City of Montclair.

5. Authorization to Advertise for Bid Proposals for the Mission Boulevard Improvement Project-Phase 8

Authorization of City Manager to Award Construction Contract to and Execute Agreement With Lowest Responsible, Responsive Bidder That Includes a Construction Contingency of 10 Percent

The City Council took the following actions:

- (a) Authorization to advertise for bid proposals for the Mission Boulevard Improvement Project-Phase 8.
- (b) Authorized the City Manager to award a construction contract to and execute an agreement with the lowest responsible, responsive bidder that includes a construction contingency of 10 percent.

6. Approval of the Filing of a *Notice of Completion*, Reduction of *Faithful Performance Bond* to 10 Percent, and Retention of *Payment Bond* for Six Months for Completion of the Public Works Corporate Yard Above-Ground Fuel Tank Project

Release of Retention 30 Days After Recordation of *Notice of Completion*

The City Council approved the following related to completion of Public Works Corporate Yard Above-Ground Fuel Tank Project:

- (a) Filing of a *Notice of Completion* with the Office of the San Bernardino County Recorder.
- (b) Reduction of the *Faithful Performance Bond* to 10 percent.
- (c) Retention of the *Payment Bond* for six months.
- (d) Release of retention 30 days after recordation of *Notice of Completion*.

7. Declaration of Three Vehicles and One Trailer as Surplus and Authorization for Two Vehicles and One Trailer to be Sold by Ken Porter Auction Systems on Behalf of the City of Montclair and One Vehicle to be Salvaged for Parts and Sold for Scrap Metal

The City Council declared the following vehicles and trailer as surplus and authorized the 2002 Ford Crown Victoria (Vehicle Identification No. 2FAHP71W43X171954), the 1992 Chevrolet Caprice, and the 1979 Zieman tilt trailer to be sold by Ken Porter Auction Systems on behalf of the City of Montclair and the remaining 2002 Ford Crown Victoria (Vehicle Identification No. 2FAHP71WD3X171952) to be salvaged for parts and sold for scrap metal:

<i>Department</i>	<i>Year and Model</i>	<i>Serial/Vehicle Identification Number</i>	<i>Mileage</i>	<i>Estimated Sales Price</i>
Public Works	1979 Zieman tilt trailer	Z 0-050311	N/A	\$800
Police	2002 Ford Crown Victoria	2FAHP71WD3X171952	95,232	N/A
Police	2002 Ford Crown Victoria	2FAHP71W43X171954	107,379	\$900
Community Development	1992 Chevrolet Caprice	1G1BN5374NR146865	109,115	\$750

8. Authorization to Purchase, Deliver, and Install Office and Activity Room Furniture From Global CMAS for the New Youth Center

The City Council authorized purchase, delivery, and installation of office and activity room furniture from Global CMAS for the new Youth Center.

9. Approval of City Warrant Register and Payroll Documentation

The City Council approved the City Warrant Register dated November 2, 2009, totaling \$2,473,558.50 and the Payroll Documentation dated August 16, 2009, amounting to \$592,303.76, with \$439,074.22 being the total cash disbursement.

B. Agreements

1. Approval of Agreement Nos. 09-101 and 09-102 With Keith Alan Ealy for Business Self Moves in Conjunction With the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project and Authorize City Manager to Sign the Agreements

The City Council approved *Agreement Nos. 09-101 and 09-101* with Keith Alan Ealy for business self moves in conjunction with the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project and authorized City Manager to sign the Agreements.

2. Approval of Agreement No. 09-103 With Mt. San Antonio Community College District to Continue Providing a Comprehensive Fitness Program for the Fire Department

The City Council approved *Agreement No. 09-103* with Mt. San Antonio Community College District to continue providing a Firefighter comprehensive fitness program for the Fire Department.

3. Approval of Agreement No. 09-94 With Ontario-Montclair School District to Provide After-School Programs

The City Council approved *Agreement No. 09-95* with the Ontario-Montclair School District to provide After-School Programs.

4. Approval of Agreement No. 09-95 With the California Department of Public Health to Provide a Nutrition Education Program

The City Council approved *Agreement No. 09-95* with the California Department of Public Health to provide a nutrition education program.

