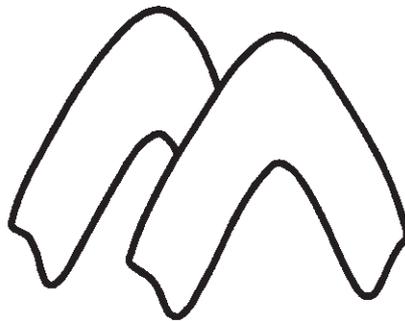


AGENDA FOR CITY COUNCIL, REDEVELOPMENT AGENCY, AND
MONTCLAIR HOUSING CORPORATION

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

May 17, 2010

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

Acting City Manager Edward C. Starr

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

May 17, 2010

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

- A. Presentation by San Bernardino County Fourth District Supervisor Gary Ovitt on Quality of Life Survey Results
- B. Presentation by CEO/General Manager Richard Atwater, Inland Empire Utilities Agency, Related to the City's Participation in Its Recycled Water Program

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

A. Consider Resolution No. 10-2837 Approving the Following:

Tentative Tract Map No. 18213 Resubdividing a 15.1-Acre Site Into 13 Numbered Lots and 14 Lettered Lots for Condominium Purposes [CC]

Precise Plan of Design for a 385-Unit Residential Development Within the North Montclair Downtown Specific Plan [CC]

Consider Resolution No. 10-2841 Approving a Variance for Interior Side-Yard Setbacks [CC]

Consider Resolution No. 10-2842 Approving a Variance for Building Height [CC]

5

B. Second Reading - Consider Adoption of Ordinance No. 10-914 Authorizing an Amendment to the Contract with the Board of Administration of the California Public Employees' Retirement System [CC]

65

VIII. CONSENT CALENDAR

A. Approval of Minutes

1. Minutes of Regular Joint Council/Agency/MHC Meeting of May 3, 2010

B. Administrative Reports

1. Consider Receiving and Filing of Treasurer's Report [CC] 74

2. Consider Approval of Warrant Register and Payroll Documentation [CC] 75

3. Consider Receiving and Filing of Treasurer's Report [RDA] 76

4. Consider Approval of Warrant Register [RDA] 77

5. Consider Receiving and Filing of Treasurer's Report [MHC] 78

6. Consider Approval of Warrant Register [MHC] 79

7. Consider Setting a Public Hearing to Receive Public Comment on Reallocation and Expenditure of Fiscal Years 2008-09 and 2009-10 Supplemental Law Enforcement Services Funds [CC] 80

8. Consider Authorization to Purchase a 2010 Tymco 600 LPG Regenerative Air Street Sweeper [CC] 81

9. Consider Authorization of a \$14,500 Transfer from the Contingency Account for Maintenance and Repairs to Emergency Response Apparatus [CC] 83

10. Consider Authorization of a \$5,000 Transfer from the Contingency Account for Personal Protective Equipment [CC] 84

11.	Consider Approval of Filing of a Notice of Completion for Construction of the Mills Avenue Alley Improvement Project; 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]	85
12.	Consider Approval of Filing of a Notice of Completion for Construction of the Bandera Street Pedestrian Ramp Improvement Project; 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]	87
13.	Consider Approval of Filing of a Notice of Completion for Construction of the 4113 Kingsley Street Demolition Project; 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]	89
14.	Consider Status Report on Emergency Contracting Procedures Related to the Damaged Floor in the Community Center Gymnasium and Determine There is a Need to Continue the Action [CC]	91
15.	Consider Status Report on Emergency Contracting Procedures Related to the Block Wall Construction at Alma Hofman Park [CC]	93
C. Agreements		
1.	Consider Approval of Agreement No. 10-30 with Dietz Towing and Agreement No. 10-45 with Pacific Truck and Auto Towing, Inc., for Cost Recovery for Vehicles Stored Pursuant to California Vehicle Code Section 14602.6, the 30-Day Impound Law [CC]	95
2.	Consider Redevelopment Agency Board of Directors' Approval of Agreement Nos. 10-33, 10-52, and 10-53, Rehabilitation Grant Agreements by and between the City of Montclair Redevelopment Agency and Exterior Housing Improvement Program Participants [RDA]	108
3.	Consider Approval of Agreement No. 10-50 with the County of San Bernardino for the Allocation and Expenditure of Justice Assistance Grant Program Funds [CC]	
	Consider Authorization for the Acting City Manager to Sign the Agreement on Behalf of the Montclair City Council [CC]	114
4.	Consider Approval of Agreement No. 10-51 with San Bernardino County for Continued Participation in the California Identification System [CC]	119

- 5. Consider Approval of Self-Move Agreement No. 10-54 with Kessler Storage, LLC, for Fence Relocation in Conjunction with the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project and Authorize Acting City Manager to Sign the Agreement [CC] 125

D. Resolutions

- 1. Consider Adoption of Resolution No. 10-2843 Approving a Schedule of Fees with Dietz Towing and Pacific Truck and Auto Towing, Inc. [CC] 138

IX. PULLED CONSENT CALENDAR ITEMS

X. RESPONSE - None

XI. COMMUNICATIONS

- A. City Attorney/Agency Counsel
- B. Acting City Manager/Acting Executive Director
- C. Mayor/Chairman
- D. Council/Agency Board
- E. Committee Meeting Minutes *(For Informational Purposes Only)*

- 1. Minutes of the Code Enforcement Committee Meeting of April 19, 2010 141
- 2. Minutes of the Personnel Committee Meeting of May 3, 2010 143

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

The City Council will adjourn this evening's meeting in memory of former Montclair Fire Division Chief John Lee, who passed away on April 28, 2010.

The next regularly scheduled City Council, Redevelopment Agency, and Montclair Housing Corporation meetings will be held on Monday, June 7, 2010, 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, Yvonne L. Smith, Deputy 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 May 13, 2010.

AGENDA REPORT

SUBJECT: CONSIDER RESOLUTION NO. 10-2837
APPROVING THE FOLLOWING:

TENTATIVE TRACT MAP NO. 18213
RESUBDIVIDING A 15.1-ACRE SITE INTO
13 NUMBERED LOTS AND 14 LETTERED
LOTS FOR CONDOMINIUM PURPOSES

PRECISE PLAN OF DESIGN FOR A 385-UNIT
RESIDENTIAL DEVELOPMENT WITHIN THE
NORTH MONTCLAIR DOWNTOWN SPECIFIC
PLAN

CONSIDER RESOLUTION NO. 10-2841
APPROVING A VARIANCE FOR INTERIOR SIDE
YARD SETBACKS

CONSIDER RESOLUTION NO. 10-2842
APPROVING A VARIANCE FOR BUILDING
HEIGHT

DATE: May 17, 2010

SECTION: PUBLIC HEARINGS

ITEM NO.: A

FILE I.D.: LDU600

DEPT.: COMMUNITY DEV.

BUSINESS PLAN: STRATEGIC PRIORITY NO. 2

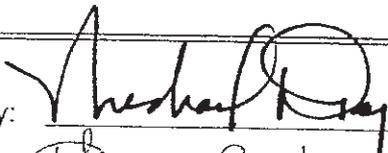
REASON FOR CONSIDERATION: All land use and design-review entitlements within the boundary of the North Montclair Downtown Specific Plan (NMDSP) require public hearing review and approval by the City Council. At the request of the applicant, Council continued this public hearing item from its regularly scheduled meeting on May 3, 2010.

Approving the requested entitlements would satisfy a portion of Strategic Priority No. 2 as contained in the Montclair's "Business Plan."

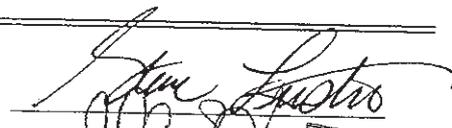
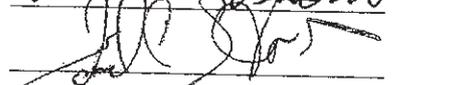
Project Proposal

Montclair I MGP Partners LLC is proposing to build a 385-unit residential community with amenities and a neighborhood public park at the northeast corner of Monte Vista Avenue and Moreno Street. The new development would be known as The Paseos at Montclair North, and if built, would be the first development project within the boundaries of North Montclair Downtown Specific Plan (NMDSP). The project involves the approval of a Tentative Tract Map for condominium purposes, a Precise Plan of Design, and a variance for interior setbacks and building height (for the podium building).

Prepared by:




Reviewed and
Approved by:

Proofed by:

Presented by:

Copies of the tentative tract map, site plan, floor plans, elevations, renderings, and conceptual landscape and public park plans are included in the Council packets. Color boards and an audiovisual simulation will be presented at the Council meeting.

Tentative Tract Map No. 18213

The applicant is requesting approval of a Tentative Tract Map in order to subdivide the existing 15.1-acre site into 13 numbered lots ranging in size from .10 acres to 1.06 acres for condominium purposes and a clubhouse. In addition, 14 lettered lots are also proposed to allow for public and private streets and to create a .71-acre public park at the center of the site. After the public streets and park areas are deducted from the gross area, the net site area is 12.85 acres, which would result in a density of 30 dwelling units per acre.

Access to the site would be provided via two public streets. A new street is proposed to allow north-south access to and from Moreno Street. In addition, Olive Street would be extended westerly and connect to Monte Vista Avenue. The new north-south street is designed to create a one-way loop around the proposed park. Parking would be allowed along the residential side of the street but not along the frontage of the proposed park. Private streets and driveways would provide internal access to and between the new buildings.

Initially, the new units would be market-rate apartments. By building the new units to condominium standards and recording the proposed condominium map, the applicant would have the opportunity to sell the units as condominiums when and if it became economically viable to do so in the future. Until that time, The Paseos would be managed by an onsite, institutional quality professional property management company with an onsite manager to oversee the day-to-day management, leasing, and maintenance functions of the new residential community.

To serve the new resident population, a 10,354-square-foot clubhouse/community building is proposed. The clubhouse/community building is proposed near the center of the property and would be the primary activity center of the community, featuring such amenities as a fitness center, meeting rooms, a large multipurpose room, movie theater, event kitchen, and business center. Outside the clubhouse/community building are outdoor "terrace" spaces that would include a community pool, citrus garden, seating areas, and a dog park for residents.

Neighborhood Public Park

In accordance with the NMDSP, the proposed plan includes a public park to provide open space for passive recreational activities of the local residents. The new, linear shaped, park would be approximately .71 acres in size with approximate dimensions of 60 feet in width by 545 feet in length. The grade of the park would be set approximately four feet below the grade of the adjacent public street that will surround it. The park would be made accessible via ramps and stairs along the perimeter and within the interior of the park. No parking would be allowed around the perimeter of the park.

Proposed park amenities include a plaza and water feature at the north end of the park, an informal amphitheater space, nonstructured play area sand basin, a bridge/seating area, and areas of turf, trees, and shrubs. Natural boulders, stones, and paving materials would be utilized as accents throughout the park site. At the south end of the park a water quality infiltration basin is proposed to handle stormwater

runoff from most of the project site during rain events. The infiltration basin would be designed to appear and be used as part of the park.

Precise Plan of Design

The Paseos is designed and planned to meet condominium standards and quality. The units would contain submetered utilities, attached garages, large patios and decks, and significant community amenities. Three basic building configurations are proposed as generally described below:

- Three-story courtyard buildings organized around a linear public park (Building Type A) and "paseos" in between the buildings.
- Three-story modified courtyard buildings organized around a community pool (Building Types B through E)
- Three-story podium building with parking in structure below the residential units (Building Type F).

Each residential building configuration would provide a combination of living unit types which are summarized in the following table:

The Paseos - Summary of Residential Building and Unit Types				
<i>Building Type</i>	<i>No. Buildings</i>	<i>Stories</i>	<i>Types of Units</i>	<i>Units in Building(Total)</i>
A	8	3	1 Bedroom Live/Work	1(8)
			1 Bedroom Flat	6(48)
			2 Bedroom Flat	4(32)
			2 Bedroom Townhouse	12(96)
			3 Bedroom Townhouse	4(32)
B	2	3	1 Bedroom Flat	4(8)
			2 Bedroom Townhouse	10(20)
C	2	3	1 Bedroom Flat	3(6)
D	6	3	2 Bedroom Townhouse	6(12)
			1 Bedroom Flat	4(24)
E	2	3	2 Bedroom Townhouse	5(30)
			1 Bedroom Flat	1(2)
F (Podium)	1	3	2 Bedroom Townhouse	2(4)
			Studio	10(10)
			1 Bedroom Flat	42(42)
			2 Bedroom Flat	7(7)
			2 Bedroom Townhouse	2(2)
Total Number of Dwelling Units				(385)

The following table is a summary of the unit sizes per unit type.

The Paseos - Summary of Unit Sizes		
Buildings A through E		
<i>Floor Plan</i>	<i>Size Range</i>	<i>Number of Units</i>
1 BR Live/Work	1,051 s.f.	8
1 BR Flat	644 s.f. - 702 s.f.	88
2 BR Flat	1,004 s.f. - 1,078 s.f.	162
2 BR Townhouse	1,002 s.f. - 1,416 s.f.	32
3 BR Townhouse	1,324 s.f.	32
Subtotal		322 units

Building F		
Studio	541 s.f. - 591 s.f.	10
1 BR Flat	645 s.f. - 723 s.f.	42
2 BR Flat	855 s.f. - 917 s.f.	7
2 BR Townhouse	1,104 s.f.	2
3 BR Townhouse	1,432 s.f.	2
Subtotal		63 Units
Grand Total		385 Units

Each unit would have a private patio or balcony space suitable in size for a small café table and chairs. Patios at ground level would be defined by low decorative walls and landscaping.

Traffic and Parking

A traffic study prepared by Gibson Transportation Consulting, Inc. was completed and approved by the City Engineer. Traffic was determined to be within the traffic volumes anticipated by the EIR prepared for the NMDSP. The only significant change recommended by the study was to add a "Right Turn Only" lane for westbound traffic on the new Olive Street extension where it would intersect with Monte Vista Avenue. The project site plan was modified accordingly to show the "Right Turn Only" lane as recommended by the traffic study.

The parking requirement for residential units in the NMDSP is a minimum of one space per unit (Section 5.2.030.C.3). Each unit in buildings A through E would have at least one garage space, some of which (*i.e.*, ground level units) would have direct access. All units in Building F (podium building) would have covered and secured parking in the attached parking structure. Parking for the proposed project is as follows:

Parking Summary	
<i>Type/Location*</i>	<i>Quantity Provided</i>
Attached Garages	276 spaces
Detached Garages	80 spaces
Parking Garage at Podium Building (Building F)	104 spaces
Uncovered	241 spaces
Disabled Accessible	13 spaces
Grand Total	712 spaces
*NMDSP requires one (1) garage parking space for each residential unit.	

The 712 onsite parking spaces for the proposed 385 units would result in a ratio of approximately 1.85 spaces per unit. In addition, the project provides for an additional 54 street parking spaces on public streets within the project boundaries. No parking along the Monte Vista Avenue frontage is proposed.

Detached garage buildings would be located along the perimeter of the site and around Buildings B through E. Each garage building is designed to accommodate three or five garage spaces, each having minimum interior dimensions of 10 feet wide by 20 feet deep, and automatic rollup garage doors. Covered trash enclosures would be attached to one or both ends of some of the garage buildings around the site.

Architecture

The design theme for The Paseos project is based on the "Santa Barbara" architectural style, which is a blend of Spanish, Mediterranean and Moorish influences. The major design characteristics of the Santa Barbara style are simple massing, white stucco surfaces, red tile roofs, use of arches and courtyards, and restrained ornamentation. Dark brown framed window and doors are deep set in the walls to allude to the adobe vernacular, while plaster details at the eaves and openings further enhance the sculptural quality of the buildings. The buildings are appointed with traditionally designed wrought iron, light fixtures and ceramic tiles.

The proposed buildings, including the detached garage buildings, include some or all of the proposed architectural elements/details applied to all sides of the building. The tower elements built into the corner building at Moreno Street and Monte Vista Avenue and the clubhouse building are designed to serve as key focal points of identity and reference for the complex. Project perimeter walls would be clad in plaster that matches the units with occasional decorative metal inserts. According to the project architect, the project would be constructed to Build It Green® certification standards.

Landscaping/Hardscape

The applicant has submitted comprehensive landscape and irrigation plans for the project site. The selection and distribution of plant materials are intended to complement the architecture of the buildings and highlight the several passive open space areas - "paseos" and promenades - planned around the buildings. These spaces will be decorated according to individual themes and include a tile wall design at entry points, benches, decorative urns and pots, and enhanced paving finishes, in addition to plant materials. In some spaces, a water feature such as fountain or pool would be provided. All parking courts between the buildings would be finished in concrete pavers.

The proposed tree and shrub palettes feature a wide variety of plant materials, the majority of which are California friendly and drought tolerant. The proposed tree list includes Eucalyptus, Juniper, Palm, Pine, Crape Myrtle, Oak, Olive, and Sycamore trees. The shrub list includes sages, ornamental grasses, Ceanothus, rockrose, etc. Special focal point plants are also proposed, including citrus (orange) trees and specimen size succulents such as Yucca and Dracaena (Dragon Plant) for key locations.

Approximately 30 trees would be planted in the public park including three specimen sized trees to create an immediate impact. The largest specimen tree and focal point of the park is a planned 120-inch box Coast Live Oak (*Quercus agrifolia*) that would be accompanied by two (2), 72-inch box-size Engelmann Oaks (*Quercus engelmannii*). The remaining trees in the park are proposed to be California Sycamores (*Platanus racemosa*) in 36- and 48-inch box sizes.

Finally, the proposal creates an attractively landscaped pedestrian-oriented street edge along Monte Vista Avenue and Moreno Street. Monte Vista Avenue would have Canary Island Pines (*Pinus canariensis*) and Crape Myrtle (*Lagerstroemia indica*) street trees, while the Moreno Street frontage would have California Sycamores and Southern Live Oaks (*Quercus virginiana*).

Height and Setback Variance Requests

The applicant is requesting two variances for the project. The first variance request is for the overall height of Building F (podium building) as measured from finished grade at the south side of the building. The variance proposes an 11- to 16-foot increase in height from the 45-foot height limit of the NMDSP in order to make up for the existing change in grade elevation of approximately the same amount from Arrow Highway. The total building height at the south end of the building would be 61'-6" from finished grade to top of the hip roof.

The second variance is for reduced side yard setbacks from the required five-foot setback distance for the following locations:

- Eastern property boundary for three proposed garage buildings. This setback reduction would allow an average of a two-foot setback between the garage building and the existing masonry walls of the adjacent single-family properties.

According to the applicant's survey of the property, the existing block walls of the adjacent properties encroach onto the subject site anywhere from 1'-2" to 2'-8". The applicant is proposing to leave the existing wall in place in order to avoid any disruption of the neighbors' rear yards, but is seeking relief in the setback distance to avoid impacting the remainder of the proposed site improvements.

- West boundary along the EZ Lube property for two garage buildings with a zero setback. No windows or openings are proposed for the west elevations of the garage buildings facing the EZ Lube property.

BACKGROUND:

- The North Montclair Downtown Specific Plan (NMDSP) was adopted by Council in May 2006. The main objective of the NMDSP is to introduce urban style residential projects to the area and begin the process of creating a "downtown" environment with walkable neighborhoods, local retail and service businesses, and convenient access to rail transit. The NMDSP is a form-based code, with three distinct land use districts, and detailed design criteria to guide development. Virtually the entire plan area accommodates and encourages medium- to high-density residential development, almost all consisting of attached housing styles.
- The subject 15.1-acre site is zoned "Corridor Residential" and "Neighborhood Residential" as indicated by the NMDSP. The southern half of the property is located in Montclair Redevelopment Project Area No. III.
- Portions of the property were formerly developed with Montclair's original City Yard and John F. Kennedy Park. According to building records, at least seven single-family dwellings existed on the Monte Vista Avenue and Moreno Street frontages of the property, the last of which was demolished along with the park improvements in 1987 to make way for a commercial center (Montclair Town Square) consisting of multiple buildings and anchored by a 108,000-square-foot Price Savers store (later Pace Membership Warehouse, then Sam's Club). The relocation of Sam's Club to Ontario in 2001 hastened the center's demise and ultimate demolition in 2005.

- In 2008, the City Council approved Tentative Tract Map No. 18213 (for condominium purposes) and a Precise Plan of Design for a 290-unit residential development by M&H Realty Partners V, the applicant's predecessor company. The project was never built as the ensuing national recession and housing crisis severely impacted the "for sale" housing market.
- On August 24, 2009, the City Council, Planning Commission, and staff were invited by the applicant to tour existing projects in Orange County that exemplified certain development characteristics/elements that were anticipated to be included in the proposed project. Planning Commissioners Flores, Johnson, and Vodvarka attended along with a number of staff members. No Council members attended.
- On October 14, 2009, the project was formally submitted for City review.
- On January 25, 2010, the applicant presented the project to the Real Estate Committee (Mayor Eaton and Mayor Pro Tem Dutrey). The committee directed staff and the applicant to expand public notification to adjacent residential uses, and requested a workshop and tour of similar projects for all Council members before the project is presented for formal Council action.
- On February 8, 2010, the Planning Commission conducted a public hearing for the proposed Paseos at Montclair North project. After an extensive presentation by the applicant and considering public comments, the Commission voted to continue the item to its regularly scheduled March 22, 2010 meeting date. The Commission believed that before a recommendation is made on the item, the applicant should meet to discuss issues raised by the public at the meeting, and that the City Council should be given another opportunity to participate in a tour similar to that conducted in August 2009.
- The applicant attempted to meet with the adjacent property owners who spoke at the meeting to clarify aspects of the project on which they commented. Mr. Kapoor (owner of the EZ Lube property) was contacted about the project and indicated to the applicant and staff that he wished to maintain "as is" the existing easement and entrance from Monte Vista Avenue, and that he remained opposed to the setback variance along the east side of his property. At Mr. Kapoor's request, the applicant revised their site plan to maintain the existing easement between the project site and the EZ Lube property. Attempts to reach Ms. Cheng (owner of the vacant property at the northeast edge of the site) were unsuccessful. As such, staff presumes her position has not changed.
- A City Council workshop and tour was scheduled for February 27, 2010, but was cancelled due to inclement weather. The workshop and tour were rescheduled to Saturday, May 1, 2010.
- On March 22, 2010, the Planning Commission conducted a second public hearing on the project and took additional public comment. The Commission voted unanimously to recommend Council approval of the project, including the Tentative Tract Map, Precise Plan of Design, and variances for building height and side setbacks.
- On May 1, 2010, Council heard a presentation made by the applicant's team in the Council Chambers. Mayor Eaton, Mayor Pro Tem Dutrey, Councilmember Ruh, Planning Commissioners Sahagun and Lenhart, and City staff then participated in a

field trip with the applicant of market-rate apartment communities in Orange County.

Analysis

Overall, staff finds the project to be very well designed and consistent with the intent and design goals of the North Montclair Downtown Specific Plan. Staff has worked closely with the applicant's development team for the past year to ensure the project would be developed in accordance with the provisions of the Specific Plan. Except for the requested variances, the project complies with the development standards and guidelines set forth in the Specific Plan with respect to land use, subdivision and urban standards, parking, and architectural and frontage types and styles. If approved, the project would set a high benchmark for future development in North Montclair.

Staff believes that, if approved, the proposed project would help to enhance and diversify the City's housing stock by adding new market rate, high quality units in various sizes and configurations that do not currently exist in the City. The site has excellent visibility to drive-by traffic from Monte Vista Avenue, Arrow Highway, and Moreno Street, which would be a significant and recurring source of potential residents. Moreover, the proposed onsite amenities associated with the project would serve and enhance the quality of life for the project residents.

Rental vs. Ownership

A policy question that has been raised by Council members is the issue of rental vs. ownership, or apartments vs. condominiums. Since the inception of the NMDSP, the City Council has envisioned the majority of the residential units to be offered for individual ownership. Thus, previous projects approved for the site and surrounding areas were "for sale" developments. However, due to the severe downturn in the economy and housing market the projects were never built. The poor economy and housing market continues to persist and there appears to be no sure sign of immediate turnaround in the "for sale" market. As proposed, the applicant intends to build the project to condominium specifications and process a map for condominium purposes, which could be used to sell the units individually at a later date in the future. This approach would at least provide some assurances that the units will be well designed and built. This is a common approach by developers that has been successfully utilized in other communities.

The concern regarding proper management and maintenance of the units would be addressed by requiring a professional, institutional quality management company with an onsite manager/staff. The management company would be responsible to establish and enforce community standards and maintenance of the units and surrounding landscaping in order to maintain strong property values. Tenants who do not pay or are unwilling to abide by the community rules would likely face eviction. As a condition of approval, the applicant would also be required to enter in an agreement ("Operating Agreement") with the City to guarantee the proper and timely maintenance of the site while it is operated as a rental community. The Operating Agreement is being prepared separately and is subject to City Council review and approval at a later date.

When and if the units are sold, a homeowners association (HOA) would take over the above responsibilities. Covenants, Conditions and Restrictions (CC&Rs) would be recorded before any units could be sold and would be the governing document that

dictates how the HOA operates and what rules the owners—and their tenants and guests—must obey. The document is recorded against each lot and, therefore, the owner of each lot is subject to the terms and conditions set forth. Although an HOA is the appropriate means for managing maintaining multiple family developments, HOAs have their limitations as well. HOAs often have difficulty in collecting dues to maintain services, struggle with management of the complex and, unlike a for-rent project, they cannot easily enforce rules against unruly property owners (*i.e.*, an HOA cannot evict "unruly" homeowners as can be done in an institutionally managed rental project). Moreover, a condominium project does not guarantee or prevent owners from renting their units.

Tract Map

Staff has reviewed the proposed map and has determined that it is technically correct and in compliance with the State Subdivision Map Act and the City's Subdivision Ordinance, subject to the conditions of approval. The proposed development of the site has good internal vehicular and pedestrian access/circulation around the buildings and to bus stops on Monte Vista Avenue and Moreno Street.

Needed open space for the site and immediate area will be provided by the proposed public park in the middle of the development. Moreover, the site has very convenient pedestrian access to multiple shopping, banking, and dining opportunities at Montclair Plaza and other commercial areas to the east on Moreno Street and Central Avenue.

Council recently raised a concern regarding the proposed configuration of the tentative tract map. The chief concern is that the proposed map configuration would allow for the piecemeal selloff of individual parcels to different investors with differing levels of commitment to maintaining the integrity of the project. According to the applicant, the reason for the proposed map configuration is to facilitate the conversion of the project into for-sale condominiums at some point in the future. By having the tract map designed such that each building lies on its own fee simple parcel of land, this will facilitate recording a Department of Real Estate (DRE) -approved condominium plan for that building and thereby allow the units to be placed on the market as they can be absorbed (*i.e.*, rather than having to bring all 385 units to market at once). This approach also eases the burden of paying HOA dues on unsold units which can be costly if all units are brought to market at the same time. This approach will allow the developer to retain control of project for a much longer duration to ensure a smooth transition from market rate apartments to for-sale condominiums run by a layperson HOA.

Secondly, by having the project already separated into discrete parcels, the applicant indicates they could more effectively and efficiently remove each parcel from the underlying permanent loan. With the map in place from the beginning, they can negotiate a release price up front with the lender and carve out language that sets the terms for converting the project to a for-sale condo development. Without the map in place from the start, removing each block of units from the loan will be more difficult because the loan will effectively be renegotiated when it comes time to pull a block of units out from the trust deed (perhaps impossible if the loan has been sold and bundled with other loans).

In terms of process, the proposed map allows the applicant to act in a timely manner when market conditions are right. If they had to wait to file a tentative tract map for condominiums in the future, the process would cause unnecessary delays, and the

conversion process could be subject to appeal and further delay by persons opposing the condo conversion. Completing the tract map process for condominiums in the future could likely mean missing a window of opportunity for a conversion.

For the above reasons, approval of the tract map as proposed will make the future conversion to a for-sale condo project far less risky, less complicated, and thus, more likely, and provide for a more smooth transition by ensuring that the developer stays in control all the way through the conversion process.

Staff anticipated and expressed to the applicant the same concern Council recently raised and has worked with the applicant to appropriately address it. Accordingly, the applicant has agreed to conditions of approval ensuring that the subject scenario does not materialize and also ensures that selling the buildings off as individual for-rent investments is not practical or possible.

Site Plan

Staff finds that the project is substantially in compliance with the various elements and goals of the NMDSP, including the requirements for building placement, parking, and building design/profiles. The proposed site plan is generally consistent with the development pattern suggested by the Specific Plan, and does not overcrowd the site. The proposed amenities are consistent with both a higher end residential development and are appropriately situated for easy access by the future residents. The street layout is logical and is designed to connect to existing streets. The proposed public streets within the project boundaries will be fully improved and serve to implement the eventual goal of a linked street system that promotes walkability and connectivity to adjacent properties and uses, including the Montclair Transcenter.

As envisioned by the NMDSP, the project proposes a variety of housing types (*e.g.*, townhouses and courtyard housing, live/work, etc.), that is in keeping with the spirit of a transit "village." The variety in housing size and types will appeal to a greater range of prospective tenants by giving them the option to choose a home that meets their needs. In addition, parking is appropriately integrated into and distributed around the project site.

Parking

Parking for the project is consistent with the NMDSP requirement of one space per dwelling unit. The overall total of 712 total onsite spaces provides nearly double the amount of parking required. Parking will be managed through a Parking Management Plan that is required as a condition of approval for the project. The project will be required to abide by the provisions of the Parking Management Plan while operated as a rental project and also after it is converted to condominiums.

In order to facilitate the effectiveness of the Parking Management Plan for onsite parking, increase security in the area, and ensure proper street sweeping/maintenance, the applicant has indicated its support of a parking resolution that would restrict overnight parking on public streets within the project boundaries. A typical overnight parking restriction is in force between the hours of 2:00 a.m. to 6:00 a.m. seven days per week. This is a common method used by cities as a means for controlling overnight parking and enhancing neighborhood security, and would be a good idea to consider and establish when the project is new and before residents move into the units.

Land Use and Density

The plan is consistent with the intent of the land use designations for the site. The intent of the "Corridor Residential" land use district states in part, "The...zone is intended to establish a denser fabric of residential buildings, appropriate for locations on arterial roads. It is therefore the portion of the plan where the more intense residential development is expected." The proposal concentrates the buildings toward Monte Vista Avenue, Moreno Street and Arrow Highway, which are designed to create an attractive and continuous streetscape along these busier roadways. Rather than act just as a building wall, or being the back end of the units, the units along the Moreno Street frontage have been designed with door and window features that access and look onto street.

The "Neighborhood Residential" land use districts "are located within the interior of the Plan Area, serving as a transition to the existing single-family house neighborhoods." Except for the three single-story detached garages along the east boundary of the site, the proposed three-story residential buildings would be a minimum of 55 feet from the easterly property line and existing single-family residences on Lindero Avenue. A driveway, parking, and the three detached garage buildings are the only improvements along this common boundary.

At 30 dwelling units per acre, the proposed project density is consistent with the "Corridor Residential" and "Neighborhood Residential" land use designations for the site. The following table shows how the proposed project compares with the allowable density ranges for the two zoning designations on the property:

Allowable Density Ranges - NMDSP	
<i>Land Use Designation</i>	<i>Density Range</i>
Corridor Residential (CR)	30-50 dwelling units per acre
Neighborhood Residential (NR)	20-30 dwelling units per acre
The Paseos*	30 dwelling units per acre
* Net Site area is 12.85 acres	

If approved, the project would be consistent with Phase 1 - Town Center Residential - of the NMDSP as indicated in Section 6.2.010 of the document. The Specific Plan anticipates build out for Phase 1 at 1500-1700+ residential units and 35,000-40,000+ square feet of retail during the Plan's first ten years (2006-2016). The subject property (which includes the EZ Lube property) was envisioned to have 400+ units, which is 15 more than proposed with this project.