5. Approval of Agreement No. 09-96 With the San Bernardino County Department of Aging and Adult Services to Provide Funding From the American Recovery and Reinvestment Act of 2009 for the Senior Citizen Nutrition Program

The City Council approved *Agreement No. 09-96* with the San Bernardino County Department of Aging and Adult Services to provide funding from the American Recovery and Reinvestment Act of 2009 for the Senior Citizen Nutrition Program.

C. Resolutions

1. Adoption of Resolution No. 09-2817 Rescinding Resolution No. 08-2780 Designating Restricted Parking on Public Streets

The City Council adopted Resolution No. 09-2817 rescinding Resolution No. 08-2780 designating restricted parking on public Streets.

2. Adoption of Resolution No. 09-2818 Authorizing Mayor Eaton to Sign the Right-of-Way Certification for the Mission Boulevard Corridor Improvement Project-Phase 8

The City Council adopted Resolution No. 09-2818 authorizing Mayor Eaton to sign the right-of-way certification for the Mission Boulevard Corridor Improvement Project-Phase 8.

3. Adoption of Resolution No. 09-2819 Approving the Sewer System Management Plan

The City Council adopted Resolution No. 09-2819 approving the Sewer System Management Plan.

5. Adoption of Resolution No. 09-2821 Authorizing Placement of Liens on Certain Properties for Delinquent Sewer and Trash Charges

The City Council adopted Resolution No. 09-2821 authorizing the placement of liens on 269 accounts listed on Exhibit A to the Resolution for delinquent sewer and trash charges.

IX. PULLED CONSENT CALENDAR ITEMS

A. Administrative Reports

2. Consider Authorization of a \$45,833 Appropriation to Employ One Additional Learning Leader Coordinator for the Lehigh Elementary After-School Program

Council Member Raft asked if the proposed After-School Education and Safety Program grant allocation of \$45,833 would be the cost to employ a Learning Leader Coordinator for more than one year.

City Manager McDougal responded that the amount would pay for one year's salary and benefits for the position.

Moved by Council Member Raft, seconded by Council Member Paulitz, and carried unanimously that the City Council authorize a \$45,833 appropriation to employ one additional Learning Leader Coordinator for the Lehigh Elementary After-School Program.

C. Resolutions

4. **Adoption of Resolution No. 09-2820, a Resolution Approving the Form of and Authorizing the Execution and Delivery of *Agreement No. 09-104, a Purchase and Sale Agreement*, and Related Documents With Respect to the Sale of the City of Montclair's Proposition 1A Receivable From the State and Directing and Authorizing Certain Other Actions in Connection Therewith**

Mayor Pro Tem Dutrey advised that in July 2009, the Governor declared a fiscal emergency and signed ABX4 14 and ABX4 15 into law as part of the 2009 Budget Act, which represented a comprehensive solution to the state's 14.6 billion budget shortfall. He stated that last month, in an effort to minimize the impact that borrowing property taxes would have on local agencies, the Governor signed Senate Bill 67 providing for implementation of a Proposition 1A Securitization Program proposed by the Legislature that authorizes a joint powers authority (California Communities Development Authority) to issue Proposition 1A bonds. He asked if the City would receive its \$649,979 Proposition 1A Receivable during this fiscal year.

Deputy City Manager/Director of Administrative Services Starr answered, "Yes, it will go back into the General Fund reserve."

Mayor Pro Tem Dutrey asked if the possibility that the state will divert gas tax funds from local government during Fiscal Year 2009-10 still exists.

Deputy City Manager/Director of Administrative Services Starr answered, "Yes, the state is still planning to divert gas tax revenues during the 2009-10 and 2010-11 fiscal years and beyond."

Moved by Mayor Pro Tem Dutrey, seconded by Council Member Raft, and carried unanimously that the City Council adopt Resolution No. 09-2820, a Resolution approving the form of and authorizing the execution and delivery of *Agreement No. 09-104, a Purchase and Sale Agreement*, and

related documents with respect to the sale of the City of Montclair's Proposition 1A Receivable from the state and directing and authorizing certain other actions in connection therewith.