Finally, the proposed residential development would be within a one-mile distance from various local and regional public transportation systems and would be within a convenient driving distance to the I-10 and California 210 Freeways. The site boasts easy access to Metrolink and bus transportation at the Montclair Transcenter. As further development occurs within the NMDSP planning area, pedestrian connectivity to the Transcenter will be significantly expanded and improved.

Architecture and Landscaping

Staff finds the proposed "Santa Barbara" architecture for the project to be well done, visually attractive, and a welcome addition to the City. The design's reliance on simple

massing configurations and use of appropriate architectural details and durable materials will stand the test of time. Architectural design and details are proposed to be extended to all sides of the buildings.

Staff believes the proposed landscaping plan, including hardscape elements, is well done and appropriate for the proposed architecture. Plant materials are well distributed around the site. The majority of the proposed plant materials will be drought tolerant, provide shade, and add visual interest to the site. The use of specimen-sized trees in the public park will provide immediate impact. Except for the park, there will be very few lawn areas located on the site, which will result in less water use and need for additional maintenance.

Public Park

The NMDSP conceptually identifies a public park space to be located generally in the center of the project site. The project that was approved by Council in 2008 included a public park in the same general location, albeit smaller in size. The current application proposes to double the area of the park to almost three quarters of an acre. In addition to increasing the size of the park, the applicant conducted a "competition" among several landscape design firms with the goal of coming up with a unique design that would be an asset to the project and community. Indeed, staff is impressed with the park design concept given the dimensional and topographical challenges. The plan would be for the applicant to construct the park with its required Quimby Act (parkland development) contribution; however, staff is continuing its discussions with the applicant and legal counsel to finalize overall costs and a maintenance agreement for the long-term operation of the park. Accordingly, it is staff's intention to bring back the details of the public park and associated financing matters to the Council for consideration at a date in the near future. The above details would be formally addressed in a "Parkland Dedication and Construction Agreement," which is being prepared separately. This agreement will include a requirement for the dedication of a minimum of .71 acres of land for a neighborhood park, a conceptual park design exhibit, as well as a description of the proposed park improvements and the facilities to be constructed.

Community Facilities District

City staff is currently working with a consultant to lay groundwork and implement a Community Facilities District (CFD), which would overlay the subject site. Establishment of the CFD, which has been anticipated since the NMDSP was adopted, would provide the vehicle for collecting funds to maintain public improvements, such as curb, gutter, and sidewalk; paving; streetlights; street sweeping; signage; street furniture; landscaping in the public right-of-way; and the maintenance of the proposed public park. Completion and City approval of the CFD would be a condition of approval before any grading and/or building permits are issued for the project.

Variances

Building Height Variance for Podium Building "F"

The NMDSP allows up to three stories and an overall height limit of 45 feet. All the buildings of the project comply with this requirement, including the portion of the podium building - Building F - proposed to front on Arrow Highway. However, the "notch"-shaped portion of the property on which Building F would be built is impacted

by a significant change in grade elevation of approximately 15 to 16 feet from Arrow Highway. This topographical feature is unique to the property and more severe than any similar grade differences on adjoining properties. Because of this condition, the rear (south) side of the Building F would end up being 61'-6" in height as measured from finished grade to the top of roof ridgeline.

Staff believes the increase height is warranted because of the existing grade condition and because the variance would allow the applicant to build most of the "tuck-under" parking levels into the existing slope, thereby reducing the extent of new excavation work that would otherwise be required. Moreover, without the variance, the building would have to be stepped and the possibility of providing efficient parking below the building would be compromised. Below-grade parking with housing above makes the most efficient use of this portion of the property and will not be readily evident from Arrow Highway or any other public right-of-way.

The increased height would not impair the view of other parcels. The only property potentially impacted would be to other buildings within the applicant's proposed development. But even this is not likely to be significant as the development adjacent to Building F will consist of three-story buildings ranging from 38 to 45 feet in total height. These buildings would block the majority of direct views to the south side of Building F.

Lastly, the proposed building height allowed by the variance would not affect or cause an unreasonable infringement on the use and privacy of abutting properties. The site is flanked on either side by the parking lot of Fire Station 1 and the 30-foot-high Monte Vista Water District storage reservoir (MVWD Plant No. 5), which will virtually block visibility of Building F from any public street. The nearest residential properties are approximately 520 feet to the southeast of the subject building.

Setback Variance

East Boundary

As proposed, the project site plan has been developed to minimize impact to the greatest extent possible to adjacent residential properties by limiting development along the east boundary to a drive aisle and parking. Accounting for the placement of existing walls encroaching onto the subject site and the desire not to disrupt the adjacent properties, the applicant has chosen not to relocate the existing wall. To then require a five-foot setback in front of the existing boundary wall would require that the garages be pushed westward, thereby adversely affecting development of the rest of the property.

In addition, a setback between the back of the proposed garage and existing boundary wall would create isolated and unusable spaces that are rather small, obscured from view, and difficult to maintain. By reducing the required setback behind the subject garage buildings, the chances of dumping, neglect, or other unwanted activities are substantially minimized. The two remaining feet of setback at the rear of garage buildings would be adequate for periodic maintenance (*e.g.*, painting). Moreover, the garages would be finished on all sides and have a "flat" roof design and parapet designed to prevent storm runoff from impacting adjacent properties. Further, no openings in the back or side walls of the garage buildings are proposed, so privacy to adjacent properties would not be adversely impacted.

Moreover, the variance request applies to less than 15 percent of the total 1,101-foot length of the east property line. Although this percentage is small, the proposed garage buildings would help to add some visual interest along this side of the project site by breaking up what would be an unmitigated view of uncovered parking spaces. Finally, the proposed location of the three garage plans on the east property line are placed in a manner that screens the view of three of the five motor court areas that would otherwise be visible to adjacent properties.

EZ Lube (West) Boundary

For many of same reasons identified above, staff believes the variance for reduced side yard setbacks at the EZ Lube boundary can be supported. The development of the subject site is impacted by an existing, nonconforming commercial use on a piece of property that cuts into the subject site. The existing EZ Lube business is no longer a permitted use under the land use provisions of the NMDSP, but until it ceases and is replaced with conforming development, appropriate separation of uses is needed. The proposed setback variance for the garages in this location would allow for a permanent separation and buffer between the incompatible uses without creating unusable and isolated land areas that would be between the back of buildings and property lines or perimeter walls/fences where maintenance would be difficult.

The reduced setback at this location poses no significant impact to the use, operation, and appearance of the adjacent property with the commercial use. In fact, development of the garages at the proposed location would help to provide better separation and protection of the properties and uses than a typical six-to-eight-foot-high wall or fence would. The combination of buildings and walls/fences would add visual interest and screening that would benefit both properties. The proposed garages would have no openings, roof overhangs, or drainage that would impact the adjacent property.

The owner of the EZ Lube property has indicated his opposition to the setback variance adjacent to his property. The owner believes the variance would adversely impact the use of his property and hamper its future development potential. However, the EZ Lube property owner has not stated in what way or demonstrated how the variance would adversely impact his property.

Public Notice And Comments

This item was advertised as a public hearing in the INLAND VALLEY DAILY BULLETIN newspaper on April 20, 2010. As indicated previously in this report, public hearing notices were mailed out to property owners within an expanded radius of approximately 600 feet from the boundaries of the subject property, whereas a 300-foot radius is required by State law for consideration of this discretionary zoning entitlement. At the time this report was prepared, staff had received written comments from three individuals. Two letters (Cheng and Kapoor) expressed some form of opposition to the project, and one (Montclair Plaza) is in support of the project. At the March 22, 2010 public hearing before the Planning Commission, Darleen Curley, Montclair Chamber of Commerce President/CEO, also spoke in support of the project.

At the request of the applicant, the City Council continued the public hearing on this item from May 3, 2010 to its regularly scheduled meeting date on May 17, 2010. Since the item was continued to a date specific, no additional notification was necessary.

Environmental Assessment

Pursuant to the California Environmental Quality Act (CEQA) Guidelines, the City certified an Environmental Impact Report (EIR) on August 15, 2006 in connection with the City's approval of the North Montclair Downtown Specific Plan and anticipated improvements. Pursuant to CEQA Guidelines Sections 15162 and 15182, no subsequent or supplemental EIR or Negative Declaration is required in connection with subsequent discretionary approvals of the same project unless: (i) substantial changes are proposed to the project that indicate new or more severe impacts on the environment; (ii) substantial changes have occurred in the circumstances under which the project was previously reviewed that indicates new or more severe environmental impacts; (iii) new important information shows the project will have new or more severe impacts than previously considered; or (iv) additional mitigation measures are now feasible to reduce impacts or different mitigation measures can be imposed to substantially reduce impacts.

Staff finds that the current application for the proposed 385-unit Paseos residential community is substantially consistent with the anticipated impacts evaluated in the previously certified EIR for the North Montclair Downtown Specific Plan and its anticipated improvements. Staff further believes that the project will not have one or more significant effects not discussed in the previously certified EIR, not have more severe effects than previously analyzed, and that additional or different mitigation measures are not required to reduce the impacts of the project to a level of less than significant. As such, none of the conditions listed in Section 15162 of the CEQA Guidelines requiring the preparation of a subsequent or supplemental EIR are present and the project qualifies for the exemption for residential projects described in Section 15182 of the state CEQA Guidelines.

FISCAL IMPACT: There would be no direct fiscal impact on the City's General Fund at this time should the City Council adopt Resolution Nos. 10-2837, 10-2841, and 10-2842 approving the entitlement requests described herein.

RECOMMENDATION: Staff recommends that the City Council find the proposal to construct a 385-unit residential community, known as The Paseos, at the northeast corner of Monte Vista Avenue and Moreno Street, to be consistent with the General Plan and the goals and development standards of North Montclair Downtown Specific Plan. Accordingly, staff recommends that the City Council take the following actions:

- A. Certify that the Council has reviewed and considered the environmental assessment based upon the findings of exemption, and that there will be no significant impact on the environment as a result of the proposed land use amendments and the subsequent construction of the proposed 385-unit multifamily residential project.
 1. Adopt the proposed finding that there will be a DeMinimis impact on fish and wildlife.
 2. Direct staff to file a Notice of Determination (NOD) and the applicant to pay appropriate fees within five (5) days of this action.
- B. Approve Tentative Tract Map No. 18213, subdividing a 15.1-acre site at the northeast quadrant of Monte Vista Avenue and Moreno Street into 13 numbered lots and 14 lettered lots for condominium purposes,

finding that the map is consistent with the Montclair Municipal Code and the State Subdivision Map Act.

- C. Approve a Precise Plan of Design request under Case No. 2009-21 for the site plan, floor plans, elevations, colors, materials, conceptual landscape plan, and conceptual plans for the public park associated with the proposed 385-unit residential community development at the northeast quadrant of Monte Vista Avenue and Moreno Street, and associated on- and offsite improvements per the submitted plans and as described in the staff report, subject to the conditions in Planning Commission Resolution No. 10-2837.
- D. Approve a Variance request under Case No. 2009-21 to allow a 61'-6" building height for Building F rather than the maximum allowed 45-foot building height in conjunction with the proposed 385-unit residential development at the northeast quadrant of Monte Vista Avenue and Moreno Street, as described in the staff report and subject to the findings and conditions in Resolution No. 10-2841.
- E. Approve a Variance request under Case No. 2009-21 to allow setbacks less than the minimum 5'-0" required in the North Montclair Downtown Specific Plan for the one-story, detached garage buildings along the easterly project boundary and a portion of the westerly project boundary (adjacent to EZ Lube) in conjunction with the proposed 385-unit residential community development at the northeast quadrant of Monte Vista Avenue and Moreno Street, as described in the staff report and subject to the findings and conditions in Planning Commission Resolution No. 10-2842.

RESOLUTION NO. 10-2841

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR APPROVING A VARIANCE FOR SIDE-YARD SETBACKS ASSOCIATED WITH A PROPOSED 385-UNIT RESIDENTIAL DEVELOPMENT AT THE NORTHEAST CORNER OF MONTE VISTA AVENUE AND MORENO STREET WITHIN THE NORTH MONTCLAIR DOWNTOWN SPECIFIC PLAN (ASSESSOR'S PARCEL NOS. 1008-011-23 AND 27-28 AND 1008-161-19, 20, AND 24-26)

WHEREAS, Montclair I MGP Partners, LLC, filed an application on October 14, 2009 for a Tentative Tract Map, Precise Plan of Design (PPD), and the above-captioned variance under Case No. 2009-21 in conjunction with a proposal to construct a 385-unit residential development in the 8900 and 9000 blocks of Monte Vista Avenue; and

WHEREAS, on May 15, 2006, the Montclair City Council adopted the North Montclair Downtown Specific Plan (NMDSP), establishing guidelines for development on numerous parcels of land totaling approximately 150 acres in area; and

WHEREAS, the subject site is located within the "Corridor Residential" and "Neighborhood Residential" land use districts of the NMDSP; and

WHEREAS, the NMDSP designates a portion of the site where this variance request applies as the Corridor Residential (CR) zone and a portion as the Neighborhood Residential (NR) zone; and

WHEREAS, the NMDSP governs the development on the subject site and sets forth standards for development including a side-yard setback of 5'-0" for both of the aforementioned zoning districts; and

WHEREAS, one variance request applies to three single-story detached garage buildings proposed along the east property line of the site. The variance would allow a reduction from five feet (5'-0") to an average of two feet (2'-0") between the back of the garage building and the existing masonry walls separating the site from the adjacent single-family properties; and

WHEREAS, the second setback variance request applies to the placement of two single-story detached garage buildings that are proposed for the west side of the property at the common property line with the adjoining parcel currently developed with an EZ Lube auto service facility. The variance would allow a reduction from five feet (5'-0") to a zero (0'-0") setback along the property line for the subject buildings; and

WHEREAS, the NMDSP requires City Council review and approval of all entitlements for projects within the boundary of the NMDSP; and

WHEREAS, the Planning Commission of the City of Montclair conducted public hearings on February 8 and March 22, 2010, and considered said variance requests in the manner prescribed by law; and

WHEREAS, the Planning Commission of the City of Montclair reviewed and recommended approval of said variances at its March 22, 2010 meeting, as contained in Planning Commission Resolution No. 10-1716; and

WHEREAS, the City Council of the City of Montclair finds the requested entitlements to be consistent with the adopted General Plan and the North Montclair Downtown Specific Plan and following good planning principles; and

WHEREAS, on May 3, 2010, at the request of the applicant, the City Council continued the noticed public hearing to its regularly scheduled meeting on May 17, 2010. The additional time requested by the applicant was intended to allow the applicant to work with staff on addressing issues raised by staff and Council regarding the project; and

WHEREAS, the City Council conducted a duly noticed public hearing on May 17, 2010, at which time all interested parties were provided an opportunity to give testimony for or against the proposal; and

WHEREAS, based upon the facts and information contained in the application, together with all written and oral reports included for the environmental assessment for the application, the City Council finds that no subsequent or supplemental environmental document is required pursuant to the California Environmental Quality Act (CEQA) in connection with the review and approval of this application based upon the following findings and determinations:

A. Pursuant to the California Environmental Quality Act (CEQA), the City certified an Environmental Impact Report (EIR) on August 15, 2006, in connection with the City's approval of the North Montclair Downtown Specific Plan and its anticipated improvements. Pursuant to CEQA Guidelines Sections 15162 and 15182, no subsequent or supplemental EIR or Negative Declaration is required in connection with subsequent discretionary approvals of the same project unless: (i) substantial changes are proposed to the project that indicate new or more severe impacts on the environment; (ii) substantial changes have occurred in the circumstances under which the project was previously reviewed that indicates new or more severe environmental impacts; (iii) new important information shows the project will have new or more severe impacts than previously considered; or (iv) additional mitigation measures are now feasible to reduce impacts or different mitigation measures can be imposed to substantially reduce impacts.

B. The City Council finds, in connection with the proposed Paseos project (Case No. 2009-21), that substantial changes to the project or the circumstances surrounding the proposed project have not changed which would create new or more severe impacts than those evaluated in the previously certified EIR. The Paseos project conforms to the requirements of the NMDSP and is consistent with land use designations and density standards for the subject site. Staff further finds that the project will not have one or more significant effects not discussed in the previously certified EIR,

not have more severe effects than previously analyzed, and that additional or different mitigation measures are not required to reduce the impacts of the project to a level of less than significant.

C. The City Council finds there is no substantial evidence the project may have a significant effect on the environment and directs staff to prepare a Notice of Exemption and a DeMinimis finding of no effect on fish and wildlife.

D. Based on these findings and all evidence in the record, the City Council concurs with staff's determination that no additional environmental review is required pursuant to CEQA in connection with the City's consideration of Case No. 2009-21 for The Paseos residential community development.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. Based on the entire record before the City Council and all written and oral evidence presented to the City Council, the City Council finds as follows with respect to the approval of Variance No. 2009-21:

Variance Findings for Setback of Garages at East Boundary

- A. Because of special circumstances applicable to the subject property, including its size, shape, topography, location or surroundings, the strict application of the provisions of Title 11 of the Montclair Municipal Code are found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classifications. The property is impacted along its easterly boundary by the placement of existing boundary wall enclosing the rear yards of the adjacent residential properties that encroach onto the subject site and impact the proposed development. The proposed setback variance would allow the existing wall to be retained in its present location, avoid disruption to the adjacent residential properties, and limit the impact to the proposed development of the subject site.
- B. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners in the vicinity and under identical zone classifications. The project is a high-density residential development within the NMDSP and most similar to other multifamily developments within the City where detached garages have often been permitted with little to no setback requirements in order to allow better utilization of the site. The variance would allow the proposed garages to be placed on the site in a similar manner as other multifamily developments in the City. More importantly, the proposed variance applies only to three separate locations representing less than 15 percent (approximately 160 feet total) of the total 1,101-foot-long east property line
- C. The granting of such variance will not be materially detrimental to public welfare or injurious to other property or improvements in the vicinity and zone in which the property is located. The proposed setback variance

would eliminate isolated and unusable spaces that would be created behind the proposed garages and existing boundary wall. The probability of dumping, neglect, or other unwanted activities would be substantially reduced. Moreover, the garages are finished on all sides, and designed with a "flat" roof design and parapet, which is designed to prevent storm runoff from impacting adjacent properties. Further, no openings in the back or side walls of the garage buildings are proposed and privacy to adjacent properties will not be adversely impacted.

- D. The granting of such variance will not be contrary to the objectives of any part of the adopted General Plan. The General Plan and NMDSP also place a strong emphasis on maintaining the appearance, character, and vitality of the community, and on implementing the Municipal Code in an appropriate fashion.

Variance Findings for Setback of Garages at EZ Lube Boundary

- A. Because of special circumstances applicable to the subject property, including its size, shape, topography, location, or surroundings, the strict application of the provisions of Title 11 of the Montclair Municipal Code are found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classifications. The development of the subject site is impacted by an existing, nonconforming commercial use on a property that cuts into the subject site and presents an adverse impact. Until the present use of the adjacent property is discontinued and replaced with a development that conforms to the NMDSP, the proposed setback variance for the garages in this location would allow for a permanent separation and protection of the proposed residential development.
- B. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners in the vicinity and under identical zone classifications. The project is a high-density residential development in the NMDSP area and most similar to other multifamily developments within the City where detached garages have often been permitted with little to no setback requirements in order to allow better utilization of the site. The variance would allow the proposed garages to be placed on the site in a similar manner as other multifamily developments in the City.
- C. The granting of such variance will not be materially detrimental to public welfare or injurious to other property or improvements in the vicinity and zone in which the property is located. The variance would eliminate an isolated and unusable space behind the proposed garages where maintenance would be difficult. More importantly, the garage buildings are well designed with property walls or fences that will serve as a permanent and attractive means to separate the uses on both properties. The proposed garages will have no openings or roof overhangs that would adversely impact the adjacent property or its use.

- D. The granting of such variance will not be contrary to the objectives of any part of the adopted General Plan. The General Plan and NMDSP also place a strong emphasis on maintaining the appearance, character, and vitality of the community, and on implementing the Municipal Code in an appropriate fashion.

SECTION 2. Based upon the findings and conclusions set forth in the paragraphs above, the City Council hereby approves the application subject to each and every condition set forth below.

- A. The variance referenced above shall apply only to the buildings described below and in the staff report and as depicted on the approved site plan. All other buildings or structures shall comply with required setbacks as prescribed in the NMDSP.
 - 1. An average two-foot (2'-0") setback for three garage buildings along the east property line
 - 2. A zero (0'-0") setback for the two garage buildings at the west property line of the site that is shared with the adjacent property currently developed with EZ Lube.
- B. This variance approval shall be valid for six months from the date of City Council action. If no construction drawings have been submitted to the City for plan review within this timeframe, then the approval shall automatically expire without further City action.
- C. This variance approval shall be implemented in conjunction with entitlements and all conditions of approval granted for Case No. 2009-21 as contained in City Council Resolution No. 10-2837.

SECTION 3. The location and custodian of the documents and any other material that constitute the record of proceedings upon which the City Council based its decision is as follows: City Planner, Planning Division, Community Development Department, City of Montclair, 5111 Benito Street, Montclair, California 91763, or by phone at (909) 625-9477.

SECTION 4. Effective Date. This Resolution shall become effective upon its adoption.

APPROVED AND ADOPTED this XX day of XX, 2010.

Mayor

ATTEST:

Deputy City Clerk

I, Yvonne L. Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 10-2841 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, 2010, and that it was adopted by the following vote, to-wit:

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

Yvonne L. Smith
Deputy City Clerk

RESOLUTION NO. 10-2842

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR APPROVING A VARIANCE FOR BUILDING HEIGHT ASSOCIATED WITH A PROPOSED 385-UNIT RESIDENTIAL DEVELOPMENT AT THE NORTHEAST CORNER OF MONTE VISTA AVENUE AND MORENO STREET WITHIN THE NORTH MONTCLAIR DOWNTOWN SPECIFIC PLAN (ASSESSOR'S PARCEL NOS. 1008-011-23 AND 27-28; AND 1008-161-19, 20 AND 24-26)

WHEREAS, Montclair I MGP Partners, LLC, filed an application on October 14, 2009 for a Tentative Tract Map, Precise Plan of Design (PPD), and above-described variance under Case No. 2009-21 in conjunction with a proposal to construct a 385-unit residential development in the 8900 and 9000 blocks of Monte Vista Avenue; and

WHEREAS, on May 15, 2006, the Montclair City Council adopted the North Montclair Downtown Specific Plan (NMDSP), establishing guidelines for development on numerous parcels of land totaling approximately 150 acres in area; and

WHEREAS, the NMDSP designates a portion of the site where this variance request applies as the Corridor Residential (CR) zone; and

WHEREAS, the NMDSP, governs the development on the subject site and sets forth standards for development, including a building height limit of 45 feet; and

WHEREAS, the variance request applies to only one building, Building F, as depicted on the proposed site plan adjacent to Arrow Highway; and

WHEREAS, the applicant has requested approval to exceed the 45-foot building height limit of the underlying district by approximately 16'-6". If approved, the total building height at the south end of Building F would be 61'-6," as measured from finished grade to the top of the hip roof of said building; and

WHEREAS, the NMDSP requires City Council review and approval of all entitlements for projects within the boundary of the NMDSP; and

WHEREAS, the Planning Commission of the City of Montclair reviewed and recommended approval of said variances at its March 22, 2010 meeting, as contained in Planning Commission Resolution No. 10-1715; and

WHEREAS, the City Council of the City of Montclair finds the requested entitlements to be consistent with the adopted General Plan and the North Montclair Downtown Specific Plan and following good planning principles; and

WHEREAS, on May 3, 2010, at the request of the applicant, the City Council continued the noticed public hearing to its regularly scheduled meeting on May 17, 2010. The additional time requested by the applicant was intended to allow the applicant to work with staff on addressing issues raised by staff and Council regarding the project; and

WHEREAS, the City Council conducted a duly noticed public hearing on May 17, 2010, at which time all interested parties were provided an opportunity to give testimony for or against the proposal; and

WHEREAS, based upon the facts and information contained in the application, together with all written and oral reports included for the environmental assessment for the application, the City Council finds that no subsequent or supplemental environmental document is required pursuant to the California Environmental Quality Act (CEQA) in connection with the review and approval of this application based upon the following findings and determinations:

A. Pursuant to CEQA, the City certified an Environmental Impact Report (EIR) on August 15, 2006, in connection with the City's approval of the North Montclair Downtown Specific Plan and its anticipated improvements. Pursuant to CEQA Guidelines Sections 15162 and 15182, no subsequent or supplemental EIR or Negative Declaration is required in connection with subsequent discretionary approvals of the same project unless: (i) substantial changes are proposed to the project that indicate new or more severe impacts on the environment; (ii) substantial changes have occurred in the circumstances under which the project was previously reviewed that indicates new or more severe environmental impacts; (iii) new important information shows the project will have new or more severe impacts than previously considered; or (iv) additional mitigation measures are now feasible to reduce impacts or different mitigation measures can be imposed to substantially reduce impacts.

B. The City Council finds in connection with the proposed Paseos project (Case No. 2009-21) that substantial changes to the project or circumstances surrounding the proposed project have not changed which would create new or more severe impacts than those evaluated in the previously certified EIR. The Paseos project conforms to the requirements of the NMDSP and is consistent with land use designations and density standards for the subject site. Staff further finds that the project would not have one or more significant effects not discussed in the previously certified EIR and would not have more severe effects than previously analyzed and that additional or different mitigation measures are not required to reduce the impacts of the project to a level of less than significant.

C. The City Council finds there is no substantial evidence the project may have a significant effect on the environment and directs staff to prepare a Notice of Exemption and a DeMinimis finding of no effect on fish and wildlife.

D. Based on these findings and all evidence in the record, the City Council concurs with staff's determination that no additional environmental review is required pursuant to CEQA in connection with the City's consideration of Case No. 2009-21 for The Paseos residential community development.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair hereby finds and determines as follows:

SECTION 1. Based on the entire record before the City Council and all written and oral evidence presented to the City Council, the City Council finds as follows with respect to the approval of Variance No. 2009-21:

Variance Findings for Building Height of Building F

- A. Because of special circumstances applicable to the subject property, including its size, shape, topography, location or surroundings, the strict application of the provisions of Title 11 of the Montclair Municipal Code are found to deprive the subject property of privileges enjoyed by other properties in the vicinity and under identical zone classifications. The "notch" shaped portion of the property on which Building F is impacted by a significant change in grade of approximately 15 to 16 feet from Arrow Highway, which is unique on the property and more severe than on any of the adjoining properties.
- B. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, which right is possessed by other property owners in the vicinity and under identical zone classifications. The variance would allow the property owner to develop the property pursuant to the development standards of the NMDSP as they would apply to any property owner with a similar grade and/or slope disparity such as that which exists on the subject portion of the subject site. More specifically, the increased height at the rear of the building would allow the applicant to build the majority of the "tuck-under" parking levels into the existing slope, where it will not be visible to Arrow Highway. In addition, the need for extensive excavation work is reduced significantly than would be the case if a pit were required for the proposed tuck-under parking. Moreover, without the variance, the building would have to be stepped and the possibility of providing efficient parking below the building would be compromised.
- C. The granting of such variance will not be materially detrimental to public welfare or injurious to other property or improvements in the vicinity and zone in which the property is located. The increased height would not impair the use, privacy, or views of another parcel. The only properties potentially impacted would be other buildings within the applicant's proposed development, and existing development (water tank and fire station) on either side of the proposed building. Moreover, the nearest existing residential properties/uses are approximately 520 feet to the southeast of the subject building where privacy would not be adversely impacted.
- D. The granting of such variance will not be contrary to the objectives of any part of the adopted General Plan or the NMDSP. The variance allows the proposed building to accommodate and integrate subterranean parking as encouraged by the North Montclair Downtown Specific Plan. Because the proposal as noted herein, meets these goals, staff believes that this finding can be made.

SECTION 2. Based upon the findings and conclusions set forth in the paragraphs above, the City Council hereby approves the application subject to each and every condition set forth below.

- A. The variance approval shall apply only to Building F adjacent to Arrow Highway at the north end of the proposed residential community at the northeast corner of Monte Vista Avenue and Moreno Street. The approved increase in height shall be 16'-6" above the 45-foot height limit for a total building height 61'-6" for the south end of Building F, as measured from finished grade on the south side of said building to the top of the hip roof.
- B. This variance approval shall be valid for six months from the date of City Council action. If no construction drawings have been submitted to the City for plan review within this timeframe, then the approval shall automatically expire without further City action.
- C. This variance approval shall be implemented in conjunction with entitlements and all conditions of approval granted for Case No. 2009-21, as contained in City Council Resolution No. 10-2837.

SECTION 3. The location and custodian of the documents and any other material that constitute the record of proceedings upon which the City Council based its decision is as follows: City Planner, Planning Division, Community Development Department, City of Montclair, 5111 Benito Street, Montclair, California 91763, or by phone at (909) 625-9477.

SECTION 4. Effective Date. This Resolution shall become effective upon its adoption.

APPROVED AND ADOPTED this XX day of XX, 2010.

Mayor

ATTEST:

Deputy City Clerk

I, Yvonne L. Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 10-2842 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, 2010, and that it was adopted by the following vote, to-wit:

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

Yvonne L. Smith
Deputy City Clerk

RESOLUTION NO. 10-2837

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR APPROVING TENTATIVE TRACT MAP NO. 18213 AND A PRECISE PLAN OF DESIGN ASSOCIATED WITH A 385-UNIT RESIDENTIAL DEVELOPMENT WITHIN THE NORTH MONTCLAIR DOWNTOWN SPECIFIC PLAN

WHEREAS, Montclair I MGP Partners, LLC, filed an application on October 14, 2009, for a Tentative Tract Map, Precise Plan of Design (PPD), and Variances under Case No. 2009-21 in conjunction with a proposal to construct a 385-unit residential development in the 8900 and 9000 blocks of Monte Vista Avenue; and

WHEREAS, on May 15, 2006, the Montclair City Council adopted the North Montclair Downtown Specific Plan (NMDSP), establishing guidelines for development on numerous parcels of land totaling approximately 150 acres in area; and

WHEREAS, the subject site is located within the "Corridor Residential" and "Neighborhood Residential" land use districts of the NMDSP; and

WHEREAS, Tentative Tract Map No. 18213 is proposed to resubdivide the 15.1-acre site into 13 numbered lots and 14 lettered lots for condominium purposes; and

WHEREAS, a Precise Plan of Design is requested for the overall site plan, floor plans, elevations, colors, materials, conceptual landscape plan, and conceptual public park design associated with the 385-unit residential development; and

WHEREAS, staff has found that the subject proposal complies with the guidelines and development standards outlined in the NMDSP; and

WHEREAS, the NMDSP requires City Council review and approval of all entitlements for projects within the boundary of the NMDSP; and

WHEREAS, the Planning Commission of the City of Montclair conducted public hearings on February 8 and March 22, 2010, and considered said application in the manner prescribed by law; and

WHEREAS, the Planning Commission of the City of Montclair has reviewed and recommended approval of said Tentative Tract Map, Precise Plan of Design, and Variances; and

WHEREAS, members of the Planning Commission, City Council, and staff participated in mobile tours conducted by the applicant on August 24, 2009, and May 1, 2010, to view residential projects similar in quality, character, and amenities to the proposed project; and

WHEREAS, the City Council of the City of Montclair finds the requested entitlements to be consistent with the adopted General Plan and the North Montclair Downtown Specific Plan and following good planning principles; and

WHEREAS, the City Council conducted a duly noticed public hearing on May 3, 2010, at which time all interested parties were provided an opportunity to give testimony for or against the proposal.