X. RESPONSE – None

XI. COMMUNICATIONS

A. City Attorney/Agency Counsel

1. Closed Session Pursuant to Section 54957.6 of the Government Code Regarding Conference With Designated Labor Negotiators

Agency: City of Montclair

*Employee Organizations: City Manager
Management
Montclair Fire Fighters Association
Montclair Police Officers Association
San Bernardino Public Employees Association*

2. Closed Session Pursuant to Section 54957 of the Government Code

Public Employee Appointment, Employment, or Evaluation of Performance

City Manager/Executive Director

City Attorney Robbins requested a Closed Session on the above two matters pursuant to Government Code Section 54957.6 regarding conference with designated labor negotiators and Section 54957 regarding public employee appointment, employment, or evaluation of performance.

B. City Manager/Executive Director – No comments

C. Mayor/Chairman

1. Mayor/Chairman Eaton commented as follows:

- (a) He noted his attendance with Mayor Pro Tem Dutrey on October 22, 2009, at the City's *Lights on After School 2009 – the Colorful Lives of Children* celebration. He noted the great turnout for the event that highlighted the artwork of and musical performances by After-School Program participants.

- (b) He noted he enjoyed attending **Our Lady of Lourdes Catholic School's** 50th Anniversary celebration on October 24, 2009, at which he presented certificates to **Sister Fidelma**, principal of the school, and to the **Presentation Sisters**. Noting the event was very well attended by over 800 participants, he recognized Assistant Director of Human Services Richter for doing a "great job" coordinating the event.

D. City Council/Agency Board

1. Council Member/Director Paulitz commented as follows:
 - (a) He also noted he very much enjoyed attending **Our Lady of Lourdes Catholic School's** 50th Anniversary celebration and that over a thousand parishioners attended Mass before the event.
 - (b) He noted his attendance with Council Member Ruh last Saturday at the annual Children's Halloween Party, which had a great turnout.
 - (c) Concerning Section VIII, "Consent Calendar," Item A-3, "Consider Providing Conceptual Approval to Participate With the San Bernardino Associated Governments (SANBAG) in a Coordinated Regional Greenhouse Gas Inventory and Reduction Plan and Related Environmental Impact Report," on tonight's agenda, he noted in the 12 years he spent on the **South Coast Air Quality Management District (SCAQMD)** Board of Governors and as a member of the **SCAQMD** Technology Committee, the focus was on controlling major pollutants, notably, mono-nitrogen oxides (NOx), sulfur, mercury, and lead. He advised that **Senate Bill 375 - Redesigning Communities to Reduce Greenhouse Gases** is attempting to control carbon dioxide, "the very thing we breathe out," by curbing urban sprawl. He expressed his opinion that the issue of global warming has since been renamed "climate change" because scientists and climatologists have discovered over the last decade that the average global surface temperature experienced a slight decrease, or cooling. He advised that as the "Earth has been around between five to seven billion years, we are not going to control any of this."
2. Council Member/Director Raft also noted her attendance at the Children's Halloween Party, which was very much enjoyed by all attendees.

3. Mayor Pro Tem/Vice Chairman Dutrey commented as follows:

- (a) He commended the **Metropolitan Transportation Authority (MTA)** for unanimously voting at a recent meeting to place the Gold Line Foothill Extension Phase 2A light-rail project into its Long-Range Transportation Plan. He expressed his hope that the **MTA** would continue to move forward to obtain federal New Starts Program funding and secure other federal funding resources needed to combat gridlock and its effects, create jobs, and invest in an infrastructure to improve access to the region.
- (b) He noted he was pleased to attend the *Lights on After School 2009* celebration with his daughter, who very much enjoyed the event. He stated that it presented a great opportunity to see the activities in which After-School Program participants are involved. He expressed his pride in this worthwhile program.
- (c) He noted the Police Department is working hard to apprehend the suspects in a shooting that took place in Montclair last Friday.
- (d) He noted the Crime Suppression Unit hosted a multiagency (Montclair, Ontario, Upland, and Chino Police Departments; State Parole and Probation; and San Bernardino County Sheriff's Department) gang sweep on October 16, 2009, of the oldest, largest, most-active street gang in Montclair. He stated that 18 arrests were made from the joint effort.
- (e) He noted he was unable to attend the Children's Halloween Party this year. He advised that his daughter **Janine** would like to tell Mayor Eaton that the monster in the West Lobby by the name of "**Edward Starr**" is "very scary," and she requests that it not be there next year! He noted he gave her no guarantees that it wouldn't.