WHEREAS, on May 3, 2010, at the request of the applicant, the City Council continued the noticed public hearing to its regularly scheduled meeting on May 17, 2010. The additional time requested by the applicant was intended to allow the applicant to work with staff on addressing issues raised by staff and the Council regarding the project; and

WHEREAS, the City Council conducted a duly noticed public hearing on May 17, 2010, at which time all interested parties were provided an opportunity to give testimony for or against the proposal; and

WHEREAS, based on the entire record before the City Council and all written and oral evidence presented, the City Council finds the proposed project complies with the California Environmental Quality Act (CEQA) for the reasons set forth in this Resolution.

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

SECTION 1. Based on the entire record before the City Council, all written and oral evidence presented to the City Council, and the findings set forth in this Resolution, the City Council approves Tentative Tract Map No. 18213 and a Precise Plan of Design under Case No. 2009-21, subject to the conditions of approval set forth in the attached Exhibit "A" and as depicted in the submitted site plan, elevations, and renderings attached hereto as Exhibit "B." In addition, the City Council hereby approves the Conceptual Landscape and Park Design Plan attached hereto as Exhibit "C" for the proposed neighborhood park to be dedicated and developed by the applicant.

SECTION 2. Pursuant to California Government Code Section 66410, *et seq.*, based on the entire record before the City Council and all written and oral evidence presented to the City Council, the City Council finds as follows with respect to the approval of the Tentative Map No. 18213:

- A. The proposed subdivision is designed, to the extent feasible, to provide for passive or natural heating or cooling opportunities. Proposed buildings on the site are generally oriented, spaced, and designed to allow for access to adequate light and air. Each unit will have operable windows to allow for passive cooling provided by seasonal winds. Moreover, the proposed public park at the center of the development will provide substantial open space areas where trees and vegetation will provide shade, air filtering, and other environmental benefits.
- B. The proposed subdivision and the provisions for its design and improvement are consistent with the General Plan for the City of Montclair ("General Plan") and the applicable specific plan, otherwise known as the North Montclair Downtown Specific Plan ("Specific Plan"):

1. The Tentative Tract Map provides for land uses compatible with the "Specific Plan" land use classification for the subject site in the General Plan. The overall goal of the General Plan is to promote good planning practices and orderly development within the City and to recognize the potential of specific areas for special treatment. Thus, the "Specific Plan" land use classification of the General Plan for the site and surrounding area is in recognition of its proximity to the existing transit center and its potential for development into a viable and thriving transit-oriented community.
 2. The Tentative Tract Map provides for land uses compatible with the "Corridor Residential" and "Neighborhood Residential" land use classification for the subject site in the Specific Plan. As envisioned by the Specific Plan, the project will provide a mix of housing types (*e.g.*, townhouses and courtyard housing, live/work, etc.), at a density that is consistent with the "Corridor Residential" and "Neighborhood Residential" land use designations for the site. Moreover, the design for the project is of a high quality and consistent with the high expectations for improvements for projects within the Specific Plan planning area.
- C. The subject site is physically suitable for the type and density of development proposed in the Tentative Tract given the overall size of the property. The site is 15.1 acres in overall area and is of a configuration that has sufficient width and depth to allow for orderly development as proposed with the project. The project site is also located adjacent to fully improved streets that will provide good access and allow for appropriate internal pedestrian and vehicular circulation. The proposed public streets within the project boundaries will be fully improved and serve to implement the eventual goal of a linked street system that promotes walkability and connectivity to adjacent properties and uses, including the future transit center.
- D. The subdivision design and improvements proposed in the Tentative Tract Map are not likely to cause substantial environmental damage nor substantially injure fish or wildlife or their habitat. The site is surrounded by urban development and streets, does not contain any bodies of water, and is not linked to any wildlife corridors. The site does not contain any known habitats of significance including rare or endangered species of plant, animal, or insect life.
- E. The subdivision design and type of improvements proposed in the Tentative Tract Map are not likely to cause serious public health problems because all development and public improvements will be performed per the requirements of all applicable standards and codes including the zoning and building codes. As a condition of approval, the applicant is required to submit an acoustical analysis demonstrating that interior noise standards of each unit will comply with Municipal Code requirements.
- F. The subdivision design and type of improvements proposed in the Tentative Tract Map will not conflict with easements acquired by the public at

large for access through or use of the subject site because no such easements exist on the subject site.

- G. The discharge of waste into the existing sanitary sewer system from the development proposed in the Tentative Tract Map will not cause a violation of existing requirements prescribed by the regional water quality control board. The entire project will be required to connect to a sanitary sewage system pursuant to California Plumbing Code and Municipal Code requirements. Sewer mains exist in the Monte Vista Avenue, Moreno Street and Arrow Highway rights-of-way and are in close proximity to the site to facilitate ease of connection.

SECTION 3. Based on the entire record before the City Council and all written and oral evidence presented to the City Council, the City Council finds as follows with respect to the approval of a Precise Plan of Design under Case No. 2009-21:

- A. The property is of a size and shape to support the proposed project. At 15.1 acres in area, the site is of sufficient size and shape to accommodate the proposed development as designed including the provision of a public park and on-street public parking. The property is appropriately connected to existing developed roadways to allow for ease of access and vehicular circulation.
- B. The proposed project will not have an adverse impact on or substantially depreciate property values in the vicinity; or unreasonably interfere with use and enjoyment of property in the vicinity; or endanger the public peace, health, safety, or general welfare. The residential development proposed for the site is consistent with the allowable uses of the residential zoning designation for the site. The proposed residential units will be adequately separated in distance from the only adjacent residential uses along its easterly boundary line so as to reduce significant impacts to privacy and use of said uses.
- C. The project is well designed and promotes orderly development. Overall, the project is well designed and consistent with the design standards of the Specific Plan. Architectural details and materials are of a high quality and appropriate to the proposed architectural style of the project. Proposed landscaping is complementary to the architecture, well distributed around the site, and designed to conserve water. Finally, the proposed site plan is generally consistent with the development pattern suggested by the Specific Plan; does not overcrowd the site; and, when completed, will represent a positive improvement to the adjacent streets on which it has frontage.

SECTION 4. Pursuant to Section 66412.3 of the Government Code, based on the entire record before the City Council and all written and oral evidence presented to the City Council, the City Council finds the subdivision and improvements proposed help the City of Montclair to meet its regional housing needs because the project proposes construction of a variety of housing types for various income levels. In addition, approval of the condominium component of the project requires the

applicants to comply with the City's Inclusionary Housing Ordinance. Compliance with the Ordinance will require the applicant to deed restrict 15 percent of the units for eventual sale to low- and/or moderate-income households. The availability of these units will also assist the City in meeting its regional housing goals and low- and moderate-income production goals within this Redevelopment Project Area.

SECTION 5. Based on the entire record before the City Council and all written and oral evidence presented to the City Council, the City Council finds the nature and extent of the dedications, reservations, impact fees, and other exactions are reasonably related to public needs and roughly proportional to the impacts created by the subdivision and improvements proposed in the Tentative Tract Map. In addition, several conditions, including conditions relating to the imposition of operational covenants while the project is operated as a rental development and covenants to be included in the CC&Rs when the development is converted into a condominium development, were suggested and/or accepted by the applicants.

SECTION 6. Based upon the facts and information contained in the application, together with all written and oral reports included for the environmental assessment for the application, the City Council finds that no subsequent or supplemental environmental document is required pursuant to CEQA in connection with the review and approval of this application based upon the following findings and determinations:

- A. Pursuant to CEQA, the City certified an Environmental Impact Report (EIR) on August 15, 2006, in connection with the City's approval of the North Montclair Downtown Specific Plan and its anticipated improvements. Pursuant to CEQA Guidelines Sections 15162 and 15182, no subsequent or supplemental EIR or Negative Declaration is required in connection with subsequent discretionary approvals of the same project unless: (1) substantial changes are proposed to the project that indicate new or more severe impacts on the environment; (2) substantial changes have occurred in the circumstances under which the project was previously reviewed that indicates new or more severe environmental impacts; (3) new important information shows the project will have new or more severe impacts than previously considered; or (4) additional mitigation measures are now feasible to reduce impacts or different mitigation measures can be imposed to substantially reduce impacts.
- B. The City Council finds, in connection with the proposed Paseos project (Case No. 2009-21) that substantial changes to the project or the circumstances surrounding the proposed project have not changed, which would create new or more severe impacts than those evaluated in the previously certified EIR. The Paseos project conforms to the requirements of the NMDSP and is consistent with land use designations and density standards for the subject site. Staff further finds that the project will not have one or more significant effects not discussed in the previously certified EIR, will not have more severe effects than previously analyzed, and that additional or different mitigation measures are not required to reduce the impacts of the project to a level of less than significant.

- C. The City Council finds there is no substantial evidence the project may have a significant effect on the environment and directs staff to prepare a Notice of Exemption and a DeMinimis finding of no effect on fish and wildlife.
- D. Based on these findings and all evidence in the record, the City Council concurs with staff's determination that no additional environmental review is required pursuant to CEQA in connection with the City's consideration of Case No. 2009-21 for The Paseos residential development.

SECTION 7. The location and custodian of the documents and any other material that constitute the record of proceedings upon which the City Council based its decision is as follows: Director of Community Development, Community Development Department, City of Montclair, 5111 Benito Street, Montclair, California 91763, or by telephone at (909) 625-9477.

SECTION 8. Effective Date. This Resolution shall become effective upon its adoption.

APPROVED AND ADOPTED this XX day of XX, 2010.

Mayor

ATTEST:

Deputy City Clerk

I, Yvonne L. Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 10-2837 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, 2010, and that it was adopted by the following vote, to-wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

EXHIBIT A
Conditions of Approval
Case No. 2009-21

Project Approvals & General Conditions

1. This approval is for the following:
 - a. Tentative Tract Map No. 18213, subdividing an existing 15.1-acre site into 13 numbered lots and 14 lettered lots (streets and public park) for the purpose of developing a condominium project of 385 dwelling units on the northeast corner of Monte Vista Avenue and Moreno Street, and associated on- and offsite public improvements.
 - b. A Precise Plan of Design (PPD) approving the site plan, floor plans, elevations, colors and materials, conceptual landscape plan, and conceptual public park plan associated with the construction of the 385 dwelling units as described in the staff report and depicted on approved plans on file with the Planning Division.

These entitlements are granted based upon the maps, plans and elevations submitted by Montclair I MGP Partners LLC and dated May 3, 2010. The maps, plans, and elevations are approved as submitted and conditioned herein and shall not be further modified, amended, or altered. Approval of the entitlements shall not relieve the subdivider and/or applicant from complying with all federal and state laws, as well as all requirements of the Montclair Municipal Code.

2. Any modification, intensification, or expansion of the use beyond that which is specifically approved by the above-noted entitlements and that is not reflected in the map, plans, and drawings approved with this action by the City Council shall require review and approval by the City Council.
3. In the event that exhibits and written conditions are inconsistent, the written conditions shall prevail.
4. Within five days of City Council approval, the applicant shall submit a check in the amount of \$50 to cover the County administrative fee for filing a Notice of Exemption as required by the California Environmental Act (CEQA). The check shall be made payable to the Clerk of the Board of Supervisors.
5. The applicant shall defend, indemnify, and hold harmless, the City of Montclair, its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul any approval of the City, whether by its City Council, Planning Commission, or other authorized board or officer of this subdivision. Pursuant to California Government Code Section 66474.9, the subdivider and applicant also agrees to defend, indemnify, and hold harmless, the City of Montclair, its agents, officers, and employees from any claim, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul any map approval of the City, whether by its City Council, Planning

Commission, or other authorized board or officer of this subdivision, which action is brought within the time period provided for in Government Code Section 66499.37. The City shall promptly notify the subdivider and applicant of any such claim, action, or proceeding; and the City shall cooperate fully in the defense.

6. Notice to Applicant/Subdivider: The conditions of approval for this project include certain fees, dedication requirements, reservation requirements, inclusionary housing requirements and/or other exactions more specifically described in the conditions of approval herein. The subdivider/applicant is hereby notified that the 90-day protest period to challenge such items has begun as of the date of the project approval. For purposes of this notice, "project approval" shall mean the date that the City Council approves the tentative map, precise plan of design and variance(s) for the project. All impact fees shall be due and payable at the time stated in the adopted ordinance, resolution or policy adopting and imposing such fees. If the applicant fails to file a protest regarding any of the fees, dedications, reservations, inclusionary housing requirements or other exaction requirements as specified in Government Code §66020, the subdivider/applicant shall be legally barred from later challenges.
7. The subdivider/applicant shall reimburse the City for the legal costs associated with the preparation/review of any agreements and covenants required by these conditions.

Tentative Map (Condominium Conditions)

Planning

8. The applicant and/or property owner shall ensure that a copy of this Resolution is reproduced on the first page of the construction drawings and shall be distributed to all design professionals, contractors, and subcontractors participating in the construction phase of the Project.
9. A single final map for the project shall be filed for recordation, unless the City approves the filing of multiple final maps and a phasing plan in accordance with California Government Code Section 66456.1.
10. Prior to recordation of a final map, the subdivider and applicant shall pay any outstanding fees and charges related to the reimbursement agreement entered into with the City of Montclair for the processing of these entitlements.
11. The tentative map shall expire three years from the date of City Council approval unless extended under Government Code Section 66452.6. The final map shall be filed with the City Engineer and shall comply with the Subdivision Map Act of the State of California and all applicable Ordinances, requirements, and Resolutions of the City of Montclair.
12. The subdivider shall dedicate land on the final map for a neighborhood park in accordance with the North Montclair Downtown Specific Plan ("Specific Plan"). Prior to recordation of the final map, the subdivider shall enter into an agreement to be recorded against the property detailing compliance with the

City of Montclair Parkland Dedication Ordinance. The proposed Park Agreement shall include a requirement for the dedication of a minimum of .71 acres of land for a neighborhood park, a conceptual park design exhibit for that neighborhood park in compliance with the Specific Plan, as well as a description of the proposed park improvements and facilities to be constructed consistent with the Conceptual Landscape and Park Design Plan attached hereto as Exhibit "C" to these conditions of approval, and the Specific Plan. In addition, the Park Agreement shall include a mechanism for determining the amount of credit to be provided to the subdivider against in-lieu fees to be paid for the construction of improvements and installation of equipment and/or facilities. Such credit shall be based upon the City's adopted parkland dedication/in-lieu fee schedule. No credit/reimbursement shall be provided in excess of the amount of in-lieu fees that are due to be paid to the City by the subdivider/applicant. The final construction drawings for the improvements to the neighborhood park on the project site shall be submitted to the Planning Division during the plan check process for review and approval and construction of the park shall be completed simultaneously with the construction of the first residential building (excluding the resident amenity building and leasing center, which may be occupied first). No Certificate of Occupancy shall be issued for any building unless and until a certificate of completion and acceptance has been issued for the park.

13. Street names for internal streets of the subdivision shall be at the discretion of the developer and subject to the approval of the City Planner.
14. The subdivider and/or applicant shall agree to form and shall form a Community Facilities District ("CFD") pursuant to the terms of Government Code Section 53311, et seq., the territory of which shall include the boundaries of the Project (the "Property"), for the purposes of the payment of maintenance and operation costs associated with certain facilities within the Project, including, but not limited to, the park, street lighting within the public right-of-way adjacent to the Property, storm water management facilities within the Park, and other improvements located within the Property ("CFD Improvements"). The CFD shall be formed and the special tax recorded prior to recordation of a final map for the Project or the issuance of the first building permit, whichever occurs first. The subdivider and applicant further expressly agree that failure to form such CFD will result in disapproval of any building permits for the Project.

The subdivider and/or applicant also agree that additional areas may be annexed into the CFD, provided, however, that after giving effect to such annexation, the owner, subdivider and applicant is subject only to its fair share of the obligations and costs incurred as a result of the annexation. The subdivider and/or applicant agree to cooperate fully in any such annexation proceedings. Such agreement not to protest the annexation of additional areas is applicable only to the extent that the CFD obligations paid by the Property owners do not exceed their current assessments.

If, for any reason whatsoever, the Property or portion thereof does not become part of a CFD or if any such CFD that is formed does not provide for the maintenance of the entirety of the CFD Improvements within the Property, or any portion thereof, then such CFD Improvements shall be maintained by a

private property owners' association, or an adequate alternative reasonably acceptable to the City, to undertake such work. The homeowners' association covenants, conditions and restrictions (CC&Rs) shall include a requirement that the homeowners' association pay the assessment and that the assessment provisions contained in the CC&Rs can only be amended with the approval of the City. Failure to provide for the creation of such an owners' association, CC&Rs and/or an adequate alternative reasonably acceptable to the City shall result in the disapproval of subsequent permits with respect to the Property, or any portion thereof.

15. The applicant shall, at the applicant's expense, prepare and submit covenants, conditions and restrictions (CC&Rs) for a condominium project to the Director of Community Development, in a form and content satisfactory to the Director of Community Development and City Attorney, prior to the sale of any unit for condominium purposes. The CC&Rs shall be reviewed by the Director of Community Development and City Attorney, at the applicant's expense, and shall, upon approval of the City, be recorded in the Office of the County Recorder of the County of San Bernardino prior to the sale of any condominium unit. The applicant has represented to the City that it intends to lease or rent units within buildings in the Project until a date uncertain in the future when the applicant reserves the option to convert the project, or portions of the project into condominiums and/or sell individual lots for the purpose of converting such lot(s) into condominiums. In the event the applicant or any successor(s) desire to operate a mixed condominium–rental development, the CC&Rs shall make provisions for operation of the project as a mixed project with the applicable owners participating in the proposed homeowners' association to be formed. As such, prior to the conversion of the Project to condominiums or the conversion of any single unit within a building to condominiums, the applicant shall submit a Condominium Plan to the City for review and approval by the Planning Division and City Attorney prior to the sale of any condominium unit.

The CC&Rs shall also state that prior to the sale of the first condominium unit, the applicant or its successor(s) or assign(s), if any, will comply with all applicable conditions of approval and California Government Code Section 66459, obtain a Final Subdivision Public Report from the California Department of Real Estate (DRE), form a Condominium Homeowners' Association, file Articles of Incorporation for the Condominium Homeowners' Association (or other appropriate organizational document) with the California Secretary of State, adopt bylaws, and comply with the Davis–Sterling Common Interest Development Act, the Subdivided Lands Act, and any successor or other statutes that may apply.

The CC&Rs to be submitted to the City and recorded against the property shall state that the Condominium Homeowners' Association shall be responsible for ongoing maintenance of all buildings and grounds within the Project including roadways, retaining walls, drainage facilities, and water and sewer systems as described herein, as well as the management of all aspects of condominium project.

Maintenance Obligations

The CC&Rs shall make provision for the following maintenance obligations:

- a. **Street Maintenance.** All private streets within the Condominium Development shall be owned by and the cost of repairing and maintaining them shall be borne by an established Condominium Homeowners' Association. Street maintenance shall be addressed in the CC&Rs and shall not be dedicated to the City for maintenance.
- b. **Onsite Easements.** The cost of establishing any onsite easements shall be borne by the subdivider or successor(s) and the cost of maintaining any onsite easements shall be borne by an established Condominium Homeowners' Association. All onsite easements shall be addressed in the CC&Rs and shall not be dedicated to the City.
- c. **Storm Drain Maintenance.** The onsite storm drainage system shall be owned by and the cost of repairing and maintaining it shall be borne by an established Condominium Homeowners' Association. Maintenance of the storm drain system shall be addressed in the CC&Rs and shall not be dedicated to the City. The CC&Rs shall provide that the City have a right to make necessary repairs to any drainage facilities that are the responsibility of the Condominium Homeowners' Association and create nuisance conditions on property outside of the boundaries of the area owned by or under the control of the Condominium Homeowners' Association when the Association has been advised in writing of the need to make repairs and has not done so.
- d. **Parking Space Use and Maintenance.** All onsite guest parking spaces shall be owned by and the cost of repairing and maintaining them borne by an established Condominium Homeowners' Association. Parking spaces, restrictions, and enforcement of the restrictions shall be addressed in the CC&Rs and shall not be dedicated to the City for maintenance. The CC&Rs shall include and provide for the expenses associated with the monitoring and towing of illegally parked vehicles owned by any member. The CC&Rs shall require compliance with the approved Parking Management Plan, approved by the City.
- e. **Onsite Parking.** The CC&Rs shall stipulate that no utility trailers, commercial or construction vehicle of any length, watercraft, or recreational vehicles shall be permitted to be stored or parked overnight on any private street and/or parking areas within the complex. "Recreational vehicle" shall be generally defined as a motor home, travel trailer, truck camper, or camping trailer with or without motive power designed for human habitation for recreational or emergency occupancy.
- f. **Lighting Maintenance.** The Condominium Homeowners' Association shall be responsible for maintenance of exterior onsite lighting and shall promptly replace nonfunctioning lights and broken or damaged lighting devices.

- g. Garage Use. The CC&Rs shall stipulate that garages shall, at all times, be available for the parking of vehicles assigned to the applicable condominium unit and in accordance with the approved Parking Management Plan. Storage within garages shall be allowed only to the extent such storage does not impede access to the parking space(s) within the garage.
- h. Additional Common Areas. In addition to the maintenance of the exterior of buildings and grounds within the Project including roadways, retaining walls, drainage facilities, and water and sewer systems as described herein, the CC&Rs shall provide for the continuing maintenance by the Condominium Homeowners' Association of all additional common areas and facilities including the private streets, auto courts, speed bumps, traffic control signs and devices, common landscaping and irrigation, including perimeter landscaping adjacent to the public streets, and all perimeter walls. All landscaped areas shall be maintained in accordance with the property maintenance standards contained in the Montclair Municipal Code.

Management Obligations

The CC&Rs shall make provision for the following management obligations:

- i. Certified Residential Management Company. The HOA shall be required to retain the services of a California Certified Residential Property Management Company. The City shall approve the Management Company selected; however, such approval shall not be unreasonably withheld if the Management Company is certified.
- j. Management Obligations. The Management Company shall maintain a 24-hour presence onsite to ensure that all rules and regulations are being followed and use of the facilities are managed. In addition to the placement and maintenance of security cameras within the project, the Management Company shall contract with a state-licensed security company to provide daily security patrol services or be available for on-call services 24 hours per day.
- k. Registration and Management of Condo Rentals. If Owners of condominium units convert any unit or units to rental occupancies, management of those units shall be registered with the HOA and the Management Company. Further, such rented or leased units shall be managed by the Management Company retained by the HOA and approved by the City. The Management Company shall develop all rules, documents and procedures to assure all rental occupancies of condominium units are professionally managed including but not limited to:
 - ✓ Application(s)
 - ✓ Crime Free Addendum and other required addenda to application
 - ✓ Tenant-screening tools including, but not limited to, (1) credit check including unlawful detainer; and (2) criminal background check

- l. Occupancy of Rented Condo Units and Tenant Screening Requirements. Leases or rental agreements for the occupancy of individual condominium units to persons not listed on the grant deed to the unit shall be prohibited unless such leases or rental agreements are managed by the Management Company. All nonowner occupants, with the exception of minors, occupying a unit shall be required to complete a rental application and submit it to the Management Company to initiate the tenant screening process. The tenant screening documents and procedures must receive the prior approval of the City. Any changes to the documents and procedures pertaining to the application and tenant screening procedures must receive the prior approval of the City.
- m. Compliance with Rules. Renters occupying units within the Project shall be subject to all rules and regulations developed by the HOA and Management Company. The HOA shall establish a warning and fine system for violation of the rules and regulations. If renters of units violate rules and regulations, the owner of the rental unit shall be responsible for payment of such fines for violation of the rules by their tenant(s). The rules established by the Management Company for rental of units to nonowners shall include provisions for eviction of nonowner tenants for violations of the rules and regulations of the project. The rules shall also include provisions for imposing penalties on Owners who fail to evict such tenants.
- n. Maintenance of Interior of Units. The Management Company shall also develop and implement rules for maintenance and upkeep of the interior of the rental units. The owner of the rental unit shall execute a contract with the Management Company regarding interior maintenance of the units.
- o. Compliance with Parking Management Plan. The HOA shall require compliance with the approved Parking Management Plan. The Management Company shall be responsible for implementation of such Parking Management Plan. The Parking Management Plan shall include a record of the number spaces assigned to individual units and an identification of guest parking spaces.
- p. Limitations on Multiple Ownership of Condo Units in Same Building. The CC&Rs shall state that no owner or entity shall own more than 2 condominium units within each building.

The CC&Rs shall contain provisions permitting the City to enforce the maintenance and management obligations of the HOA in the event it fails to carry them out, including the power, after proper notice, to establish a lien against the property of both the association and individual properties for the costs of maintenance and enforcement. The CC&Rs shall include language establishing such a lien or require that a separate agreement be entered into with the City establishing such lien.

- 16. The subdivider shall comply with the City's adopted inclusionary housing ordinance (Ordinance No. 05-866). The subdivider shall provide 15 percent required housing for low- to moderate-income households. As currently

interpreted by California case law, the Ordinance applies to new for-sale residential development or ownership conversions located within redevelopment project area boundaries, but does not apply to the rental of such units prior to their sale as individual condominiums. Since the subject property lies within City of Montclair Redevelopment Agency Redevelopment Project Area No. III, the project shall be subject to the provisions of Ordinance No. 05-866, as such Ordinance may be interpreted by California law. The project and its conditions of approval have been evaluated and approved by the City, and accepted by the applicant, based on the interpretation of current California case law prohibiting the City's application of inclusionary housing requirements to the rental of Project units prior to their sale as individual condominiums. Applicant or its successor(s) or assign(s) shall obtain a vested right to rent all Project units pending their sale as individual condominiums upon the earlier of the following: (1) issuance of a Final Subdivision Public Report ("White Report") by the California Department of Real Estate (DRE) for the conversion of rental units to condominiums; or (2) initiation of construction pursuant to the first building permit issued for the Project. The developer shall agree to satisfy the requirements of Ordinance No. 05-866 through a separate and subsequent agreement approved and adopted by the City Council consistent with the terms of this Condition prior to the approval of a final map. Subject to the provisions of Condition No. 6 herein, the developer shall agree that approval by the City of the requested entitlements shall constitute in its entirety the City's compliance with the density bonus provision of Government Code Section 65915.

17. Prior to approval of the final map, a subdivision improvement agreement will be required to be approved by the City. The agreement shall contain provisions for the construction of public improvements and performance and payment bonds for all work within the public rights-of-way and a monumentation bond for tract monuments in accordance with the Subdivision Map Act.

Precise Plan and Project Construction Conditions

18. Precise Plan of Design (PPD) approval shall be valid for a period of one year and shall automatically expire on the anniversary date of City Council approval, unless the applicant is diligently pursuing building plan check toward eventual construction of the project. The applicant and/or property owner shall be responsible to apply for a time extension at least 30 days prior to the approval's expiration date. No further notice from the City will be given regarding the project's PPD expiration date.
19. Prior to the issuance of any building permit or recordation of a final map, the applicant, or its successor(s) or assign(s) shall record a covenant and agreement (Operations Agreement) against the entire property providing for the perpetual maintenance of all buildings and improvements, including roadways, retaining walls, drainage facilities, and water and sewer systems. The Operations Agreement shall be effective during the time that the Project is not operated as a condominium project or until such time as a homeowners' association is established to take over the maintenance of the Project. The Operations Agreement shall contain affirmative covenants for the maintenance of all such improvements, provisions for the professional management of the project, provisions for onsite security consistent with Condition No. 15.j ("Management Obligations") herein, mechanisms for City enforcement of the

- covenants and financial security to pay for any remedial actions taken as a result of noncompliance, including, but not limited to, the right to establish a lien against the property, after proper notice, to secure the costs of maintenance and enforcement of the Operations Agreement. The Operations Agreement shall be approved by the City Council and may not be cancelled or amended without City approval. Property shall be maintained in accordance with the property maintenance standards contained in the Montclair Municipal Code.
20. Prior to the issuance of any building permit or recordation of the final map (whichever occurs first), the applicant shall record a covenant and agreement against the entire property prohibiting the sale of any individual building within the Project for purposes of rental or lease (non-condominium). The covenant and agreement may be a part of the Operations Agreement required in Condition No. 19 herein and shall be approved by the City Council. It may not be cancelled or amended without City approval.
 21. In the event the final map is not recorded, the applicant shall comply with Condition No. 14 requiring the formation of a CFD for the CFD Improvements prior to the issuance of any building permit. The applicant shall also submit a Parking Management Plan detailing the parking spaces assigned to each unit and the location of all guest parking spaces.
 22. All sound attenuation measures (*i.e.*, dual-paned glazing, upgraded insulation, etc.) as identified by the approved acoustical report prepared for the project shall be incorporated into construction drawings submitted for plan check. Maximum interior noise level of all units shall be no higher than 45dBA.
 23. Approval of this PPD shall not waive compliance with any applicable regulations as set forth by the California Building Code and/or City Ordinances, the San Bernardino County Health Department, or the State of California.
 24. Prior to the installation of any signs, the applicant shall submit an application for a Sign Program for the entire project to the Planning Division for review and approval. Prior to the installation of video surveillance cameras, the applicant shall submit a plan showing their location to the Chief of Police.
 25. No changes to the approved set of plans, including the exterior design and materials/finishes, shall be permitted without prior City review and approval.
 26. No outdoor pay telephones or vending machines shall be permitted on the project site, except that vending machines may be allowed in the outdoor recreational area adjacent to the Community Building if installed in an alcove architecturally integrated with a building to the satisfaction of the City Planner.
 27. Perimeter walls shall be installed per the approved wall plan. Double wall or fence/wall conditions shall not be permitted. The applicant shall be responsible for coordinating with the adjacent property owners to the north and east regarding the replacement of property line walls, if required. Masonry wall heights, materials, and finishes shall be to the satisfaction of the City Planner.

28. Specify street trees for each public and private street. Required public street trees shall include the following:
- a. Monte Vista Avenue - *Pinus canariensis* (Canary Island Pine) and a deciduous and/or flowering species in a random, alternating pattern.
 - b. Moreno Street - *Platanus racemosa* (California Sycamore) and an evergreen and/or flowering species in a random, alternating pattern.
 - c. Arrow Highway - *Quercus ilex* (Holly Oak) and a deciduous and/or flowering species in a random, alternating pattern.

Street trees for Olive Street and the public north-south street on either side of the park shall be subject to approval by the City Planner.

29. All street trees shall be minimum 24-inch box size and double staked per City standards. If planted in turf areas, trees shall be planted within a 4'-0"-diameter circle in which turf does not encroach. The circle shall be left natural or minimally improved with decomposed granite, a thin layer of wood chips, or similar moisture-retaining material.
30. Streetlights shall be constructed on all public and private streets. Streetlights within and on the perimeter of the subdivision shall be as follows and as illustrated in "City Nights...City Lights," a publication of Southern California Edison:
- a. Interior streets (public and private) - "Nostalgic Fluted Pole" with single acorn pole top fixture.
 - b. Monte Vista Avenue and Moreno Street - "Nostalgic Fluted Pole" with double acorn pole top fixture.
 - c. Poles shall be black concrete and approximately 18 feet in height.
 - d. Fixtures shall be fitted with up-light shielding and house-side shielding (where necessary).

The spacing of streetlights and minimum lighting level for all streets shall be to the satisfaction of the City Engineer. Streetlights on public streets shall be owned and maintained by Southern California Edison. Streetlights on Olive Street may alternate on either side of the street. Streetlights on public north-south street flanking the park shall be placed on the residential side rather than the park side. Streetlights on private streets may be owned and maintained by developer or Southern California Edison.

31. The proposed locations for neighborhood mailboxes within the subdivision shall be subject to City review and approval prior to installation. The applicant shall also ascertain any requirements for such mailboxes from the United States Postal Service (USPS). The City acknowledges that proposed locations for neighborhood mailboxes shall be to the satisfaction of the USPS.

32. All roof-mounted equipment, satellite dish antennas, and other similar apparatus shall be screened from public view in a manner incorporated into the architectural design of the building to the satisfaction of the Planning Division.
33. All mechanical equipment including, but not limited to, utility meters, air conditioners, vents, and repair equipment shall be located within the building or screened in a manner that is compatible with the architectural design of the building to the satisfaction of the City Planner. Wooden lattice or fence-like screens/covers are not appropriate screening materials and shall not be allowed.
34. Surface-mounted exposed conduit or electrical lines shall not be allowed. Electrical switchgear, meters, etc. shall be screened or housed in an enclosure to the extent allowed by the utilities.
35. Freestanding electrical transformers and Fire Department double detector check and fire suppression connection equipment shall be screened with masonry walls compatible with the building architecture and/or landscaping to the satisfaction of the City Planner, Fire Marshal and the electrical utility provider. Efforts shall be made to place these elements in locations that are as unobtrusive as possible.
36. Landscape maintenance shall be subject to immediate and periodic inspections by the City. All landscaping shall be maintained in accordance with the property maintenance standards contained in the Montclair Municipal Code. The property owner shall be required to remedy any defects in grounds maintenance and replace any trees, shrubs, vines, or groundcover with a similar species, size, and quantity that are lost as a result of unauthorized removal, disease, windstorm, or other natural disaster as indicated by the City inspector, within two weeks after notification. Inspections shall be based on automatic landscape irrigation schedule, plant maintenance, weed and rubbish control, landscape plan approval, and any other area that is incidental to grounds maintenance.
37. All landscaping on the project site shall be regularly maintained in a healthy and vigorous living condition at all times. This shall include proper pruning, mowing of lawns, weeding, removal of litter, fertilizing, and the regular watering of all plants. Dead vegetation shall be promptly replaced with healthy, living plants in accordance with standard seasonal planting practices. The property owner shall also be responsible to keep the landscaped areas reasonably free of weeds, trash, and debris.
38. All new trees incorporated into the project shall be trimmed and maintained per guidelines established and approved by the International Society of Arboriculture (ISA). Trees shall only be pruned as necessary to promote healthy growth and for aesthetic purposes (*i.e.*, to enhance the natural form of the tree) according to established horticultural standards. Improperly or severely pruned trees, including topping, which results in the removal of the normal canopy and/or disfigurement of the tree shall be replaced with trees of similar size and maturity as that which was removed or as required by Director of Community Development.

39. In the event of transfer of ownership of the property involved in this application, the new owner shall be fully informed of the permitted use and development of said property as set forth by this permit together with all conditions that are a part thereof. These specific requirements must be recorded with all title conveyance documents at the time of escrow closing.
40. To ensure compliance with the conditions of approval, a final inspection is required from the Building and Planning Divisions upon completion of construction and all improvements. The applicant shall contact the City to schedule an appointment for such inspections.

Building

41. Submit four complete sets of plans including the following:
 - a. Site/Plot Plan.
 - b. Floor Plan.
 - c. Reflected Ceiling Plan.
 - d. Electrical Plans including the size of the main switch, number and size of service entrance conductors, panel schedules, and single line diagrams.
 - e. Plumbing plans including isometrics, underground diagrams, water and waste diagram, fixture units, gas piping, and heating and air conditioning.
 - f. A plan of all walls to be demolished.
42. Submit two sets of structural calculations, if required, and two sets of energy conservation calculations.
43. Architect's/Engineer's stamp and "wet" signature are required prior to plan check approval.
44. Contractors must show proof of State and City licenses and Workers' Compensation coverage to the City prior to permit issuance.
45. Separate permits are required for fencing and/or walls.
46. All utility services to the project shall be installed underground.
47. Plans shall be submitted for plan check and approved prior to construction. All plans shall be marked with the project file number. The applicant shall comply with the latest adopted California Building Code and all other applicable codes, ordinances, and regulations in effect at the time of permit application. These applicable codes shall be indicated on the first page of submitted plans.
48. Construction activity shall only be permitted between the hours of 7:00 a.m. and 8:00 p.m. daily.

49. Prior to issuance of building permits for a new residential development project or major addition, the applicant shall pay development fees at the established rate. Such fees may include, but are not limited to, Transportation Development Impact fees, permit and plan check fees, school fees, sewer connection fees, and parkland development fees. All required school fees shall be paid directly to the Ontario-Montclair School District and Chaffey Joint Union High School District. Applicant shall provide a copy of the school fees receipt to the Building Division prior to permit issuance.
50. Construct trash enclosure(s) per City Standard (available at the Building Division's public counter) or per a plan approved by all applicable City departments.
51. Clearly indicate on submitted plans disabled-accessible path(s) of travel to the public right-of-way and all required disabled-accessible parking lot signs. Sidewalks, paths-of-travel, and curb cuts shall comply with the requirements of the California Building Code, Title 24. The maximum cross-slope on a sidewalk or path-of-travel shall not exceed 2 percent.
52. Construction drawings submitted to the Building Division for plan review shall comply with the Montclair Security Ordinance No. 357 including, but not limited to, adherence to the following standards:
 - a. Install a numerical address on building elevations visible to a public or private street as determined by the Building Division. Address numerals shall be a minimum of ten inches in height and be in contrasting color that adequately contrasts to the background to which they are attached.
 - b. Provide and maintain a minimum illumination level of one foot-candle from dusk until dawn everyday.
 - c. Install an approved emergency lighting to provide adequate illumination automatically in the event of an interruption of electrical service.
53. A Certificate of Occupancy is required prior to the occupancy of each building. Issuance of the Certificate of Occupancy shall be contingent upon the Fire Department inspection and the final approvals from other departments and/or agencies.
54. Prior to the issuance of a Certificate of Occupancy, the applicant shall:
 - a. Submit to the Building Division electronic images of all plans and records that were submitted for the purpose of obtaining a building permit. Electronic images shall comply with the City's Electronic Imaging Policy.
 - b. Complete all on- and offsite improvements.
 - c. Install all disabled-accessible parking stalls and parking lot signage.

Water Quality Management Plan

55. Comply with all requirements of the approved Water Quality Management Plan (WQMP) for this project.
56. The applicant/developer/homeowners' association shall be responsible to contract with a qualified firm to inspect and maintain any and all manufactured stormwater treatment devices specified by the approved WQMP, following all manufacturer's recommendations. It shall also be the responsibility of the applicant/developer/homeowners' association to maintain inspection reports and have them readily available for review by City staff upon request. In the event that any stormwater treatment device fails because of the lack of sufficient maintenance and/or inspection or some other unforeseen circumstance, it shall be the responsibility of the applicant/developer/homeowners' association to correct the deficiency and restore the stormwater treatment device(s) to its original working condition.
57. Prepare and submit plans for erosion and sediment control. Plans shall include all phases of the construction project including rough grading, utility and road installation, and vertical construction to the satisfaction of the City Engineer. A State General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities shall be obtained prior to construction. Contact Joe Rosales, Environmental Compliance Inspector, at (909) 625-9470.
58. Prior to issuance of a Certificate of Occupancy, the applicant shall:
 - a. Submit to the Engineering Division an electronic copy of the approved WQMP in PDF format.
 - b. Record the WQMP Maintenance Agreement with the County of San Bernardino and show proof of said recording to the Environmental Compliance Inspector.
59. Prior to release of occupancy for any of the dwelling units in the subdivision, the person or corporation responsible for the preparation of the WQMP shall certify in writing to the Building Official that all conditions and requirements of the WQMP have been implemented or complied with. For projects, developments, or properties intended to be leased or sold, developer shall also submit evidence to the Building Official that lessee or purchaser has been advised in writing of lessee's or purchaser's ongoing maintenance responsibilities with respect to the requirements of the WQMP.

Engineering

60. Developer shall comply with all requirements of the Subdivision Map Act and the Montclair Municipal Code.
61. A public neighborhood park is intended to be a part of this development. The applicant shall dedicate land for a neighborhood park to the City of Montclair (by separate instrument if not reflected on a final map). In addition, the applicant shall pay in-lieu parkland fees to the City of Montclair in accordance with the Montclair Parkland Dedication Ordinance. Payment of in-lieu fees are pay-

able prior to issuance of any Certificate of Occupancy for any building and shall be based upon the number of units proposed within such building. Dedication of land and construction of park improvements may partially or entirely offset the fees to be paid (See Condition No. 12).

62. Payment of transportation development impact fees. Fees shall be assessed at the rate in effect at the time the fees are paid.
63. Public and private streets shall be designed and built in accordance with City standards as outlined in the North Montclair Downtown Specific Plan. No parking shall be permitted in private streets, alleys, or drive aisles.
64. Street improvement plans are required for all public streets. Construction drawings shall be 24" x 36" with City standard title block. Construction drawings for private streets may be included on grading plans, which shall also be 24" x 36".
65. Street names shall be left up to the developer as long as the names do not conflict with other City street names, are otherwise objectionable to the City, and are to the satisfaction of the City Planner. The primary east-west street shown on the tentative map connecting to Olive Street at the east tract boundary shall be called Olive Street and shall be dedicated to the City of Montclair as a public street. The tentative map shows the primary north-south street as Lot B. Prior to recordation, the street shall be named. The public street west of the park shall be one-way southbound; the public street east of the park shall be one-way northbound.
66. Sidewalks shall be constructed on both sides of Olive Street and on the residential side of the proposed north-south public street flanking the public park. Sidewalks are not required on private streets provided accessibility from each dwelling unit to a public sidewalk can be provided. Sidewalks, intersections, and curb cuts shall comply with Americans with Disabilities Act of 1990 (ADA) requirements. Sidewalks through drive approaches with cross slopes exceeding 2 percent shall not be permitted.
67. Sidewalks on Monte Vista Avenue and Moreno Street shall have a minimum width of 6'-6" if curb adjacent and 5'-0" feet if separated from the curb by a parkway.
68. All 5'-0"-wide sidewalks shall be scored lengthwise and widthwise to create 2 1/2-foot "squares." All 6'-6" sidewalks shall be scored lengthwise and widthwise to create 2'-2" "squares."
69. Parkways on Monte Vista Avenue and Moreno Street separating curbs from sidewalks shall have a minimum width of 6'-0".
70. Dedicate additional street right-of-way for Monte Vista Avenue and Moreno Street as may be necessary to accommodate sidewalk and parkway improvements.
71. Restripe Monte Vista Avenue from Arrow Highway to Moreno Street to provide a continuous center two-way left-turn pocket. The City Council will be asked to

adopt a new parking resolution to add the east side of Monte Vista Avenue, from Arrow Highway to Moreno Street to its restricted parking list.

72. Storm drains and catch basins within the public north-south street and discharging into the park/drainage basin shall be owned and maintained by the City. Storm drains, catch basins, and other drainage devices, whether located in private or public streets, shall be maintained by developer. All design and construction shall comply with standards and requirements of the San Bernardino County Flood Control District.
73. All existing overhead utilities within project boundaries and within street frontages adjacent to the project site shall be placed underground, except for Southern California Edison 66KV transmission lines along Arrow Highway. All new guy wires required to anchor end poles shall be located beyond the project limits. No poles or guy wires shall be permitted to remain within any property frontage.
74. All utilities serving the tract shall be underground. This requirement applies to electrical services, transformers, and switches and, where technology exists, telephone and cable television facilities as well.
75. Payment of all outstanding sewer reimbursement fees as imposed by a district, if any, or any assessments shall be required.
76. Sewers serving the development may be publicly maintained if designed and constructed per Public Works Department standards and provided sewer easements are dedicated for sewers located within private streets. Sewers not constructed per Public Works Department standards shall be privately maintained. Connections to existing sewers in Monte Vista Avenue, Moreno Street, and/or Arrow Highway shall be made at existing or new manholes. All sewer design shall be subject to the approval of the City Engineer.
77. Sewer improvement plans are required for all sewers, public or private, and shall include both plan and profile views on 24" x 36" construction drawings. Sewers intended to be privately maintained shall not include City standard title block and shall be labeled "NOT TO BE MAINTAINED BY CITY OF MONTCLAIR."
78. Regional Sewerage Capital Outlay fees are required as specified in the Montclair Municipal Code and by Inland Empire Utilities Agency.
79. Discharge of wastewater into the sewer collection system shall conform to all requirements of the Montclair Municipal Code.
80. A grading plan shall be prepared subject to the approval of the City Engineer. An erosion control plan is to be included and considered an integral part of the grading plan. Grading plans shall be designed in accordance with City standards and guidelines and shall be on 24" x 36" sheets.
81. All drainage facilities shall comply with requirements of the approved WQMP.
82. The tentative map includes cross sections showing that existing walls along the north and east property lines are to remain. Boundary walls shall have a

minimum height of 6'-0" as measured from either side. Walls not meeting this minimum height shall be replaced or, if structurally adequate, have additional matching block or contrasting capstone added to increase the height to 6'-0."

83. No soil may be imported or exported to or from the project site from any adjacent building site or from other sources for construction purposes without first obtaining approval from the City Engineer. A plan acceptable to the City Engineer shall be prepared showing proposed haul routes within the City. The plan shall include provisions for street sweeping and cleanup. Contractor(s) shall comply with all National Pollutant Discharge Elimination System (NPDES) requirements.
84. All on- and offsite trenching and excavation shall conform to CAL-OSHA standards. Excavations that exceed five feet in depth require a CAL-OSHA permit.
85. Underground Service Alert shall be notified at least 48 hours prior to any excavation. Contact Underground Service Alert at 8-1-1.
86. Prior to commencing framing for any buildings or delivery of lumber to any site within the tract limits, an all-weather access shall be provided to each lot/building. All-weather access is defined as base course A.C. paving with a minimum thickness of 2 1/2" and having a minimum width of 26 feet. This 26-foot-width shall be maintained free and clear of all construction equipment, materials, and debris at all times during construction.
87. Bus stops exist on the east side of Monte Vista Avenue and the north side of Moreno Street within the frontage of the property. Bus stop shelters shall be constructed at both locations (or the bus stops may be relocated as may be mutually agreeable to the City, Omnitrans, and developer) to the satisfaction of the City Planner. Shelters shall be designed in an architectural style that complements the project and is satisfactory to the City Planner. Said shelters shall also be constructed in a manner that will allow pedestrian passage around the shelter when occupied. Typically, this requires a minimum sidewalk width of eight feet (8'-0").
88. Prior to commencing the plan check process for the Project, the developer shall place signage on the east face of the fence at the west end of Olive Street stating the following:

FUTURE EXTENSION OF OLIVE STREET TO MONTE VISTA
AVENUE AS PART OF TRACT NO. 18213 IMPROVEMENTS

Sign shall measure at least two feet high by four feet wide and shall have black lettering on white background.

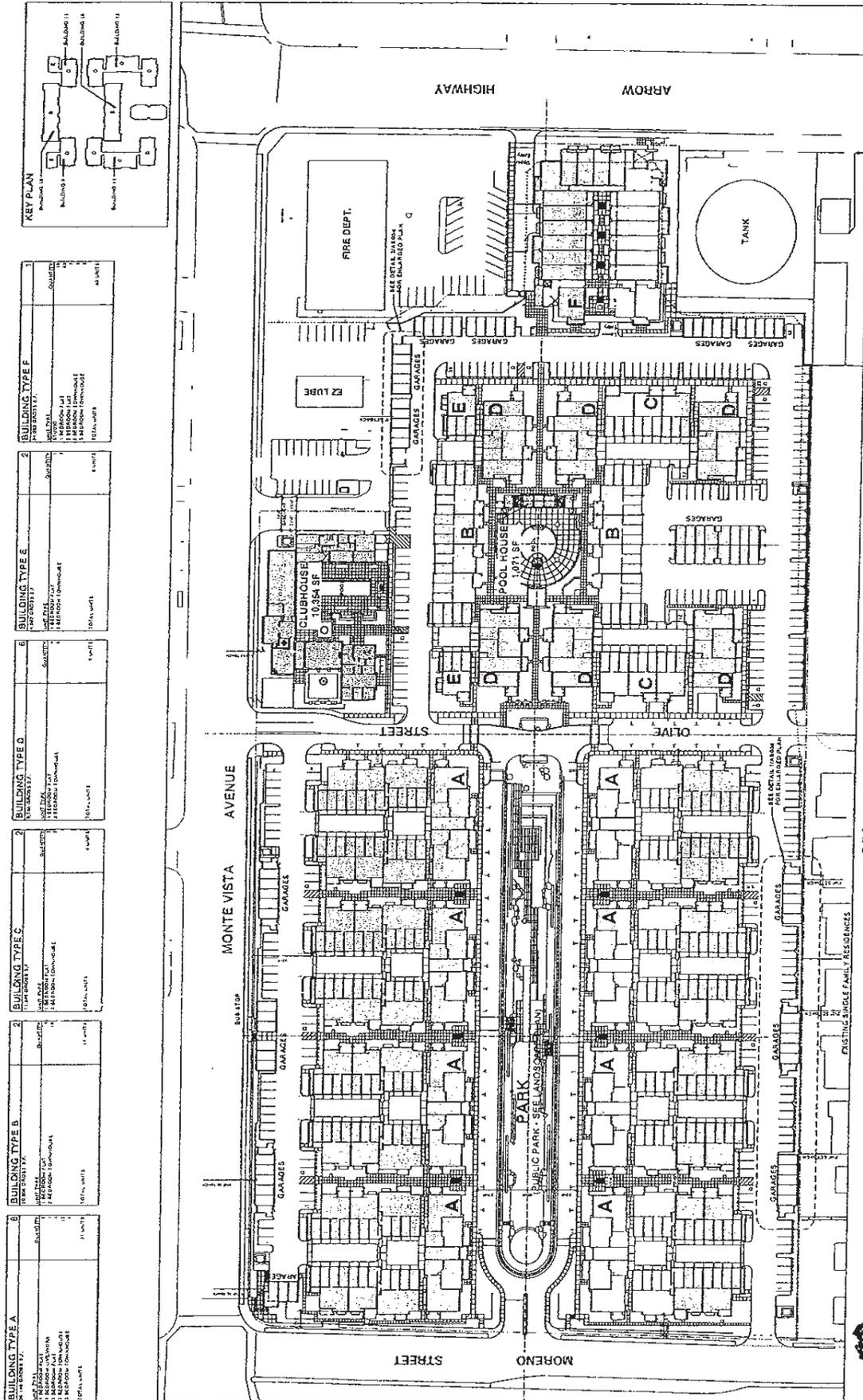
Fire

89. A 20-foot-wide base asphalt or concrete roadway capable of supporting firefighting apparatus within 150 feet of all structures is required prior to the framing stage of construction. This access is required to be maintained

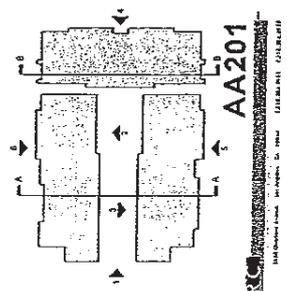
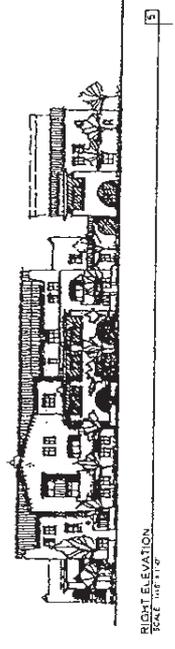
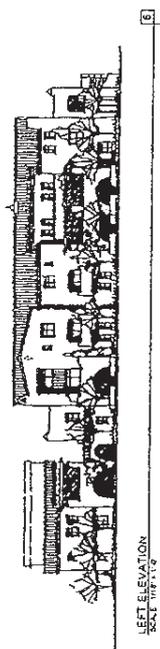
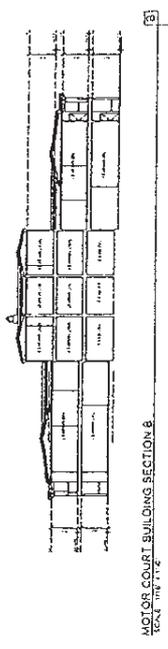
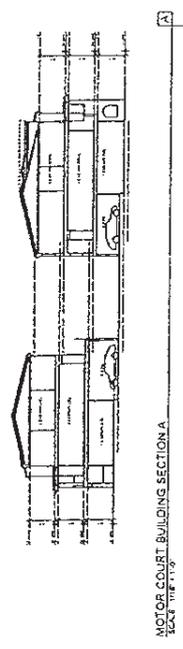
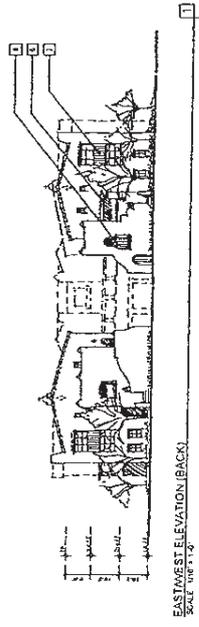
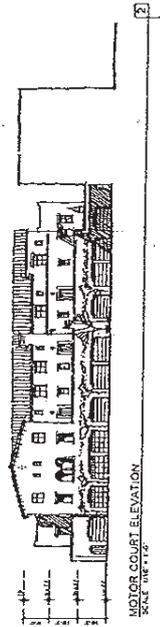
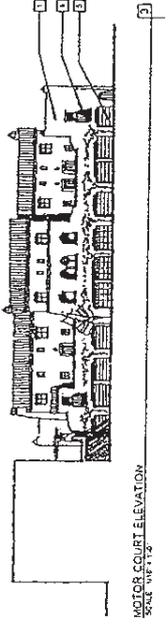
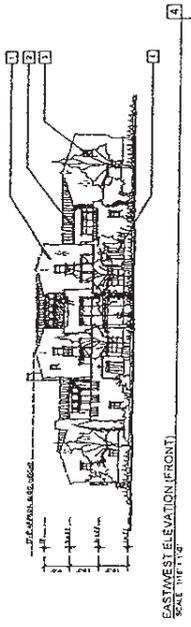
unobstructed throughout construction. Roadway is subject to Fire Department approval prior to construction.

90. The developer/general contractor is responsible for reasonable periodic cleanup of the construction site to avoid hazardous accumulation of combustible trash and debris.
91. Planter areas in the center of drive aisles and adjacent to entrances should be low-profile type not to exceed eight feet in height when mature.
92. The inside turning radius for an access road shall be 32 feet or greater. The outside turning radius for an access road shall be 45 feet or greater.
93. All Fire Department access and fire lanes shall be posted as "No Parking, Fire Lane." Signs shall be designed and mounted in accordance with Montclair Fire Department standards.
94. The proposed residential structure(s) shall require an approved automatic fire sprinkler system. The system shall conform to all local and national standards. Three complete sets of the sprinkler system plans shall be submitted directly to the Fire Marshal's Office for approval prior to installation.
95. A fire hydrant system shall be required to provide the necessary water flow to the proposed structure(s). Exact number, location, and design of hydrants shall be determined by the Fire Marshal's Office when building plans are received. Hydrants shall be active prior to the framing stage of construction.
96. The developer shall contact the Fire Marshal's Office for drive access requirements prior to gutter and curb-line placements.
97. An approved emergency-keyed access system shall be required to facilitate access to buildings or gates by Fire Department personnel in the event of an emergency during nonbusiness hours. Forms are available at the Montclair Fire Department Headquarters for those occupancies requiring such a system. Facilities with gated drive approaches shall contact the Fire Marshal's Office for additional key and strobe requirements.
98. All Montclair Fire Department fees are due prior to any permit issuance.

EXHIBIT B
Case No. 2009-21



- LEGEND**
- 1 Exterior finish - Siding
 - 2 Clay tile
 - 3 Flat roof
 - 4 Concrete - Block wall or masonry
 - 5 Concrete - Slab
 - 6 Wood siding or shingles
 - 7 Metal siding
 - 8 Asphalt/Flt Shingles

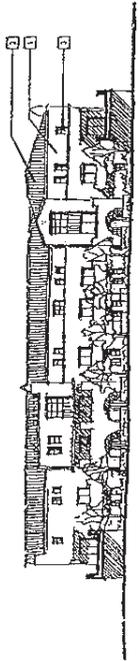


BUILDING TYPE 'A' ELEVATIONS

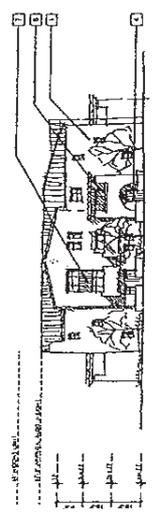
THE PASEOS
AN AFFORDABLE HOUSING DEVELOPMENT
 21 DECEMBER, 2009

MURPHY DESIGN
 MONTE VISTA & MORENO STREET, MONTCLAIR, CA

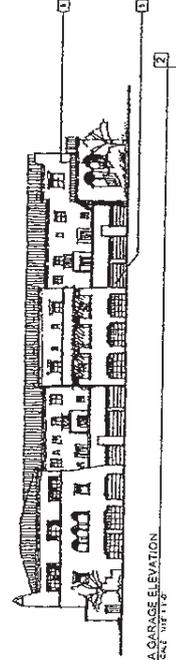
- LEGEND**
- 1 Existing structure (shaded)
 - 2 Construction
 - 3 Proposed addition
 - 4 Existing structure (shaded or stippled pattern)
 - 5 Existing structure
 - 6 New addition or replacement
 - 7 New addition (stippled pattern)
 - 8 New addition (stippled pattern)
 - 9 New addition (stippled pattern)
 - 10 New addition (stippled pattern)
 - 11 New addition (stippled pattern)



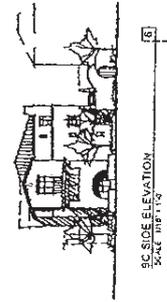
9A POOL ELEVATION
SCALE: 1/8" = 1'-0"



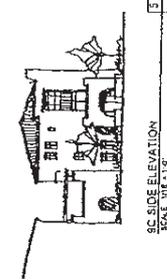
9A SIDE ELEVATION
SCALE: 1/8" = 1'-0"



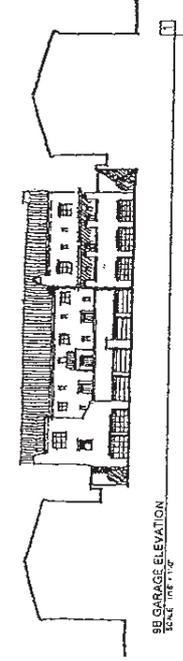
9A GARAGE ELEVATION
SCALE: 1/8" = 1'-0"



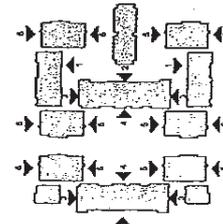
9C SIDE ELEVATION
SCALE: 1/8" = 1'-0"



9C SIDE ELEVATION
SCALE: 1/8" = 1'-0"



9A GARAGE ELEVATION
SCALE: 1/8" = 1'-0"



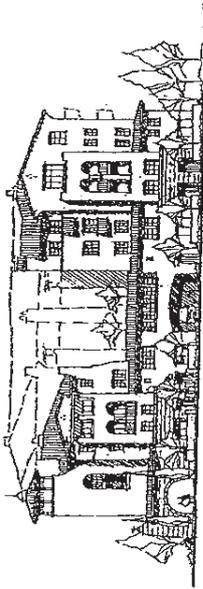
AB201

TBI
PASEOS
ARCHITECTS
21 DECEMBER, 2009

MONTE VISTA & MORENO STREET, MONTCLAIR, CA

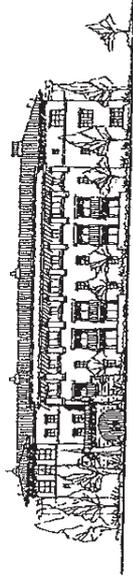
BUILDINGS 9-14 ELEVATIONS

DESIGNWORK
3000 Commercial, San Diego, CA 92108
TEL: 619.594.1111 FAX: 619.594.1111



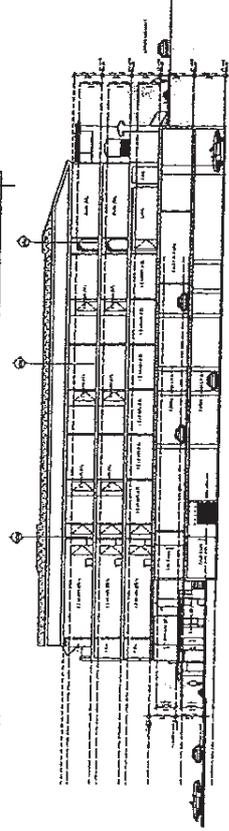
PODIUM SOUTH (FRONT) ELEVATION
SCALE 1/8" = 1'-0"

2



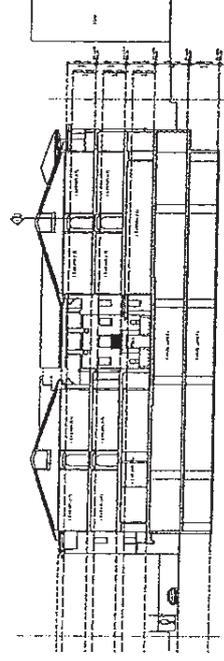
PODIUM NORTH (BACK) ELEVATION
SCALE 1/8" = 1'-0"

1



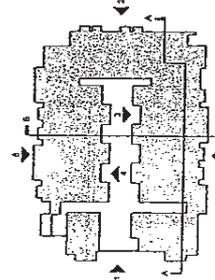
PODIUM BUILDING SECTION A (NORTH - SOUTH)
SCALE 1/8" = 1'-0"

A



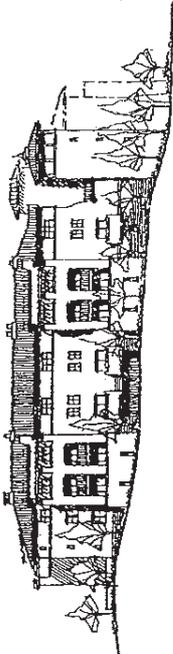
PODIUM BUILDING SECTION B (EAST - WEST)
SCALE 1/8" = 1'-0"

B



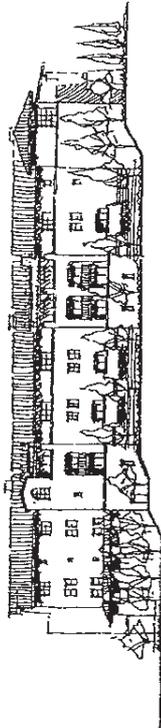
AC201

Architectural Drawing Co. Inc. 311 Market Street



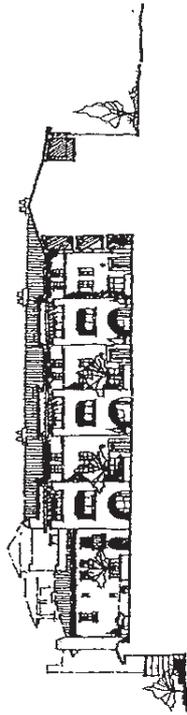
PODIUM EAST (SIDE) ELEVATION
SCALE 1/8" = 1'-0"