4. Council Member/Director Ruh commented as follows:

- (a) He also noted his attendance at **Our Lady of Lourdes Catholic School's** 50th Anniversary celebration. He noted it was very good to see how active the nuns are, some of them well into their 90s, who taught his Confraternity of Christian Doctrine classes at the church from first grade through his early high school years. He noted he appreciated hearing the message from the auxiliary **Bishop** who explained a bit of the history of the

Irish **Presentation Sisters** in that their foundress, **Honora (Nano) Nagle**, began the order because at that time in Ireland, Catholics were forbidden by the English to be educated in the public education system. **Sister Nano Nagle** decided she would form the order and educate Catholic children in private schools, he added, and that the **Bishop's** message emphasized the importance of remembering the history of discrimination and that each of us must refrain from discriminating against those around us for whatever reason and to simply live the correct and good way.

- (b) He noted his attendance on October 25, 2009, at the **Festival Cardenas** event at the **Auto Club Speedway**. Noting he met **Mr. Jesus Cardenas**, the founder of the supermarket chain, he advised that the company is in the process of expanding to offer a greater variety of products.

Mayor Eaton noted he was already committed to attend another event by the time he received his invitation to the event.

Council Member Ruh noted the event was well attended by a number of public officials.

Council Member Raft noted her attendance at last year's event at which she learned the company would be expanding.

- (c) He noted there certainly was a tremendous turnout at the Children's Halloween Party and that, in fact, a large group arrived at 8:00 p.m. He commended Human Services Division for organizing the fun-filled event.

Mayor Eaton asked if Council Member Ruh dressed his dog in a costume.

Council Member Ruh responded that his dog was dressed as "cowpugula."

- (d) He noted a recent article in the *Riverside Press-Enterprise* reported that inland water agencies did not fully agree with **Senate Bill 7 - Water Conservation (Steinberg)** pending in the State Capitol, specifically, the legislation's approach to encouraging water conservation and how that could affect water users in the state's warmer, drier regions where suburbs and lawns are the norm. He stated that inland regions are a desert and

should plan accordingly with the appropriate drought-tolerant native landscaping or artificial turf so that there will be enough drinking water for the populace.

- (e) He thanked **U.S. Representative Dreier** for his many years of work to obtain federal funding for the Gold Line Foothill Extension Phase 2A light-rail project. He noted some **MTA** board members would prefer to place higher priorities on projects in the Los Angeles area, such as the Regional Connector Transit Corridor and Westside Subway Extension, than to projects such as the Foothill and Eastside extensions of the Gold Line and the Crenshaw-South Bay Transit Corridor, which would provide more of a regional benefit and would be more likely to win federal funding. He cited a recent newspaper article that reported the advantage of one day being able to access quite a number of higher education institutions between East Los Angeles and Claremont, and perhaps the route would then be referred to as the "education line" rather than the Gold Line.
- (f) He noted he was unable to attend the *Lights on After School 2009* event because of work.

E. Committee Meeting Minutes

1. Minutes of Personnel Committee Meeting of October 19, 2009

The City Council received and filed the Personnel Committee meeting minutes of October 19, 2009, for informational purposes.

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

At 7:22 p.m., Chairman Eaton adjourned the Redevelopment Agency and Montclair Housing Corporation Boards of Directors.

At 7:22 p.m., the City Council went into Closed Session regarding conference with designated labor negotiators pursuant to Government Code Section 54957.6 and public employee appointment, employment, or evaluation of performance pursuant to Government Code Section 54957.

XIII. CLOSED SESSION ANNOUNCEMENTS

At 8:32 p.m., the City Council returned from Closed Session. Mayor Eaton announced the City Council met in Closed Session regarding the following two separate issues: (1) labor negotiations; and (2) public

employee appointment, employment, and/or evaluation of performance; information was received and direction given to staff, and no further announcements would be made at this time.

XIV. ADJOURNMENT OF CITY COUNCIL

At 8:33 p.m., Mayor Eaton adjourned the City Council.

Submitted for City Council/Redevelopment Agency Board/Montclair Housing Corporation Board approval,



Yvonne L. Smith, Transcribing Secretary