6



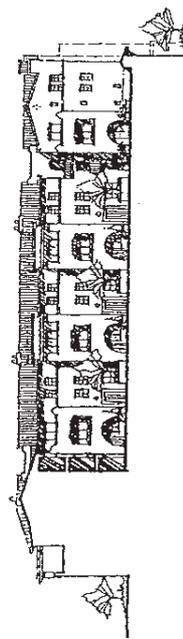
PODIUM WEST (SIDE) ELEVATION
SCALE 1/8" = 1'-0"

5



PODIUM INTERIOR COURTYARD (WEST) ELEVATION
SCALE 1/8" = 1'-0"

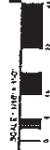
4



PODIUM INTERIOR COURTYARD (EAST) ELEVATION
SCALE 1/8" = 1'-0"

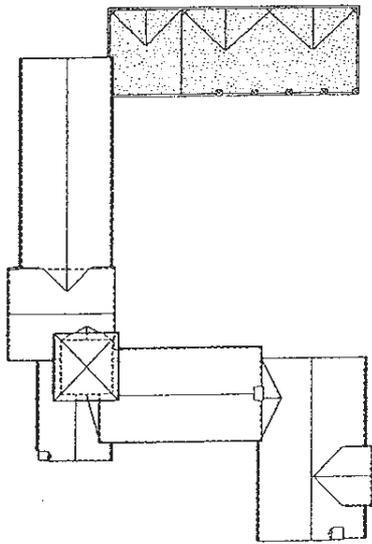
3

PODIUM ELEVATIONS



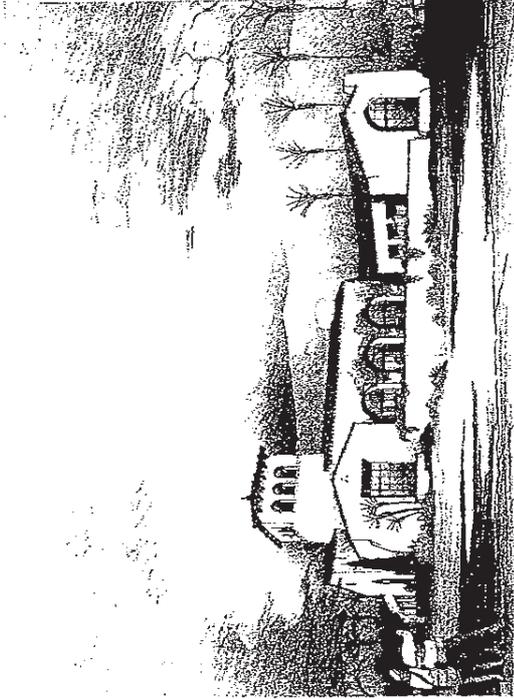
TRP
PASEOS
11 BULLOCK AVENUE
21 DECEMBER 2009

OLIVER & ASSOCIATES ARCHITECTS
MONTE VISTA & MORENO STREET, MONTCLAIR, CA



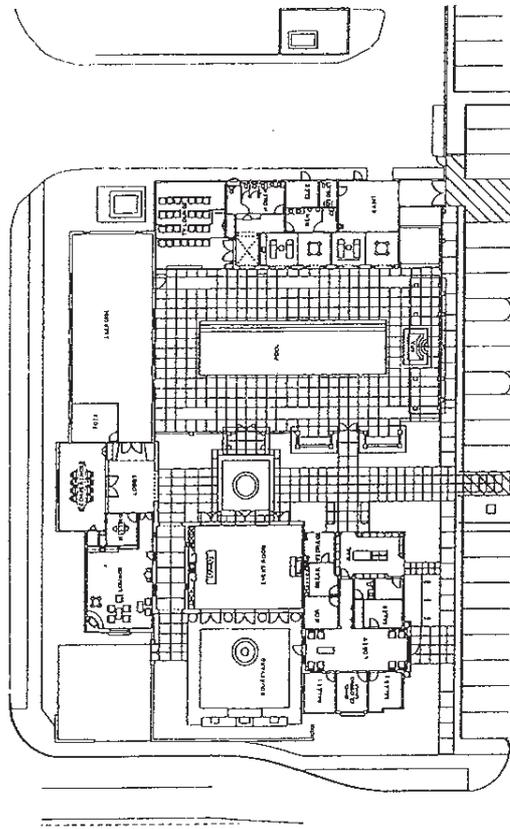
AMENITY BUILDING ROOF PLAN
SCALE: 1/8" = 1'-0"

3



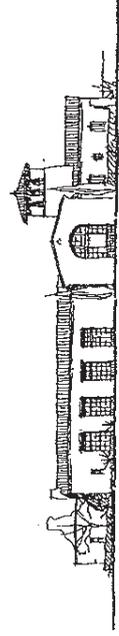
AMENITY BUILDING RENDERING
SCALE: 1/8" = 1'-0"

4



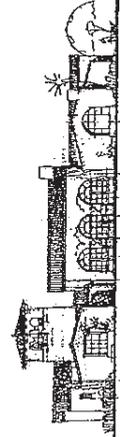
AMENITY BUILDING FLOOR PLAN
SCALE: 1/8" = 1'-0"

5



WEST ELEVATION
SCALE: 1/8" = 1'-0"

3



SOUTH ELEVATION
SCALE: 1/8" = 1'-0"

2



EAST ELEVATION
SCALE: 1/8" = 1'-0"

1



THE
PASEOS
311 HILLVIEW AVENUE
SAN FRANCISCO, CA 94115
18 MARCH, 2010

MONTE VISTA & MORENO STREET, MONTCLAIR, CA

AMENITY BUILDING PLANS + ELEVATION



DESIGNARC

AD101

1000 COMMERCIAL AVENUE, SUITE 200, SAN FRANCISCO, CA 94104
415.774.4444

ELEVATION KEYNOTES

CONCRETE FINISHES
 317 POLISHED CONCRETE
 318 POLISHED CONCRETE WITH POLISHED METAL FLAKE
 319 POLISHED CONCRETE WITH POLISHED METAL FLAKE AND POLISHED METAL FLAKE
 320 POLISHED CONCRETE WITH POLISHED METAL FLAKE AND POLISHED METAL FLAKE
 321 POLISHED CONCRETE WITH POLISHED METAL FLAKE AND POLISHED METAL FLAKE

WOOD FINISHES
 401 POLISHED WOOD
 402 POLISHED WOOD WITH POLISHED METAL FLAKE
 403 POLISHED WOOD WITH POLISHED METAL FLAKE AND POLISHED METAL FLAKE
 404 POLISHED WOOD WITH POLISHED METAL FLAKE AND POLISHED METAL FLAKE
 405 POLISHED WOOD WITH POLISHED METAL FLAKE AND POLISHED METAL FLAKE

PAINT FINISHES
 501 POLISHED PAINT
 502 POLISHED PAINT WITH POLISHED METAL FLAKE
 503 POLISHED PAINT WITH POLISHED METAL FLAKE AND POLISHED METAL FLAKE
 504 POLISHED PAINT WITH POLISHED METAL FLAKE AND POLISHED METAL FLAKE
 505 POLISHED PAINT WITH POLISHED METAL FLAKE AND POLISHED METAL FLAKE

GLASS FINISHES
 601 POLISHED GLASS
 602 POLISHED GLASS WITH POLISHED METAL FLAKE
 603 POLISHED GLASS WITH POLISHED METAL FLAKE AND POLISHED METAL FLAKE
 604 POLISHED GLASS WITH POLISHED METAL FLAKE AND POLISHED METAL FLAKE
 605 POLISHED GLASS WITH POLISHED METAL FLAKE AND POLISHED METAL FLAKE

WALL & SYMBOLS LEGEND

1. 100% ALUMINUM
 2. 100% ALUMINUM
 3. 100% ALUMINUM
 4. 100% ALUMINUM
 5. 100% ALUMINUM
 6. 100% ALUMINUM
 7. 100% ALUMINUM
 8. 100% ALUMINUM
 9. 100% ALUMINUM
 10. 100% ALUMINUM

GENERAL NOTES

1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE PHILIPPINE NATIONAL STANDARDS (PNS) AND THE NATIONAL BUILDING CODE (NBC).

2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

3. ALL MATERIALS AND WORKMANSHIP SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE ARCHITECT.

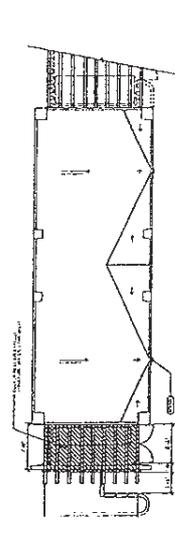
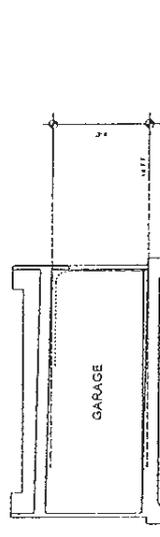
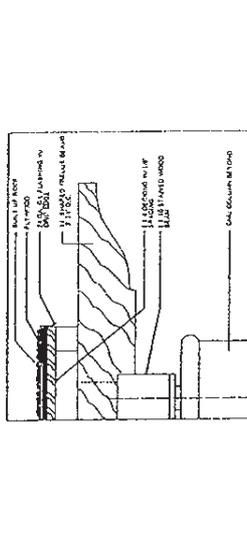
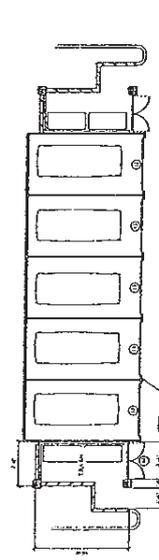
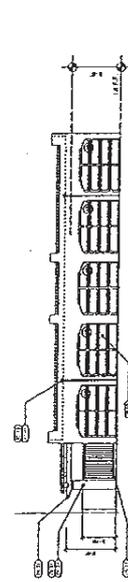
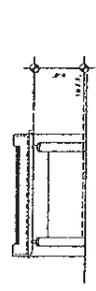
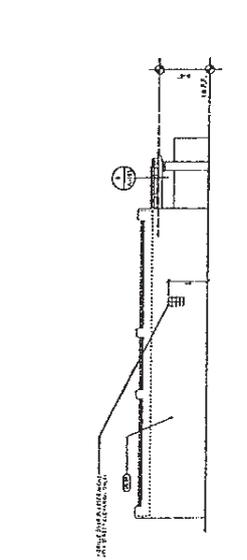
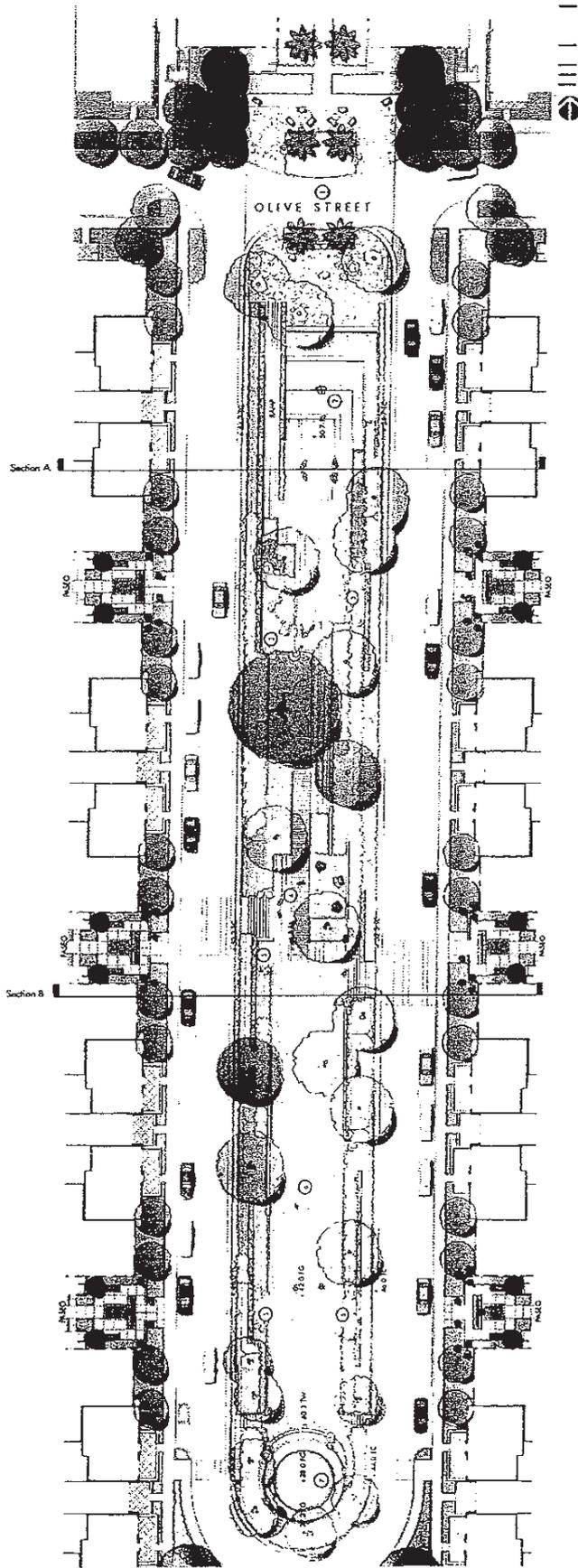
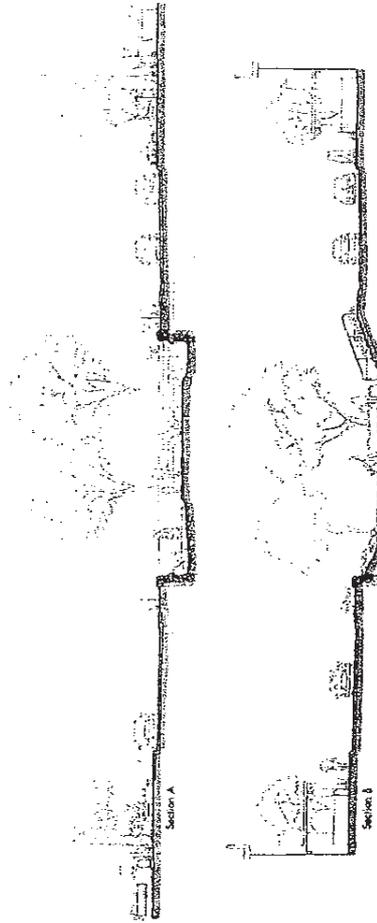


EXHIBIT C



- 4. Bridge**
- Wooden Bridge
 - Park Story Board
 - Sculptured Seating
 - Steps into Park
- 5. Stormwater System**
- Stormwater Drains
 - Catchment Wall with Stepper
 - Percolation Pit
- 6. Green**
- Turf Play
 - Sunbathing
 - Reading Grounds
- 7. Basin**
- Stone Steps
 - Infiltration Basin
 - Butterfly Garden
 - Seating Boulders

- LEGEND**
- 1. Plaza**
- Bubbling Fountain
 - California Sycamore
 - Improved Paving
- 2. Amphitheater**
- Stepped Turf Terraces
 - Concrete Seat Walls
 - 20' x 30' Stage
- 3. Playground**
- Sand and Gravel Basin
 - Non-Structural Play
 - Climbing Rocks
 - Shade Trees
 - Climbing Trees



L2

The Arroyo

THE
PASEOS
MONTICELLO

APRIL 2010



MONTAVISTA & MORENO STREET, MONTCLAIR, CA

EPT

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF ORDINANCE NO. 10-914 AUTHORIZING AN AMENDMENT TO THE CONTRACT WITH THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM	DATE: May 17, 2010 SECTION: PUBLIC HEARINGS ITEM NO.: B FILE I.D.: PER593 DEPT.: ADMIN. SVCS.
BUSINESS PLAN: N/A	

REASON FOR CONSIDERATION: To provide Section 20475 (Different Level of Benefits) for local miscellaneous members.

BACKGROUND: Current agreements with San Bernardino Public Employees Association (SBPEA) and Montclair's management employees provide for the implementation of Section 20475 (Different Level of Benefits) for local miscellaneous members. This benefit requires an amendment to the City's contract with the California Public Employees' Retirement System (CalPERS). CalPERS requires adoption of an ordinance as part of the implementation process for contract amendments.

FISCAL IMPACT: This proposed contract amendment creates a two-tier retirement program by reducing the retirement benefit for miscellaneous employees hired on or after June 21, 2010. In the future, Montclair's retirement rate and annual costs would decrease as a result of this contract amendment. An actuarial valuation for this contract amendment is not required by CalPERS.

It is extremely difficult to estimate what savings the City would actually realize from this contract amendment and comparing rates between different years can be misleading. The following rate comparison is provided, however, as an example of past experience. In Fiscal Year 2001-02, miscellaneous employees were covered under the 2% @ 55 Full-formula retirement plan with a 0.015 percent employer rate. In Fiscal Year 2009-10, miscellaneous employees were covered under the 3% @ 60 Full-formula retirement plan with a 14.499 percent employer rate. Considering the current weak financial state in California, a rate reduction as significant as the 0.015 percent is not expected for at least ten years.

RECOMMENDATION: Staff recommends the City Council adopt Ordinance No. 10-914 authorizing an amendment to the contract with the Board of Administration of the California Public Employees' Retirement System.

Prepared by:

Gary E. Clark

Proofed by:

Kathy Dalton

Reviewed and
Approved by:

Presented by:

[Handwritten signatures]

ORDINANCE NO. 10-914

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF MONTCLAIR AUTHORIZING
AN AMENDMENT TO THE CONTRACT
WITH THE BOARD OF ADMINISTRATION
OF THE CALIFORNIA PUBLIC EMPLOYEES'
RETIREMENT SYSTEM**

**THE CITY COUNCIL OF THE CITY OF MONTCLAIR DOES ORDAIN AS
FOLLOWS:**

SECTION I. That an amendment to the contract between the City Council of the City of Montclair and the Board of Administration, California Public Employees' Retirement System (CalPERS) is hereby authorized, a copy of said amendment being attached hereto, marked "Exhibit" and by such reference made a part hereof as though herein set out in full.

SECTION II. The Mayor of the City Council is hereby authorized, empowered, and directed to execute said amendment for and on behalf of said Agency.

SECTION III. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, provision, or phrase of this Ordinance or any part thereof is for any reason held to be invalid or unconstitutional by a decision of a court of competent jurisdiction or preempted by state legislation, such decision or legislation shall not affect the validity of remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, provision, or phrase thereof not declared invalid or unconstitutional or not preempted by state legislation, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, provisions, or phrases be declared invalid or unconstitutional or preempted by legislation.

SECTION IV. Effective Date.

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

SECTION V. 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, 2010.

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. 10-914 of said City, which was introduced at a regular meeting of the City Council held on the XX day of XX, 2010, and finally passed not less than five (5) days thereafter on the XX day of XX, 2010, by the following vote, to-wit:

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

Donna M. Jackson
City Clerk



EXHIBIT

California
Public Employees' Retirement System



AMENDMENT TO CONTRACT

Between the
Board of Administration
California Public Employees' Retirement System
and the
City Council
City of Montclair



The Board of Administration, California Public Employees' Retirement System, hereinafter referred to as Board, and the governing body of the above public agency, hereinafter referred to as Public Agency, having entered into a contract effective November 1, 1962, and witnessed September 4, 1962, and as amended effective April 8, 1968, December 1, 1968, October 20, 1976, October 10, 1977, December 17, 1979, January 11, 1982, June 27, 1983, September 16, 1985, August 13, 1990, December 31, 1990, June 30, 1995, January 1, 1998, December 18, 2000, July 15, 2002 and June 27, 2005 which provides for participation of Public Agency in said System, Board and Public Agency hereby agree as follows:

- A. Paragraphs 1 through 15 are hereby stricken from said contract as executed effective June 27, 2005, and hereby replaced by the following paragraphs numbered 1 through 17 inclusive:
1. All words and terms used herein which are defined in the Public Employees' Retirement Law shall have the meaning as defined therein unless otherwise specifically provided. "Normal retirement age" shall mean age 60 for local miscellaneous members, age 50 for local safety members entering membership in the safety classification on and prior to June 27, 2005 and age 55 for local safety members entering membership for the first time in the safety classification after June 27, 2005.

PLEASE DO NOT SIGN HERE

2. Public Agency shall participate in the Public Employees' Retirement System from and after November 1, 1962 making its employees as hereinafter provided, members of said System subject to all provisions of the Public Employees' Retirement Law except such as apply only on election of a contracting agency and are not provided for herein and to all amendments to said Law hereafter enacted except those, which by express provisions thereof, apply only on the election of a contracting agency.

3. Public Agency agrees to indemnify, defend and hold harmless the California Public Employees' Retirement System (CalPERS) and its trustees, agents and employees, the CalPERS Board of Administration, and the California Public Employees' Retirement Fund from any claims, demands, actions, losses, liabilities, damages, judgments, expenses and costs, including but not limited to interest, penalties and attorneys fees that may arise as a result of any of the following:
 - (a) Public Agency's election to provide retirement benefits, provisions or formulas under this Contract that are different than the retirement benefits, provisions or formulas provided under the Public Agency's prior non-CalPERS retirement program.
 - (b) Public Agency's election to amend this Contract to provide retirement benefits, provisions or formulas that are different than existing retirement benefits, provisions or formulas.
 - (c) Public Agency's agreement with a third party other than CalPERS to provide retirement benefits, provisions, or formulas that are different than the retirement benefits, provisions or formulas provided under this Contract and provided for under the California Public Employees' Retirement Law.
 - (d) Public Agency's election to file for bankruptcy under Chapter 9 (commencing with section 901) of Title 11 of the United States Bankruptcy Code and/or Public Agency's election to reject this Contract with the CalPERS Board of Administration pursuant to section 365, of Title 11, of the United States Bankruptcy Code or any similar provision of law.
 - (e) Public Agency's election to assign this Contract without the prior written consent of the CalPERS' Board of Administration.

ARTICLE 10
RETIREMENT

- (f) The termination of this Contract either voluntarily by request of Public Agency or involuntarily pursuant to the Public Employees' Retirement Law.
 - (g) Changes sponsored by Public Agency in existing retirement benefits, provisions or formulas made as a result of amendments, additions or deletions to California statute or to the California Constitution.
4. Employees of Public Agency in the following classes shall become members of said Retirement System except such in each such class as are excluded by law or this agreement:
- a. Local Fire Fighters (herein referred to as local safety members);
 - b. Local Police Officers (herein referred to as local safety members);
 - c. Employees other than local safety members (herein referred to as local miscellaneous members).
5. In addition to the classes of employees excluded from membership by said Retirement Law, the following classes of employees shall not become members of said Retirement System:
- a. **PERSONS COMPENSATED ON AN HOURLY BASIS HIRED ON OR AFTER DECEMBER 1, 1968.**
6. Public Agency and the Monte Vista County Fire Protection District have agreed to a merger of their contracts, and this contract shall be a continuation of the benefits of the contract of the Monte Vista County Fire Protection District, pursuant to Section 20567.5 of the Government Code. Such merger is effective as of January 1, 1967. Legislation repealed said Section effective January 1, 1988.
7. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment before and not on or after July 15, 2002 shall be determined in accordance with Section 21354 of said Retirement Law (2% at age 55 Full).

8. The percentage of final compensation to be provided for each year of credited prior and current service as a local miscellaneous member in employment on or after July 15, 2002 and not entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract shall be determined in accordance with Section 21354.3 of said Retirement Law (3% at age 60 Full).
9. The percentage of final compensation to be provided for each year of credited current service as a local miscellaneous member entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract shall be determined in accordance with Section 21353 of said Retirement Law (2% at age 60 Full).
10. The percentage of final compensation to be provided for each year of credited prior and current service as a local safety member entering membership in the safety classification on or prior to June 27, 2005 shall be determined in accordance with Section 21362.2 of said Retirement Law (3% at age 50 Full).
11. The percentage of final compensation to be provided for each year of credited current service as a local safety member entering membership for the first time in the safety classification after June 27, 2005 shall be determined in accordance with Section 21363.1 of said Retirement Law (3% at age 55 Full).
12. Public Agency elected and elects to be subject to the following optional provisions:
 - a. Section 20042 (One-Year Final Compensation).
 - b. Section 20965 (Credit for Unused Sick Leave) for local miscellaneous members and local fire members only.
 - c. Sections 21624, 21626 and 21628 (Post-Retirement Survivor Allowance) for local fire members only.
 - d. Section 21572 (Increased Level of 1959 Survivor Benefits) for local miscellaneous members and local fire members only.
 - e. Section 21024 (Military Service Credit as Public Service).
 - f. Section 21573 (Third Level of 1959 Survivor Benefits) for local police members only.

- g. Section 20475 (Different Level of Benefits). Section 21362.2 (3% @ 50 Full formula) is applicable to only those local safety members entering membership in the safety classification on or prior to June 27, 2005. Section 21363.1 (3% @ 55 Full formula) is applicable to local safety members entering membership for the first time in the safety classification after June 27, 2005.

Section 21353 (2% @ 60 Full formula) is applicable to local miscellaneous members entering membership for the first time in the miscellaneous classification after the effective date of this amendment to contract.

13. Public Agency, in accordance with Government Code Section 20790, ceased to be an "employer" for purposes of Section 20834 effective on October 10, 1977. Accumulated contributions of Public Agency shall be fixed and determined as provided in Government Code Section 20834, and accumulated contributions thereafter shall be held by the Board as provided in Government Code Section 20834.
14. Public Agency shall contribute to said Retirement System the contributions determined by actuarial valuations of prior and future service liability with respect to local miscellaneous members and local safety members of said Retirement System.
15. Public Agency shall also contribute to said Retirement System as follows:
 - a. Contributions required per covered member on account of the 1959 Survivor Benefits provided under Section 21573 of said Retirement Law. (Subject to annual change.) In addition, all assets and liabilities of Public Agency and its employees shall be pooled in a single account, based on term insurance rates, for survivors of all local police members.
 - b. A reasonable amount, as fixed by the Board, payable in one installment within 60 days of date of contract to cover the costs of administering said System as it affects the employees of Public Agency, not including the costs of special valuations or of the periodic investigation and valuations required by law.
 - c. A reasonable amount, as fixed by the Board, payable in one installment as the occasions arise, to cover the costs of special valuations on account of employees of Public Agency, and costs of the periodic investigation and valuations required by law.

16. Contributions required of Public Agency and its employees shall be subject to adjustment by Board on account of amendments to the Public Employees' Retirement Law, and on account of the experience under the Retirement System as determined by the periodic investigation and valuation required by said Retirement Law.
17. Contributions required of Public Agency and its employees shall be paid by Public Agency to the Retirement System within fifteen days after the end of the period to which said contributions refer or as may be prescribed by Board regulation. If more or less than the correct amount of contributions is paid for any period, proper adjustment shall be made in connection with subsequent remittances. Adjustments on account of errors in contributions required of any employee may be made by direct payments between the employee and the Board.

B. This amendment shall be effective on the _____ day of _____, _____.

BOARD OF ADMINISTRATION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

CITY COUNCIL
CITY OF MONTCLAIR

BY _____
LORI MCGARTLAND, CHIEF
EMPLOYER SERVICES DIVISION
PUBLIC EMPLOYEES' RETIREMENT SYSTEM

BY _____
PRESIDING OFFICER

Witness Date

Attest:

Clerk

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: May 17, 2010

SECTION: ADMIN. REPORTS

ITEM NO.: 1

**BUSINESS
PLAN:** N/A

FILE I.D.: FIN520

DEPT.: ADMIN. SVCS.

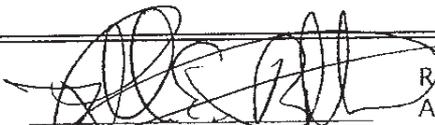
REASON FOR CONSIDERATION: State law requires the City Council to receive and file the Treasurer's Report.

BACKGROUND: Included in your agenda is a copy of the Treasurer's Report for the period ending April 30, 2010.

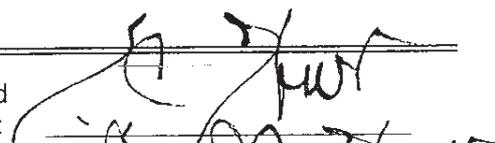
FISCAL IMPACT: Routine—report of City's cash and investments.

RECOMMENDATION: Staff recommends the City Council receive and file the Treasurer's Report for the month ending April 30, 2010.

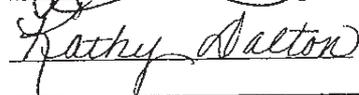
Prepared by:



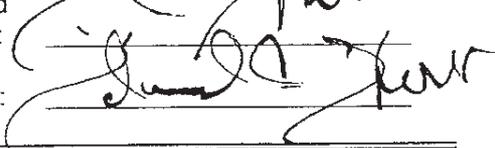
Reviewed and
Approved by:



Proofed by:



Presented by:



AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER
AND PAYROLL DOCUMENTATION

DATE: May 17, 2010

SECTION: ADMIN. REPORT

ITEM NO.: 2

**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 May 17, 2010, and Payroll Documentation dated March 28, 2010, finds them to be in order and recommends their approval.

FISCAL IMPACT: The Warrant Register dated May 17, 2010, totals \$1,653,766.41. The Payroll Documentation dated March 28, 2010, totals \$591,494.41, with \$445,135.86 being the total cash disbursement.

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

Prepared by:

Proofed by:

Reviewed and
Approved by:

Presented by:

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: May 17, 2010

SECTION: ADMIN. REPORTS

ITEM NO.: 3

FILE I.D.: FIN510

BUSINESS

PLAN: N/A

DEPT.: REDEVELOPMENT

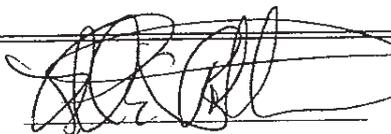
REASON FOR CONSIDERATION: State law requires the Agency Board of Directors to receive and file the Treasurer's Report.

BACKGROUND: Included in your agenda is a copy of the Treasurer's Report for the period ending April 30, 2010.

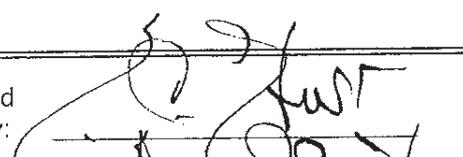
FISCAL IMPACT: Routine—report of the Agency's cash and investments.

RECOMMENDATION: Staff recommends the Agency Board of Directors receive and file the Treasurer's Report for the month ending April 30, 2010.

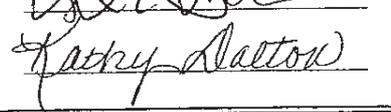
Prepared by:



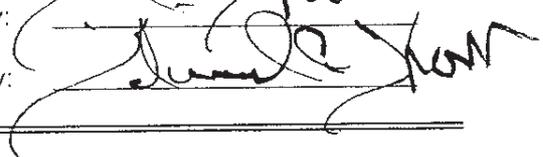
Reviewed and
Approved by:



Proofed by:



Presented by:



AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER	DATE: May 17, 2010
	SECTION: ADMIN. REPORTS
	ITEM NO.: 4
BUSINESS PLAN: N/A	FILE I.D.: FIN530
	DEPT.: REDEVELOPMENT

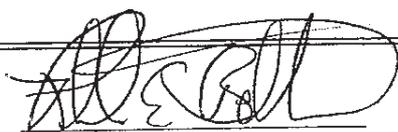
REASON FOR CONSIDERATION: State law requires the Agency Board of Directors to receive and file the Warrant Register.

BACKGROUND: Vice Chairman Dutrey has examined the Warrant Register dated 04/01/10 - 04/30/10 in the amounts of \$4,938.57 for Project I; \$8,143.19 for Project II; \$258,828.29 for Project III; \$116,214.35 for Project IV; \$263,410.91 for Project V; and \$195,000.00 for Mission Boulevard Joint Redevelopment Project and finds it to be in order.

FISCAL IMPACT: Routine—report of Agency's obligations.

RECOMMENDATION: Vice Chairman Dutrey recommends approval of the Warrant Register for the period ending April 30, 2010.

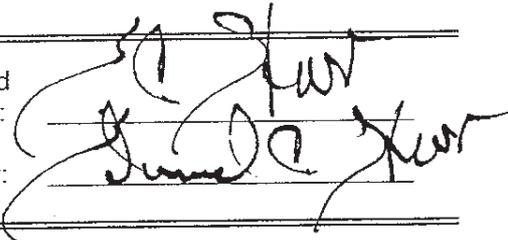
Prepared by:



Proofed by:

Kathy Dalton

Reviewed and Approved by:



Presented by:

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: May 17, 2010

SECTION: ADMIN. REPORTS

ITEM NO.: 5

**BUSINESS
PLAN:** N/A

FILE I.D.: FIN525

DEPT.: MHC

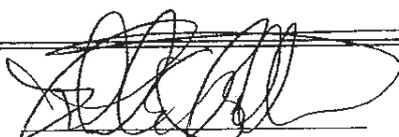
REASON FOR CONSIDERATION: State law requires the Montclair Housing Corporation Board of Directors to receive and file the Treasurer's Report.

BACKGROUND: Included in your agenda is a copy of the Treasurer's Report for the period ending April 30, 2010.

FISCAL IMPACT: Routine—report of the Montclair Housing Corporation's cash and investments.

RECOMMENDATION: Staff recommends the Montclair Housing Corporation Board of Directors receive and file the Treasurer's Report for the month ending April 30, 2010.

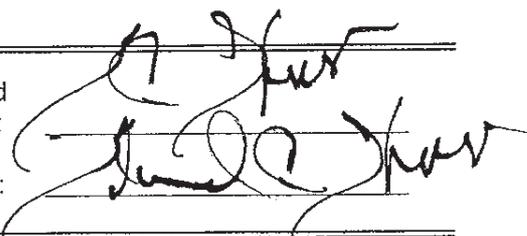
Prepared by:



Proofed by:

Kathy Dalton

Reviewed and
Approved by:



Presented by:

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER	DATE: May 17, 2010
	SECTION: ADMIN. REPORTS
	ITEM NO.: 6
BUSINESS PLAN: N/A	FILE I.D.: FIN545
	DEPT.: MHC

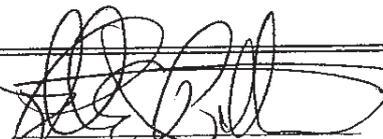
REASON FOR CONSIDERATION: State law requires the Montclair Housing Corporation Board of Directors to receive and file the Warrant Register.

BACKGROUND: Vice Chairman Dutrey has examined the Warrant Register dated 04/01/10 - 04/30/10 in the amount of \$59,395.66 for the Montclair Housing Corporation and finds it to be in order.

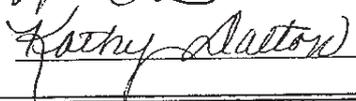
FISCAL IMPACT: Routine—report of Montclair Housing Corporation's obligations.

RECOMMENDATION: Vice Chairman Dutrey recommends approval of the Warrant Register for the period ending April 30, 2010.

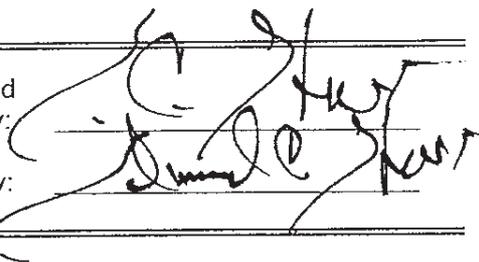
Prepared by:



Proofed by:



Reviewed and
Approved by:



Presented by:

AGENDA REPORT

SUBJECT: CONSIDER SETTING A PUBLIC HEARING TO RECEIVE PUBLIC COMMENT ON REALLOCATION AND EXPENDITURE OF FISCAL YEARS 2008-09 AND 2009-10 SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUNDS

DATE: May 17, 2010
SECTION: ADMIN. REPORTS
ITEM NO.: 7
FILE I.D.: PDT362
DEPT.: POLICE

BUSINESS PLAN: N/A

REASON FOR CONSIDERATION: The Police Department is requesting the reallocation of Supplemental Law Enforcement Services Funds in Fiscal Years 2008-09 and 2009-10 Budgets.

BACKGROUND: Allocations of Supplemental Law Enforcement Services funds for Fiscal Years 2008-09 and 2009-10 Budgets were previously approved by the City Council on December 15, 2008, and November 16, 2009. The 2008 allocation included funding for promotional items and satellite telephone services in the amount of \$12,500. The 2009 allocation of \$49,226 included funding for traffic enforcement overtime, 9-1-1 first responder tools, and a computer server.

Since receiving City Council approval of the initial allocation recommendations, the City has experienced an economic downturn requiring a reevaluation of the Department's primary fiscal needs. Therefore, the Police Chief is requesting the reallocation of \$54,127 in unexpended Supplemental Law Enforcement Services Funds to supplement Patrol overtime in the Fiscal Year 2010-11 Budget. The reallocation of funds would allow the Police Department to meet the needs of the community.

FISCAL IMPACT: If approved by the City Council, the reallocation of Fiscal Years 2008-09 and 2009-10 Supplemental Law Enforcement Services Funds would not create a negative fiscal impact to the City.

RECOMMENDATION: Staff recommends the City Council set a public hearing for Monday, June 7, 2010, at 7:00 p.m. in the City Council Chambers to receive public comment on the reallocation and expenditure of Fiscal Years 2008-09 and 2009-10 Supplemental Law Enforcement Services funds.

Prepared by:

Trudy B...

Reviewed and Approved by:

H. B. Bues

Proofed by:

Sharon Aguirre

Presented by:

[Signature]

AGENDA REPORT

SUBJECT: CONSIDER AUTHORIZATION TO PURCHASE A 2010 TYMCO 600 LPG REGENERATIVE AIR STREET SWEEPER	DATE: May 17, 2010 SECTION: ADMIN REPORTS ITEM NO.: 8 FILE I.D.: EQS230 DEPT.: PUBLIC WORKS
BUSINESS PLAN: N/A	

REASON FOR CONSIDERATION: The City Council is requested to consider authorizing purchase of a 2010 Tymco Model 600 LPG Regenerative Air Street Sweeper, which will satisfy the California Air Resources Board and Air Quality Management District requirements for both particulate matter (PM-10) and alternative fuel (propane).

BACKGROUND: The City currently owns a 1995 Johnston Street Sweeper that was approved for replacement in the 2009-10 Fiscal Year Budget. The 1995 Johnston street sweeper is now used as the backup sweeper for cleaning streets of debris, alleyways, special event cleaning, storm drain cleaning, parking lot cleaning, and emergency response. Because of its age and the reflective mileage, the Johnston sweeper is unreliable. Repairs to the sweeper are difficult because of the poor condition of the chassis and hopper and replacement parts are no longer available. In addition, the performance of the Johnston sweeper does not meet current National Pollution Discharge Elimination System (NPDES) requirements; and the City risks being fined for noncompliance of NPDES regulations.

Staff has researched street sweeper manufacturers and determined the TYMCO 600 LPG Sweeper would meet regulatory and service requirements. This model is preferred by the City's sweeper operators for its operator conveniences, safety configurations, and its lower vertical clearance, providing less conflict with overhanging trees. TYMCO is one of the largest manufacturers of sweepers and is used by Los Angeles County; the cities of Anaheim, Fullerton, Newport Beach, Long Beach; and many other California cities and other cities throughout the United States. TYMCO sweepers are manufactured in Texas. The model proposed for purchase is a 2010 TYMCO 600 LPG regenerative air sweeper that meets the California Air Resources Board and Air Quality Management District requirements for both particulate matter (PM-10) and alternative fuel (propane).

The City Purchasing Manual provides the City with the option of piggybacking a bid requirement onto that of another entity purchasing the same equipment. In recommending the TYMCO 600 LPG sweeper, staff is requesting the City Council authorize staff to piggyback its purchase on the back of an evaluation and bid offering conducted by the City of Beverly Hills in January 2010.

Prepared by: _____

Proofed by: _____

Reviewed and
Approved by: _____

Presented by: _____

The City of Beverly Hills' staff conducted a prequalification evaluation of street sweepers by inviting five vendors to showcase their product offerings. After the onsite demonstration, the staff narrowed the selection to the Elgin Crosswind Sweeper and the TYMCO 600 LPG. Beverly Hills staff proceeded with a selection committee that thoroughly reviewed bid proposals from Elgin and TYMCO. As a result of the information gathered from the hands-on prequalification and the bid review process, the evaluation committee unanimously agreed that the "TYMCO 600 LPG" offered more advantages to the City. The committee found that despite costing slightly more than the Elgin Crosswind Sweeper, the TYMCO 600 LPG was superior in both performance and maintenance. The committee determined that despite the \$246,188.76 cost of the Elgin Crosswind Sweeper, the \$260,384 cost of the TYMCO 600 LPG would be offset by its longer performance life and lower maintenance costs. City of Beverly Hills staff also contacted various public agencies and sweeping contractors to solicit their feedback regarding the performance of the TYMCO sweepers. All users of the TYMCO 600 LPG favorably rated this street sweeper.

FISCAL IMPACT: Funding for an LPG alternative fuel street sweeper was included in the Fiscal Year 2009-10 Budget Vehicle Maintenance Replacement Fund and Air Quality Improvement Trust Fund. By piggybacking on the bid price received by the City of Beverly Hills, the City would be able to purchase the TYMCO 600 LPG sweeper for \$260,383.56. The amount budgeted for this purchase is \$275,000.

RECOMMENDATION: Staff recommends the City Council authorize purchase of a 2010 TYMCO 600 LPG regenerative air street sweeper.

AGENDA REPORT

SUBJECT: CONSIDER AUTHORIZATION OF A
\$14,500 TRANSFER FROM THE
CONTINGENCY ACCOUNT FOR
MAINTENANCE AND REPAIRS TO
EMERGENCY RESPONSE APPARATUS

DATE: May 17, 2010
SECTION: ADMIN. REPORTS
ITEM NO.: 9
FILE I.D.: EQS150
DEPT.: FIRE

**BUSINESS
PLAN:** N/A

REASON FOR CONSIDERATION: The City Council is requested to consider authorizing a transfer from the Contingency Account for maintenance and repairs to emergency response apparatus.

BACKGROUND: Included in the Fiscal Year 2009-10 Fire Department Budget is a \$35,000 allocation in Equipment Maintenance Account No. 001-400-4535-52030. The current budget has been exceeded by \$2,500 for emergency repairs to fire apparatus, and an additional estimated \$12,000 is needed for required maintenance and repairs to the apparatus. The \$14,500 being requested would be utilized as follows:

Maintenance and repairs for Engine 151A	\$ 3,000
Maintenance and repairs for Engine 151	4,500
Maintenance and repairs for Medic Engine 152	4,500
Unforeseen emergency repairs to fire apparatus	<u>2,500</u>
TOTAL	<u>\$14,500</u>

FISCAL IMPACT: The proposed transfer shifts \$14,500 from the Contingency Account to Equipment Maintenance Account No. 001-400-4535-52030 to pay the subject maintenance and repair costs.

RECOMMENDATION: Staff recommends the City Council authorize a \$14,500 transfer from the Contingency Account to Equipment Maintenance Account No. 001-400-4535-52030 for maintenance and repairs to emergency response apparatus.

Prepared by: <u>T. Quast</u>	Reviewed and Approved by: <u>T. Quast</u>
Proofed by: <u>Mari B...</u>	Presented by: <u>[Signature]</u>

AGENDA REPORT

SUBJECT: CONSIDER AUTHORIZATION OF
A \$5,000 TRANSFER FROM THE
CONTINGENCY ACCOUNT FOR
PERSONAL PROTECTIVE EQUIPMENT

DATE: May 17, 2010
SECTION: ADMIN. REPORTS
ITEM NO.: 10
FILE I.D.: EQS215
DEPT.: FIRE

**BUSINESS
PLAN:** N/A

REASON FOR CONSIDERATION: The City Council is requested to consider authorizing a transfer from the Contingency Account for personal protective equipment.

BACKGROUND: Included in the Fiscal Year 2009-10 Budget was an appropriation of \$10,530 to Personal Protective Equipment Account No. 001-400-4533-51140. An estimated \$5,000 is needed for required personal protective equipment for newly hired Firefighters:

Two complete sets of turnouts (coats, pants, boots, helmets, and gloves)	\$3,500
Two complete sets of brush gear (coats, pants, boots, and gloves)	<u>1,500</u>
TOTAL	<u>\$5,000</u>

FISCAL IMPACT: The proposed transfer shifts \$5,000 from the Contingency Account to Equipment Maintenance Account No. 001-400-4533-51140 to pay the subject equipment costs.

RECOMMENDATION: Staff recommends the City Council authorize a \$5,000 transfer from the Contingency Account to Personal Protective Equipment Account No. 001-400-4533-51140 for personal protective equipment.

Prepared by: _____

[Signature]

Reviewed and
Approved by: _____

[Signature]

Proofed by: _____

[Signature]

Presented by: _____

[Signature]

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF FILING OF A NOTICE OF COMPLETION FOR CONSTRUCTION OF THE MILLS AVENUE ALLEY IMPROVEMENT PROJECT; REDUCTION OF FAITHFUL PERFORMANCE BOND TO 10 PERCENT; AND RETENTION OF PAYMENT BOND FOR SIX MONTHS	DATE: May 17, 2010
	SECTION: ADMIN. REPORTS
	ITEM NO.: 11
	FILE I.D.: GRT050
CONSIDER RELEASE OF RETENTION 30 DAYS AFTER RECORDATION OF NOTICE OF COMPLETION	DEPT.: PUBLIC WORKS

BUSINESS PLAN: STRATEGIC PRIORITY NO. 3, GOAL 3

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

Approval of this Notice of Completion would satisfy a portion of Strategic Priority No. 3, Goal 3, as contained in Montclair's "Business Plan."

BACKGROUND: On November 16, 2009, Caliber Paving, Inc., was awarded a contract for construction of the Mills Avenue Alley Improvement Project and entered into Agreement No. 09-118. All work required under Agreement No. 09-118 has been satisfactorily completed. Work included the design and construction of concrete pedestrian ramps, gutter, and asphalt pavement.

FISCAL IMPACT: During the course of construction, it was necessary to adjust a few quantities as well as modify the project scope of services through construction change orders. The changes ultimately increased the total construction cost from the awarded amount of \$109,982 to the final cost of \$115,788.62, a \$5,806.62 increase.

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

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

Prepared by: *M. Starks*

Reviewed and
Approved by: *M. STARKS*

Proofed by: *Ally*

Presented by: *[Signature]*

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

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

APN NO. : N/A

(Space above this line for Recorder's Use)

NOTICE OF COMPLETION

NOTICE is hereby given that:

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

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

The work was completed on that certain work known as Mills Avenue Alley Improvement Project

for the undersigned City of Montclair, a Municipal Corporation, on the 17th day of May, 2010

The City accepted the job on the 22nd day of April, 2010

The Contractor on said job was Caliber Paving, Inc
673 E. Young Street
Santa Ana, CA. 92705

The improvement consisted of Asphalt pavement, concrete gutter and pedestrian ramps

The property upon which said work of improvement was completed is described as: 10100 Mills Avenue
Alley

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 CONSTRUCTION OF THE BANDERA STREET PEDESTRIAN RAMP IMPROVEMENT PROJECT; REDUCTION OF FAITHFUL PERFORMANCE BOND TO 10 PERCENT; AND RETENTION OF PAYMENT BOND FOR SIX MONTHS	DATE: May 17, 2010 SECTION: ADMIN. REPORTS ITEM NO.: 12 FILE I.D.: STA650 DEPT.: PUBLIC WORKS
CONSIDER RELEASE OF RETENTION 30 DAYS AFTER RECORDATION OF NOTICE OF COMPLETION	

BUSINESS PLAN: STRATEGIC PRIORITY NO. 3, GOAL 3

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

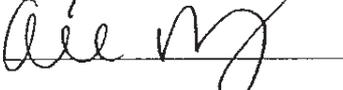
Approval of this Notice of Completion would satisfy a portion of Strategic Priority No. 3, Goal 3, as contained in Montclair's "Business Plan."

BACKGROUND: On March 1, 2010, KAD Paving, Inc. was awarded a contract for construction of the Bandera Street Pedestrian Ramp Improvement Project and entered into Agreement No. 10-24. All work required under Agreement No. 10-24 has been satisfactorily completed. Work included construction of concrete curb, gutter, and sidewalk; and pedestrian ramps.

FISCAL IMPACT: During the course of construction, it was necessary to adjust a few quantities as well as modify the project scope of services through construction change orders. The changes ultimately increased the total construction cost from the awarded amount of \$16,800 to the final cost of \$18,174.37, a \$1,374.37 increase.

RECOMMENDATION: Staff recommends the City Council take the following actions related to completion of the Bandera Street Pedestrian Ramp Improvement Project:

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

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

(Space above this line for Recorder's Use)

NOTICE OF COMPLETION

NOTICE is hereby given that:

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

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

The work was completed on that certain work known as Bandera Street Pedestrian Ramp Improvement Project

for the undersigned City of Montclair, a Municipal Corporation, on the 17th day of May, 2010

The City accepted the job on the 22nd day of April, 2010

The Contractor on said job was KAD Paving, Inc
12173 10th Street
Yucaipa, CA. 92399

The improvement consisted of Concrete curb, gutter and pedestrian ramps

The property upon which said work of improvement was completed is described as: 5100 Bandera Street

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 CONSTRUCTION OF THE 4113 KINGSLEY STREET DEMOLITION PROJECT; REDUCTION OF FAITHFUL PERFORMANCE BOND TO 10 PERCENT; AND RETENTION OF PAYMENT BOND FOR SIX MONTHS	DATE: May 17, 2010
	SECTION: ADMIN. REPORTS
	ITEM NO.: 13
	FILE I.D.: RDA685
CONSIDER RELEASE OF RETENTION 30 DAYS AFTER RECORDATION OF NOTICE OF COMPLETION	DEPT.: REDEVELOPMENT

BUSINESS

PLAN: STRATEGIC PRIORITY NO. 2, GOAL 1

REASON FOR CONSIDERATION: State law requires Notices of Completion to be recorded with the County Recorder upon acceptance of a City of Montclair Redevelopment Agency Public Works project. Notices of Completion require City of Montclair Redevelopment Agency Board of Directors approval.

Approval of this Notice of Completion would satisfy a portion of Strategic Priority No. 2 contained in Montclair's "Business Plan."

BACKGROUND: On February 16, 2010, Vizion's West, Inc. was awarded a contract for construction of the 4113 Kingsley Street Demolition Project and entered into Agreement No. 10-12. All work required under Agreement No. 10-12 has been satisfactorily completed. Work included demolition of a single-family dwelling located at 4113 Kingsley Street, as well as removal of existing vegetation, several trees, asphalt, concrete, and inclusion of a rough grade of the property.

FISCAL IMPACT: The 4113 Kingsley Street Demolition Project was included in the Redevelopment Agency Fiscal Year 2009-2010 Budget. The awarded amount was \$7,980. The final cost of the project was \$7,980.

RECOMMENDATION: Staff recommends the City of Montclair Redevelopment Agency Board of Directors take the following actions related to completion of the 4113 Kingsley Street Demolition Project:

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

Prepared by:

Laboria P. Jacinto

Reviewed and
Approved by:

M. STAATS

Proofed by:

Christine P. Walden

Presented by:

[Signature]

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

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

APN NO. : N/A

(Space above this line for Recorder's Use)

NOTICE OF COMPLETION

NOTICE is hereby given that:

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

The full name and address of the undersigned is Christine Caldwell, Assistant Director of Redevelopment
City of Montclair
5111 Benito Street
Montclair, CA 91763

The work was completed on that certain work known as 4113 Kingsley Street Demolition Project

for the undersigned City of Montclair Redevelopment Agency, a Municipal Corporation, on the 16th day of February, 2010

The City accepted the job on the 16th day of February, 2010

The Contractor on said job was Vizion's West, Inc.
29226 Avenida Gaviota
Quail Valley, CA 92587

The improvement consisted of The complete demolition of the single-family dwelling located at 4113 Kingsley Street as well as the removal of existing vegetation, several trees, asphalt, and concrete and inclusion of a rough grade of the property.

The property upon which said work of improvement was completed is described as: 4113 Kingsley Street

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

Assistant Director of Redevelopment, City of Montclair
Redevelopment Agency

AGENDA REPORT

SUBJECT: CONSIDER STATUS REPORT ON EMERGENCY CONTRACTING PROCEDURES RELATED TO THE DAMAGED FLOOR IN THE COMMUNITY CENTER GYMNASIUM AND DETERMINE THERE IS A NEED TO CONTINUE THE ACTION	DATE: May 17, 2010 SECTION: ADMIN. REPORTS ITEM NO.: 14 FILE I.D.: CVC060
BUSINESS PLAN: N/A	DEPT.: PUBLIC WORKS

REASON FOR CONSIDERATION: By City Council action on April 5, 2010, Resolution No. 10-2831 was adopted declaring a need for emergency contracting procedures for certain repairs at the Community Center gymnasium. Under Public Contract Code Section 22050, the governing body shall review the emergency action at its next regularly scheduled meeting and every regularly scheduled meeting thereafter until the action is terminated to determine, by a four-fifths majority vote, that there is a need to continue the action.

BACKGROUND: On March 10, a City staff inspection of the hardwood floor in the Community Center gymnasium revealed significant water damage. In the eastern quadrant of the gymnasium, hardwood floor panels were found to be raised, warped, and cupped to various degrees, creating a potentially hazardous condition to participants in scheduled gymnasium activities. The Acting City Manager directed a temporary prohibition of all athletic activities on the eastern quadrant of the gymnasium. Nonathletic activities will be allowed but will be subject to certain cautionary measures.

Resolution No. 10-2831 makes the necessary findings to acquire the services of any specialists that may be required to determine the cause and extent of the damage and to make the necessary repairs. It also delegates authority to the Acting City Manager to order the work done. Implicit in that delegation is the authority to sign contracts.

The City's insurance adjuster has inspected the floor and determined that the cause of the damage was water intrusion associated with construction activities at the nearby Senior Center work site. Subsequent rainfall made it clear that runoff was entering an electrical vault, identified on the construction drawings to be "Protected in Place," and traveling through electrical conduits to the electrical room in the Community Center. The runoff resurfaced in the electrical room and migrated through a wall to the gym floor. The City's contractor has asked a flooring contractor for a price for the repair, and is currently in discussions with one of its subcontractors responsible for damaging the electrical vault rather than protecting it in place. It is staff's intent to work with the City's contractor in making the necessary repairs. However, if the repair work has not commenced by May 30, the City will assume repair responsibility and hire its own contractor to perform the work. It is staff's intent to have the floor fully restored by June 30, 2010.

Prepared by: M. S. STANTIS

Reviewed and
Approved by:

M. S. STANTIS

Proofed by:

all my

Presented by:

[Signature]

FISCAL IMPACT: If repairs are made by the City's contractor, there will be no cost to the City. There is, however, revenue being lost to the City as a result of programs being canceled or moved elsewhere. The projected revenue loss through the end of June is in excess of \$9,000. In the event the City takes over responsibilities for repairs, the City's cost will be passed on to its contractor. The cost of the repair work may be withheld from progress payments owed the contractor, which could lead to a claim being filed by the contractor.

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

1. Receive and file the status report on emergency contracting procedures related to the damaged floor in the Community Center Gymnasium.
2. Determine there is a need to continue the action.

AGENDA REPORT

SUBJECT: CONSIDER STATUS REPORT ON EMERGENCY CONTRACTING PROCEDURES RELATED TO THE BLOCK WALL CONSTRUCTION AT ALMA HOFMAN PARK	DATE: May 17, 2010 SECTION: ADMIN. REPORTS ITEM NO.: 15 FILE I.D.: PRK200 DEPT.: PUBLIC WORKS
BUSINESS PLAN: N/A	

REASON FOR CONSIDERATION: By City Council action on May 3, 2010, Resolution No. 10-2839 was adopted declaring a need for emergency contracting procedures related to the block wall construction at Alma Hofman. Under Public Contract Code Section 22050, the governing body shall review the emergency action at its next regularly scheduled meeting and every regularly scheduled meeting thereafter until the action is terminated to determine, by a four-fifths majority vote, that there is a need to continue the action.

BACKGROUND: San Bernardino County, through Supervisor Gary Ovitt's office, has funded the construction of a splash pad at Alma Hofman Park. A construction contract was awarded by San Bernardino County to Micon Construction for this project. The construction plans called for an existing block wall to be incorporated into a new structure to house the splash pad equipment. When construction began, it became apparent that the existing block wall was not structurally adequate for this purpose. It was determined that the wall would have to be removed and reconstructed.

Micon Construction has submitted a change order request to San Bernardino County for \$11,624 that includes the following items of work:

- Demolish, remove, and dispose of existing block wall and footing
- Construct new block wall footing and wall approximately 45 feet long
- Patch/replace/repair small portion of concrete curb adjacent to building
- Attach chain-link fence wall extension at maintenance building
- Paint new block wall to match adjacent structures (two coats)

San Bernardino County has asked the City to share in the cost of this unexpected work and pay \$10,000 of the requested change order. In order to meet the proposed July 2, 2010, opening date for the splash pad and in order to avoid delay claims from the County's contractor, there is not sufficient time for the City to advertise and receive bids for the work.

FISCAL IMPACT: The total project cost for the splash pad, according to San Bernardino County's project manager, is \$750,000, all of which is being borne by the County. The County has asked the City to fund \$10,000 of the \$11,624 change order. The funds would come from the City's Park Development Fund.

Prepared by: <u><i>M. Scott</i></u>	Reviewed and Approved by: <u><i>M. STARRS</i></u>
Proofed by: <u><i>Ally</i></u>	Presented by: <u><i>[Signature]</i></u>

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

1. Receive and file status report on emergency contracting procedures related to the block wall construction at Alma Hofman Park.
2. Determine there is a need to continue the action.

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 10-30 WITH DIETZ TOWING AND AGREEMENT NO. 10-45 WITH PACIFIC TRUCK AND AUTO TOWING, INC., FOR COST RECOVERY FOR VEHICLES STORED PURSUANT TO CALIFORNIA VEHICLE CODE SECTION 14602.6, THE 30-DAY IMPOUND LAW

DATE: May 17, 2010

SECTION: AGREEMENTS

ITEM NO.: 1

FILE I.D.: TOW050

DEPT.: POLICE

BUSINESS:

PLAN: N/A

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 10-30 with Dietz Towing and Agreement No. 10-45 with Pacific Truck and Auto Towing, Inc., to recover costs for all vehicles towed pursuant to California Vehicle Code Section 14602.6, the 30-day impound law. The proposed Agreements have been reviewed and approved by the City Attorney and are attached for the City Council's review and consideration.

BACKGROUND: The City's existing contracts with Dietz Towing and Pacific Truck and Auto Towing, Inc., govern cost-recovery funds for vehicles towed pursuant to California Vehicle Code Section 14602.6, the 30-day impound law. Under the current contracts, which are on a month-to-month basis, the City does not receive funds for vehicles that are released prior to 30 days of storage or for lien vehicles sold after the 30-day impoundment period.

Pursuant to proposed Agreement Nos. 10-30 and 10-45, the City would receive cost-recovery funds for all vehicles stored pursuant to California Vehicle Code Section 14602.6, regardless of the number of days the vehicles are stored.

If approved by the City Council, proposed Agreement No. 10-30 with Dietz Towing and Agreement No. 10-45 with Pacific Truck and Auto Towing, Inc., would become effective May 18, 2010 and would remain in effect until terminated by either party, with or without cause, upon written notice to each party at least 30 days prior to the date specified for such termination.

FISCAL IMPACT: Under the current contracts, the City receives approximately \$89,200 annually from the tow companies. Should the City Council approve the proposed Agreements, annual revenue from the tow companies would be approximately \$134,000.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 10-30 with Dietz Towing and Agreement No. 10-45 with Pacific Truck and Auto Towing, Inc., for cost recovery for vehicles stored pursuant to California Vehicle Code Section 14602.6, the 30-day impound law.

Prepared by:

Steve Lutz

Reviewed and
Approved by:

K. E. Jones

Proofed by:

Sharon Higgins

Presented by:

[Signature]

AGREEMENT FOR SERVICES

This agreement for Services is made and entered into by and between the City of Montclair (hereinafter the "City") and Dietz Towing (hereinafter the Official Police Tow Service or "OPTS") as follows:

Recitals

1. The City desires to enter into an agreement with OPTS for tow truck services resulting from calls-for-service from or by the City.
2. The provisions of this Agreement shall apply only to the towing and storage of vehicles, contracted as a result of police activity or as requested by the City.
3. "Towing Operation" shall be defined as the activity of towing vehicles for compensation within the City of Montclair. Towing operation includes the storing of vehicles and all other services performed incident to towing.
4. In order to qualify for the status of, and be authorized to refer to itself as an Official Police Tow Service, it is necessary that the OPTS accept the terms and conditions of this Agreement for Services.

Therefore, in consideration of the above, and the mutual agreements as set forth below, the parties agree as follows:

1. OPTS shall conduct business in an ethical orderly manner, endeavoring to obtain and keep the confidence of the community. Responses to calls for towing and/or service from the City shall be provided in a prompt and professional manner.
2. The OPTS is an independent contractor and will determine the method, detail, and means of providing the service under the Agreement. As an independent contractor, employees, officers, and agents shall not be construed for any purpose whatsoever to be employees of the City or be eligible for any City-provided benefits including health and life insurance, leave, deferred compensation, retirement benefits including those retirement benefits offered under CalPERS or any other benefits offered by or through CITY to its employees or officers. Regardless of the OPTS' independent contractor status all records, equipment, and storage facilities of the OPTS are subject to review and inspection by the City. The Chief of Police or his designee shall be responsible for carrying out the rights and duties of the City under this Agreement.
3. The OPTS shall comply with all applicable laws and ordinances that regulate tow units and impounds, towing, illegally parked vehicles, and impounding vehicles.
4. Tow operators shall abide by the decisions of Police Officers and shall cooperate in removing hazards, illegally parked vehicles, and in impounding vehicles.



5. The OPTS shall have capability of receiving calls from Police communications and dispatch tow units 24 hours per day, 365 days per year. Priority shall be given to calls from Police communication facilities. This priority service does not include non-hazardous citizen service calls made through Police communication facilities.
6. The OPTS shall keep its storage lot(s) open Monday through Friday (excepting holidays) for releasing vehicles from 8:00 a.m. to 5:00 p.m. OPTS may, at its discretion, release vehicles between 5:00 p.m. and 8:00 a.m.
7. Storage lots must be fenced or otherwise secured for maximum security and reasonably lighted during the hours of darkness. It is the responsibility of the OPTS to protect police stored/impounded vehicles until the vehicles have either been properly released to their owners or disposed of through the legal process.
8. The OPTS has the responsibility of safeguarding all articles left in impounded vehicles. All property left in vehicles shall be listed on the vehicle Impound/Storage Inventory Report. Any article removed for any reason shall be properly identified on the OPTS copy of the Impound/Storage Report.
9. The Impound/Storage Report shall be signed by the involved officer. The tow operator shall also sign the report. Unless directed by a Police Department supervisor, the OPTS shall not tow a vehicle without a signed Impound/Storage Report.
10. OPTS shall abide by all applicable ordinances and statutes when disposing of unclaimed vehicles and property.
11. OPTS shall maintain comprehensive, broad form, general public liability and automobile insurance against claims and liabilities from personal injury, death or property damage arising from OPTS' activities. Said insurance shall provide protection of at least One Million Dollars (\$1,000,000.00) for any one person, and One Million Dollars (\$1,000,000.00) for one accident or occurrence for bodily injury or death, and at least One Million Dollars (\$1,000,000.00) for property damage. Current copies of said policies shall be provided to City and shall contain a provision that they cannot be cancelled or materially changed without thirty (30) days written notice to City. Any lapse in the insurance required hereunder shall terminate the Agreement.

OPTS shall defend, indemnify and hold harmless City, its elected and appointed official, officers, agents, and employees from all liability from loss, damage, or injury to persons or property, including the payment of OPTS of any and all legal costs and attorneys fees, in any manner arising out of any negligent or intentional or willful acts or omissions of OPTS in the performance of this Agreement.

12. Any employee of the OPTS who operates tow trucks and towing equipment shall be appropriately licensed and certified to operate such vehicles and equipment as required by California law.



13. Rates and charges for towing and storage of vehicles contracted as a result of police activity or in the performance of duties as an OPTS shall not exceed those rates known as "CHP" rates for the local area. Rates and charges shall be posted in the office of the OPTS, visible to the public, and all bills shall be itemized. Provided, however, that any changes to the schedule of rates, fees, and charges for administrative and/or service-related costs, including the towing and storage of vehicles, shall be approved by resolution of the City Council of the City of Montclair; and further provided that prior to execution of this Agreement a fee resolution for services defined herein shall be attached to this Agreement as Exhibit 1, and by reference incorporated herein and submitted for approval by the City Council.
14. OPTS shall provide, without charge or fee, towing and service calls for City owned vehicles.
15. In the event the Police Department accepts liability for a tow, no charges will be made for storage fees to the City or other person or business.

When a vehicle is towed as evidence to a crime, officers shall designate on the Storage/Impound Report if the vehicle is related to the suspect, witness or victim. Vehicles towed under this section related to the suspect shall be charged all applicable administration, towing, and storage fees. Except as otherwise provided for in this section, fees shall not be charged on all other vehicles towed and stored under this paragraph.

Responsible parties of vehicles belonging to victims or witnesses of a crime towed under evidence sections, will be notified by the Police Department when their vehicle is ready for release. Upon verified notification, responsible parties have 72 hours to obtain their vehicles. After the 72 hours has expired, OPTS may charge storage and other applicable fees beginning on the first calendar day immediately following expiration of the 72 hour notice period.

16. Any person or persons conducting a towing operation shall maintain a storage facility within the geographic boundaries of the City of Montclair and shall abide by all the laws that govern a business within the City, and shall meet and satisfy all business licensing requirements on a timely basis.
17. In partial exchange for the privileges granted by this agreement, the OPTS shall collect all applicable towing and storage fees prior to releasing vehicles. The OPTS shall transmit one-half (1/2) of all storage fees collected related to 30-day vehicle impounds, per CVC sections 14602.6 and 14602.7, to the City and retain one-half (1/2) of such fees as compensation for its storage services. This shall apply to all vehicles towed under this Agreement whether or not they remained in storage for thirty (30) days or were released for any reason on an earlier or later date. Towing charges may be retained in full by the OPTS.

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On the 5th day of each month, the OPTS shall deliver to the Chief of Police or his designee an itemized list of the storage fees collected by the OPTS for the preceding month, together with any and all payments due the City. Concurrently, OPTS shall also deliver an itemized report of all vehicles towed for the preceding month pursuant to the terms of this agreement. Information contained in the report shall include a description of the vehicle; condition of vehicle at the time of tow; condition of vehicle at the time of release to owner if applicable; OPTS report of damage to vehicle caused by towing or storage if applicable; any reported damage to vehicle by the owner at the time of release if applicable; Vehicle Identification Number; license plate number; tow and release dates; and any other information that may be requested from time-to-time by the Chief of Police or his designee.

18. It is further agreed that in partial exchange for the privileges granted by this agreement, and as authorized by state law, local ordinance, or court of competent jurisdiction the OPTS shall administer, process, and conduct the lien sale of vehicles in storage pursuant to provisions of this Agreement and collect all fees forthwith and transmit one-half (1/2) of such fees collected minus tow cost, lien cost, and court cost (if applicable) , [per CVC sections 9800-9802 and 22851-22851.12], to the City and retain the balance of such fees as compensation for its services. This section shall apply to all vehicles towed under this Agreement and sold at lien sale. On the 5th day of each month, the OPTS shall deliver to the Chief of Police or his designee an itemized list of the lien sale fees collected by the OPTS for the preceding month, together with any and all payments due the City.
19. In the event that more than one tow service operates as an OPTS for the City, each OPTS shall accept the decision of the Chief of Police as it relates to the assignment of calls. The City will make a reasonable attempt to equally distribute the calls-for-service on a "rotation" basis. However; the City retains the right to assign calls at its discretion when it determines that a particular service or equipment is required or an OPTS is convenient to the particular call for service. If the OPTS assigned a call for service is not on scene with the necessary equipment or service within 30 minutes from the time of call to the OPTS (unless a delayed response is agreed upon by the City), the next OPTS on the rotation will be assigned the call and the previous OPTS forfeits the call. In the event that the City and/or the general public experience displays of unprofessional, unqualified, unresponsive and/or other questionable service by an OPTS, and such displays of inadequate service are reported to the City and found to be legitimate, the City, at its discretion, may elect to direct any or all calls for towing and/or service to a designated OPTS, and may maintain such designation until such time the competing OPTS can demonstrate to the City's satisfaction that it can appropriately serve the City and the general public.
20. OPTS agrees that no person shall be excluded from service in the performance of this Agreement on grounds of race, creed, color, sex, age, marital status, sexual orientation, or place of national origin. OPTS agrees to comply with all county, state, and federal laws relating to equal employment opportunity rights.

21. Any changes in ownership, location, or form of doing business of the OPTS shall be reported to the Chief of Police within 24 hours.
22. The City Manager or his designee shall have the authority to settle any claim or dispute involving the City and OPTS.
23. This Agreement is not assignable.
24. This agreement may be suspended at any time by the Chief of Police or his designee upon determination by the Chief of Police or his designee that cause exists for termination of the Agreement or that OPTS has breached any provision of this Agreement.
25. This Agreement may be terminated, without cause, by either party, with 30 days written notice.
26. Any breach of the Agreement is subject to termination of the Agreement forthwith.
27. The OPTS shall comply in all respects with the State of California requirements for Worker's Compensation coverage of its employees and annually provide such proof of coverage to the City. Proof of Worker's Compensation insurance shall also be provided upon demand by the City.
28. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties of the Agreement have caused their names to be affixed hereto by the proper officers thereof. This Agreement is signed this _____ day of _____ 2010, at Montclair, California.

City of Montclair
A Municipal Corporation

By: _____
Paul M. Eaton, Mayor

Attest:

City Clerk, City of Montclair



AGREEMENT FOR SERVICES

This agreement for Services is made and entered into by and between the City of Montclair (hereinafter the "City") and Pacific Truck and Auto Tow Inc. (hereinafter the Official Police Tow Service or "OPTS) as follows:

Recitals

1. The City desires to enter into an agreement with OPTS for tow truck services resulting from calls-for-service from or by the City.
2. The provisions of this Agreement shall apply only to the towing and storage of vehicles, contracted as a result of police activity or as requested by the City.
3. "Towing Operation" shall be defined as the activity of towing vehicles for compensation within the City of Montclair. Towing operation includes the storing of vehicles and all other services performed incident to towing.
4. In order to qualify for the status of, and be authorized to refer to itself as an Official Police Tow Service, it is necessary that the OPTS accept the terms and conditions of this Agreement for Services.

Therefore, in consideration of the above, and the mutual agreements as set forth below, the parties agree as follows:

1. OPTS shall conduct business in an ethical orderly manner, endeavoring to obtain and keep the confidence of the community. Responses to calls for towing and/or service from the City shall be provided in a prompt and professional manner.
2. The OPTS is an independent contractor and will determine the method, detail, and means of providing the service under the Agreement. As an independent contractor, employees, officers, and agents shall not be construed for any purpose whatsoever to be employees of the City or be eligible for any City-provided benefits including health and life insurance, leave, deferred compensation, retirement benefits including those retirement benefits offered under CalPERS or any other benefits offered by or through CITY to its employees or officers. Regardless of the OPTS' independent contractor status all records, equipment, and storage facilities of the OPTS are subject to review and inspection by the City. The Chief of Police or his designee shall be responsible for carrying out the rights and duties of the City under this Agreement.
3. The OPTS shall comply with all applicable laws and ordinances that regulate tow units and impounds, towing, illegally parked vehicles, and impounding vehicles.
4. Tow operators shall abide by the decisions of Police Officers and shall cooperate in removing hazards, illegally parked vehicles, and in impounding vehicles.



5. The OPTS shall have capability of receiving calls from Police communications and dispatch tow units 24 hours per day, 365 days per year. Priority shall be given to calls from Police communication facilities. This priority service does not include non-hazardous citizen service calls made through Police communication facilities.
6. The OPTS shall keep its storage lot(s) open Monday through Friday (excepting holidays) for releasing vehicles from 8:00 a.m. to 5:00 p.m. OPTS may, at its discretion, release vehicles between 5:00 p.m. and 8:00 a.m.
7. Storage lots must be fenced or otherwise secured for maximum security and reasonably lighted during the hours of darkness. It is the responsibility of the OPTS to protect police stored/impounded vehicles until the vehicles have either been properly released to their owners or disposed of through the legal process.
8. The OPTS has the responsibility of safeguarding all articles left in impounded vehicles. All property left in vehicles shall be listed on the vehicle Impound/Storage Inventory Report. Any article removed for any reason shall be properly identified on the OPTS copy of the Impound/Storage Report.
9. The Impound/Storage Report shall be signed by the involved officer. The tow operator shall also sign the report. Unless directed by a Police Department supervisor, the OPTS shall not tow a vehicle without a signed Impound/Storage Report.
10. OPTS shall abide by all applicable ordinances and statutes when disposing of unclaimed vehicles and property.
11. OPTS shall maintain comprehensive, broad form, general public liability and automobile insurance against claims and liabilities from personal injury, death or property damage arising from OPTS' activities. Said insurance shall provide protection of at least One Million Dollars (\$1,000,000.00) for any one person, and One Million Dollars (\$1,000,000.00) for one accident or occurrence for bodily injury or death, and at least One Million Dollars (\$1,000,000.00) for property damage. Current copies of said policies shall be provided to City and shall contain a provision that they cannot be cancelled or materially changed without thirty (30) days written notice to City. Any lapse in the insurance required hereunder shall terminate the Agreement.

OPTS shall defend, indemnify and hold harmless City, its elected and appointed official, officers, agents, and employees from all liability from loss, damage, or injury to persons or property, including the payment of OPTS of any and all legal costs and attorneys fees, in any manner arising out of any negligent or intentional or willful acts or omissions of OPTS in the performance of this Agreement.

12. Any employee of the OPTS who operates tow trucks and towing equipment shall be appropriately licensed and certified to operate such vehicles and equipment as required by California law.



13. Rates and charges for towing and storage of vehicles contracted as a result of police activity or in the performance of duties as an OPTS shall not exceed those rates known as "CHP" rates for the local area. Rates and charges shall be posted in the office of the OPTS, visible to the public, and all bills shall be itemized. Provided, however, that any changes to the schedule of rates, fees, and charges for administrative- and/or service-related costs, including the towing and storage of vehicles, shall be approved by resolution of the City Council of the City of Montclair; and further provided that prior to execution of this Agreement a fee resolution for services defined herein shall be attached to this Agreement as Exhibit 1, and by reference incorporated herein and submitted for approval by the City Council.
14. OPTS shall provide, without charge or fee, towing and service calls for City owned vehicles.
15. In the event the Police Department accepts liability for a tow, no charges will be made for storage fees to the City or other person or business.

When a vehicle is towed as evidence to a crime, officers shall designate on the Storage/Impound Report if the vehicle is related to the suspect, witness or victim. Vehicles towed under this section related to the suspect shall be charged all applicable administration, towing, and storage fees. Except as otherwise provided for in this section, Fees shall not be charged on all other vehicles towed and stored under this paragraph.

Responsible parties of vehicles belonging to victims or witnesses of a crime towed under evidence sections, will be notified by the Police Department when their vehicle is ready for release. Upon verified notification, responsible parties have 72 hours to obtain their vehicles. After the 72 hours has expired, OPTS may charge storage and other applicable fees beginning on the third first calendar day immediately following expiration of the 72 hour notice period.

16. Any person or persons conducting a towing operation shall maintain a storage facility within the geographic boundaries of the City of Montclair and shall abide by all the laws that govern a business within the City, and shall meet and satisfy all business licensing requirements on a timely basis.
17. In partial exchange for the privileges granted by this agreement, the OPTS shall collect all applicable towing and storage fees prior to releasing vehicles. The OPTS shall transmit one-half (1/2) of all storage fees collected related to 30-day vehicle impounds, per CVC sections 14602.6 and 14602.7, to the City and retain one-half (1/2) of such fees as compensation for its storage services. This shall apply to all vehicles towed under this Agreement whether or not they remained in storage for thirty (30) days or were released for any reason on an earlier or later date. Towing charges may be retained in full by the OPTS.



On the 5th day of each month, the OPTS shall deliver to the Chief of Police or his designee an itemized list of the storage fees collected by the OPTS for the preceding month, together with any and all payments due the City. Concurrently, OPTS shall also deliver an itemized report of all vehicles towed for the preceding month pursuant to the terms of this agreement. Information contained in the report shall include a description of the vehicle; condition of vehicle at the time of tow; condition of vehicle at the time of release to owner if applicable; OPTS report of damage to vehicle caused by towing or storage if applicable; any reported damage to vehicle by the owner at the time of release if applicable; Vehicle Identification Number; license plate number; tow and release dates; and any other information that may be requested from time-to-time by the Chief of Police or his designee.

18. It is further agreed that in partial exchange for the privileges granted by this agreement, and as authorized by state law, local ordinance, or court of competent jurisdiction the OPTS shall administer, process, and conduct the lien sale of vehicles in storage pursuant to provisions of this Agreement and collect all fees forthwith and transmit one-half (1/2) of such fees collected minus tow cost, lien cost, and court cost (if applicable) [per CVC sections 9800-9802 and 22851-22851.12], to the City and retain the balance of such fees as compensation for its services. This section shall apply to all vehicles towed under this Agreement and sold at lien sale. On the 5th day of each month, the OPTS shall deliver to the Chief of Police or his designee an itemized list of the lien sale fees collected by the OPTS for the preceding month, together with any and all payments due the City.
19. In the event that more than one tow service operates as an OPTS for the City, each OPTS shall accept the decision of the Chief of Police as it relates to the assignment of calls. The City will make a reasonable attempt to equally distribute the calls-for-service on a "rotation" basis. However, the City retains the right to assign calls at its discretion when it determines that a particular service or equipment is required or an OPTS is convenient to the particular call for service. If the OPTS assigned a call for service is not on scene with the necessary equipment or service within 30 minutes from the time of call to the OPTS (unless a delayed response is agreed upon by the City), the next OPTS on the rotation will be assigned the call and the previous OPTS forfeits the call. In the event that the City and/or the general public experience displays of unprofessional, unqualified, unresponsive and/or other questionable service by an OPTS, and such displays of inadequate service are reported to the City and found to be legitimate the City, at its discretion, may elect to direct any or all calls for towing and/or service to a designated OPTS, and may maintain such designation until such time the competing OPTS can demonstrate to the City's satisfaction that it can appropriately serve the City and the general public.
20. OPTS agrees that no person shall be excluded from service in the performance of this Agreement on grounds of race, creed, color, sex, age, marital status, sexual orientation, or place of national origin. OPTS agrees to comply with all county, state, and federal laws relating to equal employment opportunity rights.



21. Any changes in ownership, location, or form of doing business of the OPTS shall be reported to the Chief of Police within 24 hours.
22. The City Manager or his designee shall have the authority to settle any claim or dispute involving the City and OPTS.
23. This Agreement is not assignable.
24. This agreement may be suspended at any time by the Chief of Police or his designee upon determination by the Chief of Police or his designee that cause exists for termination of the Agreement or that OPTS has breached any provision of this Agreement.
25. This Agreement may be terminated, without cause, by either party, with 30 days written notice.
26. Any breach of the Agreement is subject to termination of the Agreement forthwith.
27. The OPTS shall comply in all respects with the State of California requirements for Worker's Compensation coverage of its employees and annually provide such proof of coverage to the City. Proof of Worker's Compensation insurance shall also be provided upon demand by the City.
28. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties of the Agreement have caused their names to be affixed hereto by the proper officers thereof. This Agreement is signed this _____ day of _____ 2010, at Montclair, California.

City of Montclair
A Municipal Corporation

By: _____
Paul M. Eaton, Mayor

Attest:

City Clerk, City of Montclair



AGENDA REPORT

SUBJECT: CONSIDER REDEVELOPMENT AGENCY BOARD OF DIRECTORS' APPROVAL OF AGREEMENT NOS. 10-33, 10-52, AND 10-53, REHABILITATION GRANT AGREEMENTS BY AND BETWEEN THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY AND EXTERIOR HOUSING IMPROVEMENT PROGRAM PARTICIPANTS	DATE: May 17, 2010
	SECTION: AGREEMENTS
	ITEM NO.: 2
	FILE I.D.: RDA720
	DEPT.: REDEVELOPMENT

BUSINESS PLAN: N/A

REASON FOR CONSIDERATION: The Redevelopment Agency Board of Directors is requested to consider approval of Rehabilitation Grant Agreement Nos. 10-33, 10-52, and 10-53 by and between the City of Montclair Redevelopment Agency and three new participants in the Exterior Housing Improvement Program (EHIP). Information on the proposed EHIP participants is contained on Exhibit A to the agenda report.

Copies of Proposed Agreement Nos. 10-33, 10-52, and 10-53 are included in the agenda packet for the Redevelopment Agency Board's review and consideration.

BACKGROUND: Traditionally, EHIP was designed to provide exterior improvement rehabilitation grants of up to \$7,000 for owner-occupied residences and \$3,000 for nonowner-occupied single-family residences. The newly developed pilot program offers exterior improvement rehabilitation grants of up to \$10,000 for owner-occupied single-family residences. The additional moneys would allow the Agency to provide enhanced landscape plantings and incorporate hardscape for installation of a 100 percent drought-tolerant design. It should be noted that both grant options include exterior painting of properties. Participants of the \$10,000 grant option would be required to complete landscape classes taught by staff from the Chino Basin Water Conservation District and approved by agency staff. The \$10,000 grant option would include extending the Covenants, Conditions, and Restrictions (CC&Rs) from five years to seven years and would also incorporate a forgivable loan provision for the \$3,000 additional funding. The amount of loan repayment would decline by one seventh, or approximately \$429, per year for each year that the property is maintained.

EHIP was reviewed by the Agency Board on September 8, 2009; and certain recommendations were approved, one of them being a choice of two different landscape options. One option involves the use of turf combined with drought-tolerant plantings; the other, strictly the use of drought-tolerant plantings.

Other significant improvements incorporated in both grant options include installation of rain sensors; use of only warm-season versus cool-season turf; and to discontinue installing EHIP landscaping during July, August, and September. These improvements

Prepared by: <u><i>Cecilia Leonard</i></u>	Reviewed and Approved by: <u><i>M. STAATS</i></u>
Proofed by: <u><i>Christine P. Caldwell</i></u>	Presented by: <u><i>[Signature]</i></u>

were recommended while addressing the urgency of water conservation efforts and the guidelines for mandatory water conservation required by Monte Vista Water District.

FISCAL IMPACT: The Agency Board approved funding for EHIP in the Fiscal Year 2009-10 Redevelopment Agency Budget.

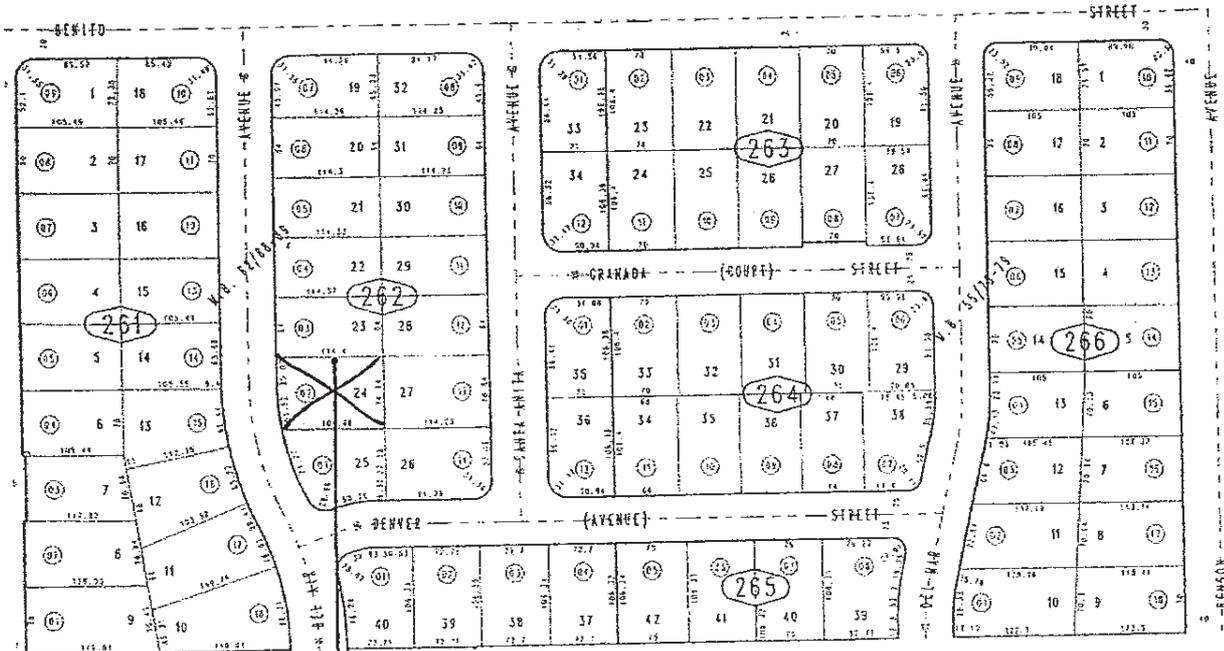
RECOMMENDATION: Agency staff recommends the Redevelopment Agency Board of Directors approve Agreement Nos. 10-33, 10-52, and 10-53, Rehabilitation Grant Agreements by and between the City of Montclair Redevelopment Agency and Exterior Housing Improvement Program participants.

EXHIBIT A

Agreement Nos. 10-33, 10-52, and 10-53

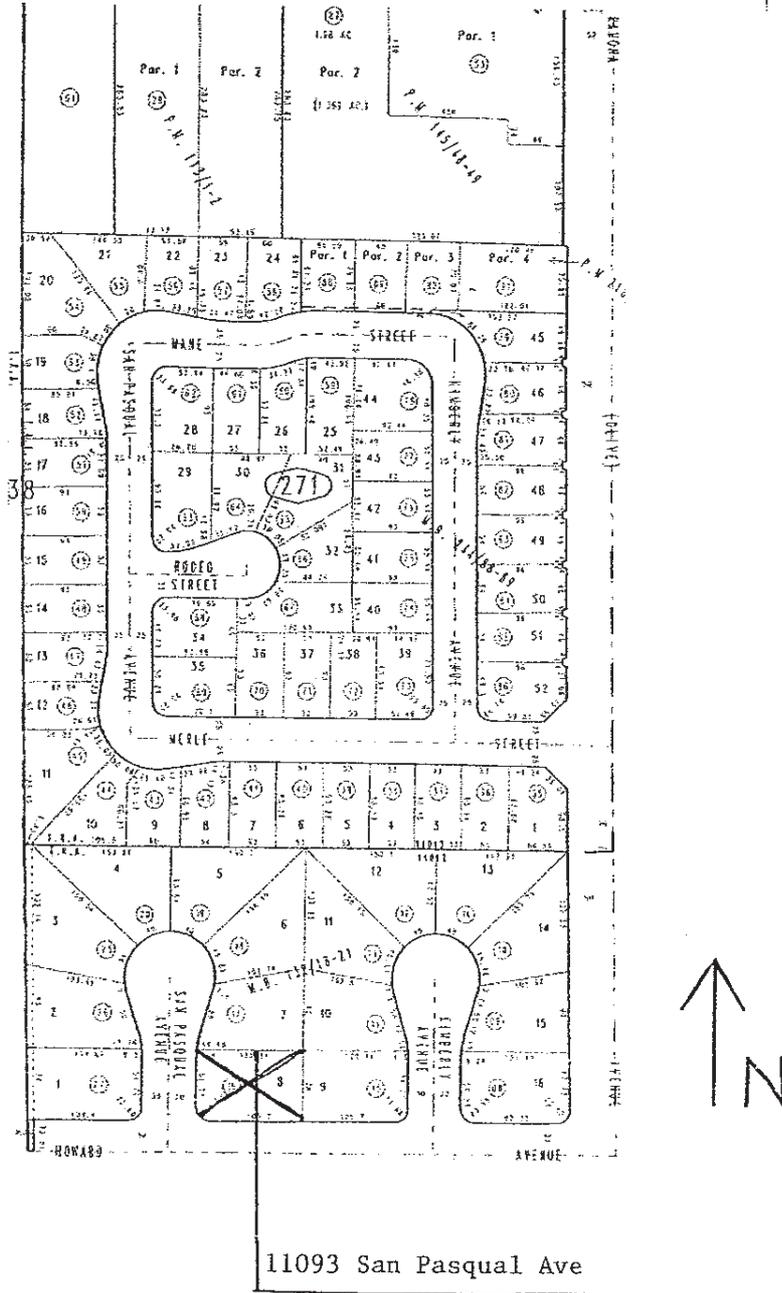
<i>Agreement Number</i>	<i>Applicant Name and Address</i>	<i>Option of Grant</i>
10-33	Edwin and Doris Sorto 9959 Bel Air Avenue	\$ 7,000 Exhibit B
10-52	Rumaldo Quinones 11093 San Pasqual Avenue	\$10,000 Exhibit C
10-53	William J. Lurette II 9401 Del Mar Avenue	\$10,000 Exhibit D

Exhibit B



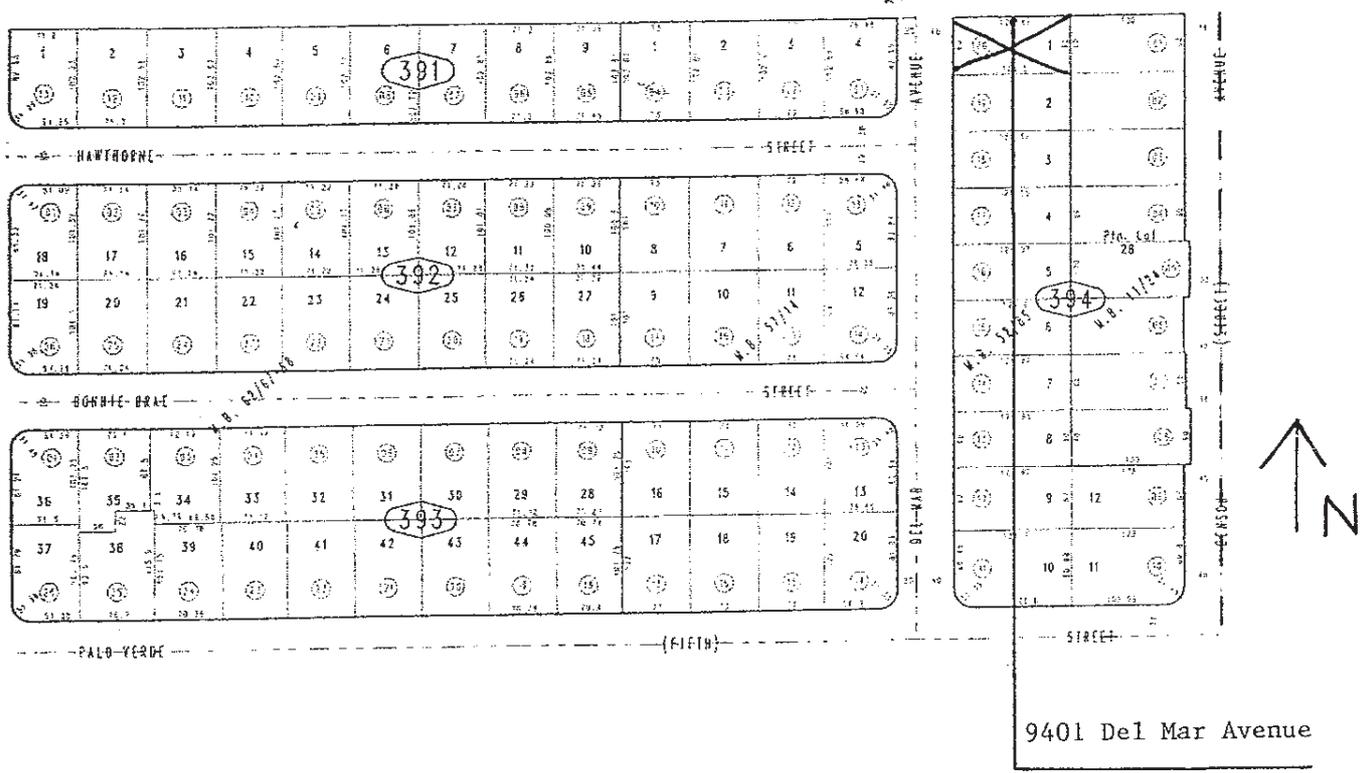
9959 Bel Air Avenue

Exhibit C



11093 San Pasqual Ave

Exhibit D



AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 10-50 WITH THE COUNTY OF SAN BERNARDINO FOR THE ALLOCATION AND EXPENDITURE OF JUSTICE ASSISTANCE GRANT PROGRAM FUNDS	DATE: May 17, 2010
	SECTION: AGREEMENTS
	ITEM NO.: 3
	FILE I.D.: PDT362
CONSIDER AUTHORIZATION FOR ACTING CITY MANAGER TO SIGN AGREEMENT ON BEHALF OF THE MONTCLAIR CITY COUNCIL	DEPT.: POLICE

BUSINESS PLAN: N/A

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 10-50 with the County of San Bernardino for the allocation and expenditure of Justice Assistance Grant (JAG) Program funds.

BACKGROUND: The Police Department has been notified it is eligible to receive a \$25,960 JAG award. The JAG Program requires that the state's allocation for municipal agencies in the region be distributed and administered directly through San Bernardino County. The San Bernardino County Board of Supervisors, acting in its capacity as JAG Program Administrator, shall disburse appropriate grant allocations to eligible jurisdictions, less a 5 percent administrative fee as allowable under JAG guidelines. Such appropriations must be made within 60 days of receipt of grant funds by the JAG Program Administrator.

JAG moneys are for the exclusive use of law enforcement services and programs. These moneys shall supplement existing services and shall not be used to supplant any existing funding for law enforcement services.

The Police Chief is requesting current funding be appropriated to Patrol overtime.

FISCAL IMPACT: Should the City Council approve Agreement No. 10-50, the Police Department would receive a \$24,662 JAG Program grant fund allocation to the Fiscal Year 2010-11 Budget. The San Bernardino County Board of Supervisors, acting in its capacity as JAG Program Administrator, would retain a 5 percent administrative fee of \$1,298.

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

1. Approve Agreement No. 10-50 with the County of San Bernardino for the allocation and expenditure of Justice Assistance Grant Program funds.
2. Authorize the Acting City Manager to sign the Agreement on behalf of the Montclair City Council.

Prepared by: <u>Stacy B...</u>	Reviewed and Approved by: <u>R. Jones</u>
Proofed by: <u>Sharon Aguirre</u>	Presented by: <u>[Signature]</u>

INTERLOCAL AGREEMENT
BETWEEN THE TOWN OF APPLE VALLEY, THE CITIES OF ADELANTO, BARSTOW,
CHINO, COLTON, FONTANA, HESPERIA, HIGHLAND, MONTCLAIR, ONTARIO, RANCHO
CUCAMONGA, REDLANDS, RIALTO, SAN BERNARDINO, TWENTYNINE PALMS,
UPLAND, VICTORVILLE,
AND THE COUNTY OF SAN BERNARDINO, CA

CONCERNING DISTRIBUTION OF THE
2010 JUSTICE ASSISTANCE GRANT AWARD

This Agreement is made and entered into this _____ day of _____, 2010, by and between THE COUNTY OF SAN BERNARDINO, acting by and through its governing body, the Board of Supervisors (hereinafter referred to as "COUNTY"), and the aforementioned TOWN (hereinafter referred to as "TOWN") and named CITIES (hereinafter referred to as "CITIES"), acting by and through their respective governing bodies, the Town Council and City Councils, all of whom are situated within the County of San Bernardino, State of California, as follows:

WHEREAS, each governing body, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party; and

WHEREAS, each governing body finds that the performance of this Agreement is in the best interests of all parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this Agreement; and

WHEREAS, the COUNTY agrees to release to TOWN and CITIES their respective grant allocation from the JAG Award within sixty (60) days upon receipt of funds, less five percent (5%) for administrative fees, as reflected on Appendix 1 here attached and hereby incorporated by reference as part of this agreement; and COUNTY agrees to use the five percent (5%) of JAG award funds received from TOWN and CITIES under this agreement for administrative fees toward the administration of TOWN's and CITIES' programs during the entire permissible duration of said programs; and TOWN and CITIES agree to deposit their JAG award funds into a separate trust account in accordance with JAG guidelines; and TOWN and CITIES each agree to the five percent (5%) reduction of their respective grant allocation from the JAG award, as reflected on Appendix 1 for administrative fees toward the administration of this program; and additionally the TOWN and CITIES each agree that it is their responsibility to ensure these funds are expended in accordance with JAG guidelines, and that the interest generated from such funds shall be solely applied and expended in accordance with these same JAG guidelines; and

WHEREAS, the TOWN, CITIES and COUNTY believe it to be in their best interests to reallocate the JAG funds,

NOW THEREFORE, the COUNTY and TOWN and CITIES agree as follows:

Section 1.

COUNTY agrees to release to TOWN and CITIES their respective grant allocation from the JAG Award within sixty (60) days upon receipt of funds, less five percent (5%) for administrative fees, as reflected in Appendix 1 here attached and hereby incorporated by reference as part of this Agreement, and; COUNTY agrees to use the five percent (5%) of JAG award funds received from TOWN and CITIES under this agreement for administrative fees toward the administration of the TOWN's and CITIES' programs during the entire permissible duration of said programs.

Section 2.

TOWN and CITIES agree to deposit their JAG award funds into a separate trust account in accordance with the JAG guidelines; and TOWN and CITIES agree to the five percent (5%) reduction of their respective grant allocation from the JAG award, as reflected in Appendix 1, for administrative fees toward the administration of this program, and; TOWN and CITIES each agree that it is their responsibility to ensure these funds are expended in accordance with JAG guidelines and that all interest generated from such funds shall be solely applied and expended in accordance with these same JAG guidelines.

Section 3.

TOWN and CITIES agree to provide COUNTY with sufficient timely information as necessary within five business days after receiving written request from COUNTY to meet JAG requirements for quarterly and annual financial and performance reports.

Section 4.

Nothing arising from this Agreement shall impose any liability for claims or actions against COUNTY other than what is authorized by law.

Section 5.

Nothing arising from this Agreement shall impose any liability for claims or actions against TOWN and/or CITIES other than what is authorized by law.

Section 6.

Each party to this Agreement will be responsible for its own actions in providing services under this Agreement and shall not be liable to any other party to this Agreement for any claim or action arising from the services provided under this Agreement.

Section 7.

The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

Section 8.

By entering into this Agreement, the parties do not intend to create any obligations, either express or implied, other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

WHEREFORE, all parties freely and voluntarily agree to all of the above terms.

TOWN OF APPLE VALLEY, CA

COUNTY OF SAN BERNARDINO, CA

City Manager

GARY C. OVITT
Chairman, County Board of Supervisors

ATTEST:

ATTEST:

City Clerk

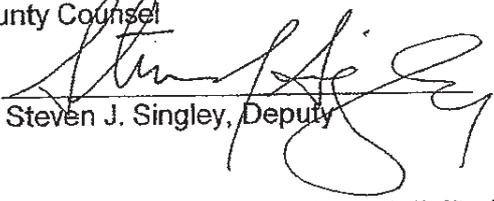
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

City Attorney

APPROVED AS TO FORM:

*RUTH E. STRINGER
County Counsel

by: 
Steven J. Singley, Deputy

*By law, the County Counsel's Office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our view of this document was conducted solely from the legal perspective of our clients. Our approval of this document was offered solely for the benefit of our clients. Other parties should not rely on this approval and should seek review and approval by their own respective attorneys.

CITY OF MONTCLAIR, CA

City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT
NO. 10-51 WITH SAN BERNARDINO
COUNTY FOR CONTINUED PARTICIPATION
IN THE CALIFORNIA IDENTIFICATION SYSTEM

DATE: May 17, 2010

SECTION: AGREEMENTS

ITEM NO.: 4

BUSINESS

PLAN: N/A

FILE I.D.: PDT040

DEPT.: POLICE

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 10-51 with the County of San Bernardino for continued participation in the California Identification System (CAL-ID).

BACKGROUND: Since 1986, CAL-ID has been responsible for the identification and maintenance of regional criminal fingerprints. The original system involving manual evaluation and maintenance of fingerprint cards has evolved into the Federal Bureau of Investigation's Integrated Automated Fingerprint Identification System (IAFIS) that has the capability of electronically processing and storing fingerprints submitted via wireless remote devices. In addition to the capture, retention, and retrieval of fingerprints and palm prints, the biometric database also stores DNA casework. Fingerprint submissions are compared to those stored in the database for identification purposes. CAL-ID also links directly to the California Department of Justice network for fingerprint comparison and identification on a broader scale.

For many years, the Montclair Police Department has relied on CAL-ID for timely fingerprint evaluation and identification. The cost of the program covers system maintenance and upgrades; provision of wireless remote fingerprint devices, such as live scan machines; and indirect access to statewide databases. The cost is shared by agencies that contract with the County of San Bernardino for the service. Access to the database is provided at a fraction of the cost it would take to implement a similar program in-house. The program has been invaluable in the positive identification of criminals.

FISCAL IMPACT: The \$38,815 cost to continue CAL-ID services through June 30, 2019, has been appropriated in the Fiscal Year 2010-11 Police Department Budget.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 10-51 with the County of San Bernardino for continued participation in the California Identification System.

Prepared by:

Judy B...

Reviewed and

Approved by:

K. J. Jones

Proofed by:

Susan Y...

Presented by:

[Signature]



FOR COUNTY USE ONLY

County of San Bernardino
F A S
STANDARD CONTRACT

<input checked="" type="checkbox"/> New	Vendor Code	SC	Dept.	A	Contract Number		
<input type="checkbox"/> Change							
<input type="checkbox"/> Cancel							
County Department SHERIFF'S DEPARTMENT			Dept. SHR	Orgn. SHR	Contractor's License No.		
County Department Contract Representative MARIO QUESADA, CAPTAIN			Telephone (909)387-0640		Total Contract Amount \$		
Contract Type <input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input type="checkbox"/> Other:							
If not encumbered or revenue contract type, provide reason:							
Commodity Code		Contract Start Date 7/1/2010	Contract End Date 6/30/2020	Original Amount \$	Amendment Amount \$		
Fund NNO	Dept. CAL	Organization CAL	Appr.	Obj/Rev Source 9990	GRC/PROJ/JOB No.	Amount \$	
Fund NNP	Dept. CAL	Organization CAL	Appr.	Obj/Rev Source 9990	GRC/PROJ/JOB No.	Amount \$	
Fund NNK	Dept. CAL	Organization CAL	Appr.	Obj/Rev Source 9990	GRC/PROJ/JOB No.	Amount \$	
Project Name			Estimated Payment Total by Fiscal Year				
			FY	Amount	I/D	FY	Amount I/D

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

Name
 City of Montclair
 Address
 5111 Benito Street
 Montclair, CA, 91763
 Telephone
 (909) 626-8571

hereinafter called CITY

IT IS HEREBY AGREED AS FOLLOWS:

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

WHEREAS, a region composed of the area of the Counties of Riverside and San Bernardino has been formed for implementation and operation of Identification Systems; and

WHEREAS, the costs of the Regional System will be allocated to the users within the aforesaid Counties based upon an agreed percentage for the San Bernardino County area and for the Riverside County area; and

WHEREAS, there will be costs for implementation and operation, and maintenance of a local subsystem within San Bernardino County (hereinafter referred to as COUNTY); and

WHEREAS, in accordance with California Penal Code Section 11112.4, a local Remote Access Network (RAN) Board has been established for the area of San Bernardino County comprised of the following members: A member of the Board of Supervisors, the Sheriff, the District Attorney, the Chief of Police of the CAL-ID Member

Auditor/Controller-Recorder Use Only

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City having the largest number of sworn personnel, a Chief of Police selected by all other police chiefs within the County, a mayor selected by the City selection committee established pursuant to Government Code Section 50270 and a member-at-large chosen by the other members; and

WHEREAS, the County of San Bernardino and CITY desire to enter into an agreement for the implementation and operation of all Biometric Identification Systems and DNA Services for the benefits of the citizens of their jurisdictions;

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein, the parties hereto agree as follows:

I. SCOPE OF WORK

- A. CITY agrees to be users of the Identification Systems and DNA Services established for the areas of San Bernardino and Riverside Counties. CITY's use of the system under this agreement shall be through the local subsystems for the San Bernardino County area.
- B. The Regional RAN Board shall approve procedures and policies for operation and use of the Regional Identification Systems. The local RAN Board shall approve such for the local subsystems for the San Bernardino County area. The Sheriff of the COUNTY shall be responsible for managing and operating the local subsystems within the COUNTY consistent with directions of the local RAN Board. All such procedures and policies shall be consistent with the technical requirements of the Regional Systems.
- C. The Sheriff's Department shall invoice and the CITY agrees to pay annual fees charged for participation in these Identification Systems based upon a per capita fee established by the RAN Board and multiplied by the most recent State of California Department of Finance Population Estimates.
- D. CITY shall pay to the Sheriff's Department of COUNTY within thirty (30) days of entering into this agreement its fees assessed under this agreement. CITY shall pay its annual fee by August 1st or fifteen (15) days after approval of CITY's budget, whichever is later. Payments under this agreement shall be placed in an interest bearing trust account and the interest earned on such funds shall be applied for expenses of the Identification Systems. Any revenue generated in excess of expenses will be retained to fund equipment replacement, upgrade and expansion, and personnel costs.
- E. Any amendments to this agreement shall be in writing and approved by the parties before becoming effective.

II. TERM AND TERMINATION

- A. The term of this agreement shall commence upon execution by both parties and shall continue through June 30, 2019. Either party may terminate this agreement by giving notice of termination to the other party on or before July 1 of any year to terminate this agreement as of the subsequent July 1. Any nonmember party that would like to utilize the Identification System must notify and be approved by the local RAN Board before July 1 of any year to enter this agreement as of the subsequent July 1.

III. NOTICES

- A. All notices required to be given under this agreement shall be delivered to the other parties by registered or certified mail, postage prepaid to the City Clerk or San Bernardino County Sheriff as applicable. The addresses of the parties hereto, until further notice, are as follows:

CONTRACTOR: City of Montclair
5111 Benito Street
Montclair, CA 91763

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

IV. GENERAL TERMS AND CONDITIONS

- A.** Following approval of the budget for the local subsystems for the San Bernardino County area, COUNTY's Sheriff shall fiscally manage the funds and expenditures of the Identification Systems and establish a separately identifiable account for fees assessed pursuant to the terms of this agreement.
- B.** Any user of the systems which is allowed to enter into program participation may be required to pay its fair share of the start-up, implementation, and equipment costs prior to participation in the Systems. Any such new users may be subject to additional assessments as recommended by the local RAN Board.
- C.** Each user of the Identification Systems within the San Bernardino County area shall be required to be a party to an agreement with the COUNTY setting forth obligations and responsibilities of users so that all such users are treated consistently and fees are charged to all users based on their percentage of the population of all users within the San Bernardino County area of the Regional Systems.
- D.** Any disputes over charges under this agreement will be resolved by the local RAN Board for the San Bernardino County area consistent with the terms of this agreement.
- E.** **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.

SAN BERNARDINO COUNTY and/or CITY shall indemnify the other to the extent of its comparative fault.

- B. INSURANCE.** Both CITY and San Bernardino Counties are self-insured public entities for purposes of professional liability, general liability, and Workers' Compensation. CITY and San Bernardino Counties warrants that through its program of self-insurance, it has adequate professional liability, general liability and Workers' Compensation to provide coverage for liabilities arising out of CITY and San Bernardino Counties performance of this agreement.

VI. FULL UNDERSTANDING

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

COUNTY OF SAN BERNARDINO

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

Dated: _____

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

Laura H. Welch
Clerk of the Board of Supervisors
of the County of San Bernardino

By _____
Deputy

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

By _____
(Authorized signature - sign in blue ink)

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

Title _____
(Print or Type)

Dated: _____

Address _____

Approved as to Legal Form

By _____
County Counsel, Steven Singley, Deputy

Date _____
4/13/10

Reviewed by Contract Compliance

By _____

Date _____

Presented to BOS for Signature

By _____
Department Head

Date _____

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF SELF-MOVE AGREEMENT NO. 10-54 WITH KESSLER STORAGE, LLC, FOR FENCE RELOCATION IN CONJUNCTION WITH THE MONTE VISTA AVENUE/UNION PACIFIC RAILROAD GRADE SEPARATION PROJECT AND AUTHORIZE ACTING CITY MANAGER TO SIGN THE AGREEMENT	DATE: May 17, 2010 SECTION: AGREEMENTS ITEM NO.: 5 FILE I.D.: STA110 DEPT.: PUBLIC WORKS
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BUSINESS PLAN: STRATEGIC PRIORITY NO. 6

REASON FOR CONSIDERATION: The City recently acquired portions of properties owned by Robert and Sira Kessler on the south side of State Street west of Monte Vista Avenue in conjunction with the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project. Under the terms of the Purchase and Sale Agreement, the Kesslers are entitled to relocation expenses associated with relocating several fences on the acquired property. Owners and businesses are entitled to move themselves but must enter into self-move agreements with the City in order to be reimbursed. Agreements with the City require City Council approval.

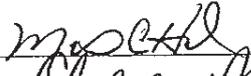
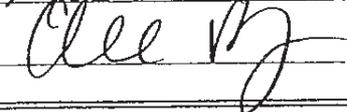
Approval of Agreement No. 10-54 satisfies a portion of Strategic Priority No. 6 as contained in Montclair's "Business Plan."

BACKGROUND: On September 8, 2009, the City entered into Agreement No. 09-87, a Purchase and Sale Agreement with Robert D. Kessler and Sira Kessler, Trustees of the Kessler Family Living Trust, under Declaration of Trust Dated September 12, 2007. The area that was acquired had been partitioned into several lease areas for 12 tenants. All of the tenants have been relocated, some of whom were relocated onsite. In order to provide the new lease areas, it was necessary to remove and replace chain-link fences throughout the site.

The Kesslers requested and received two bids from fencing companies for the fence relocation work. The bids received were as follows:

All Pro Fence	\$25,280
A-1 Fence Company	\$52,776

Property owners are entitled to perform their own relocation work, provided the cost of a self move does not exceed the lowest bid received. The Kesslers have chosen to perform their own relocation work through their own company, Kessler Storage, LLC.

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

FISCAL IMPACT: Self-Move Agreement No. 10-54 provides \$25,280 to Kessler Storage, LLC, to relocate various fences within the recently acquired right-of-way for a new street associated with the construction of the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project.

RECOMMENDATION: Staff recommends the City Council approve Self-Move Agreement No. 10-54 with Kessler Storage, LLC, for fence relocation in conjunction with the Monte Vista Avenue/Union Pacific Railroad Grade Separation Project and authorize the Acting City Manager to sign the Agreement.

 **Self Move Agreement**

It is hereby understood and agreed by Kessler Storage LLC (called here the "Claimant") and the City of Montclair (called here the "Displacing Agency") that the amount to be paid to the Claimant to remove, relocate, replace 1,725 linear feet of fence itemized on the attached inventory (**Exhibit A**) and not acquired with the real property located at 4848 Mission Blvd., Montclair, CA 91763 ("Subject Property") is **TWENTY FIVE THOUSAND TWO HUNDRED EIGHTY DOLLARS** (\$25,280.00). This payment is based on the amount of the lowest, most reasonable bid, attached hereto as **Exhibit B**.

The parties further agree as follows:

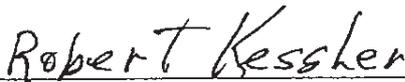
1. A check in the amount of \$25,280.00 will be released when a representative of Overland, Pacific & Cutler, Inc., the Displacing Agency's relocation representative has personally inspected the Subject/Displacement Property to verify completion of the move.
2. If upon inspection by a representative of Overland, Pacific & Cutler, Inc., any portion of the items on Exhibit "A" were not removed from Subject Property 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 removal 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 removal exceeds the amount agreed upon above, only those additional costs which can be shown to have been actually required in order to complete the removal will, within certain limitations, be reimbursed. In this event, the actual cost of the entire removal must be itemized and documented in support of the claim. All 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:

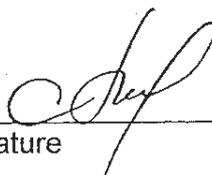
None

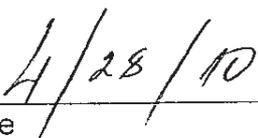
Kessler Storage LLC


Robert Kessler


Signature


Sira Kessler


Signature

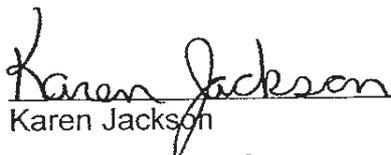

Date

Recommended:

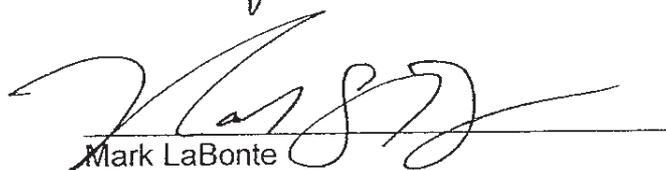
Overland, Pacific & Cutler, Inc.

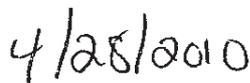
Approved:

City of Montclair


Karen Jackson

Edward C. Starr, Acting City Manager


Mark LaBonte


Date

Attachments

EXHIBIT "A"

The following items require removal 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 removed:

1,725 linear feet of fence

(Please see attached pictures)

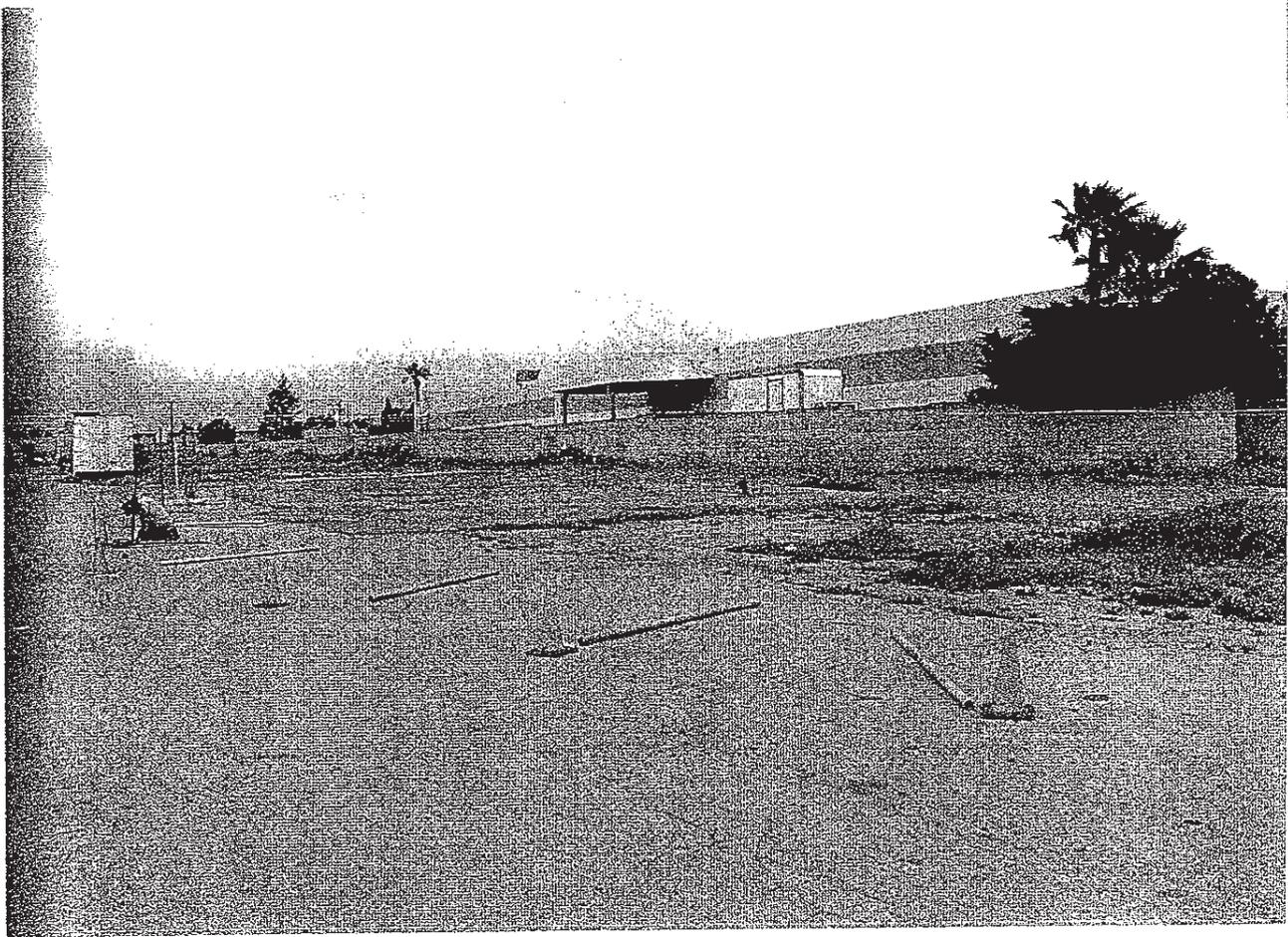
I certify under the penalty of perjury that the above listed items are personal property owned by me and are to be removed from the Subject Property.

Dated: 4-28-10

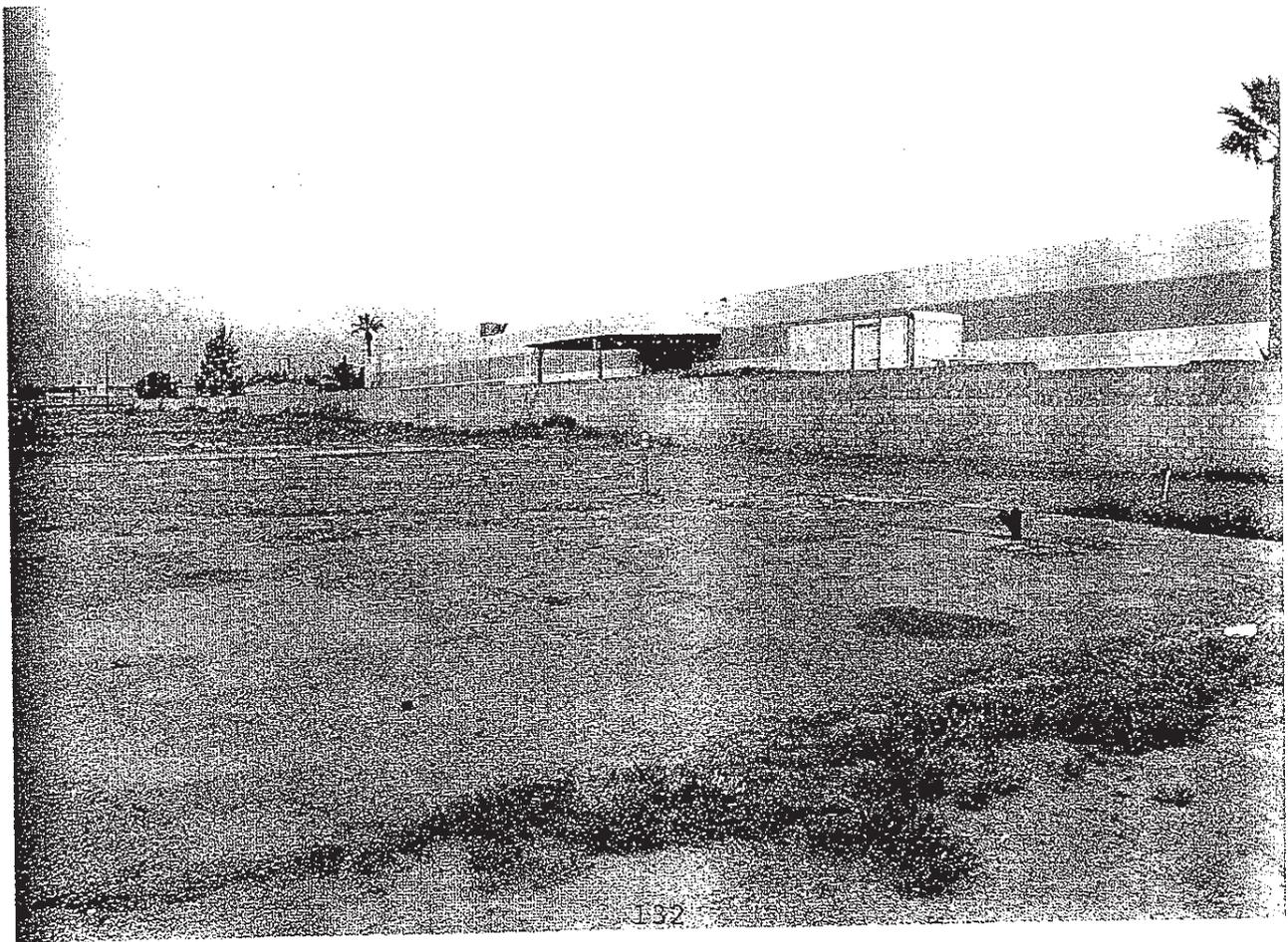
By: 
Robert Kessler

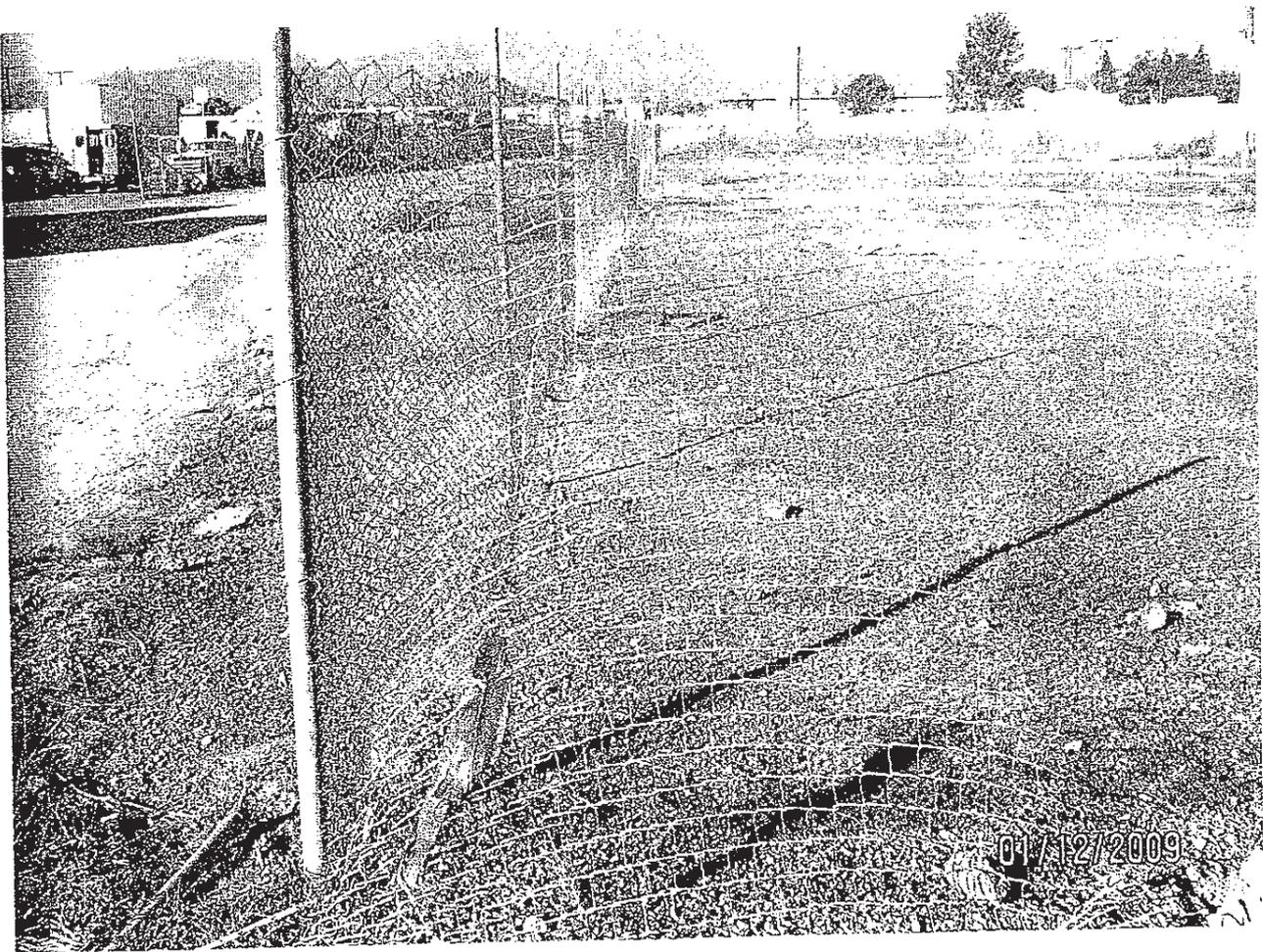
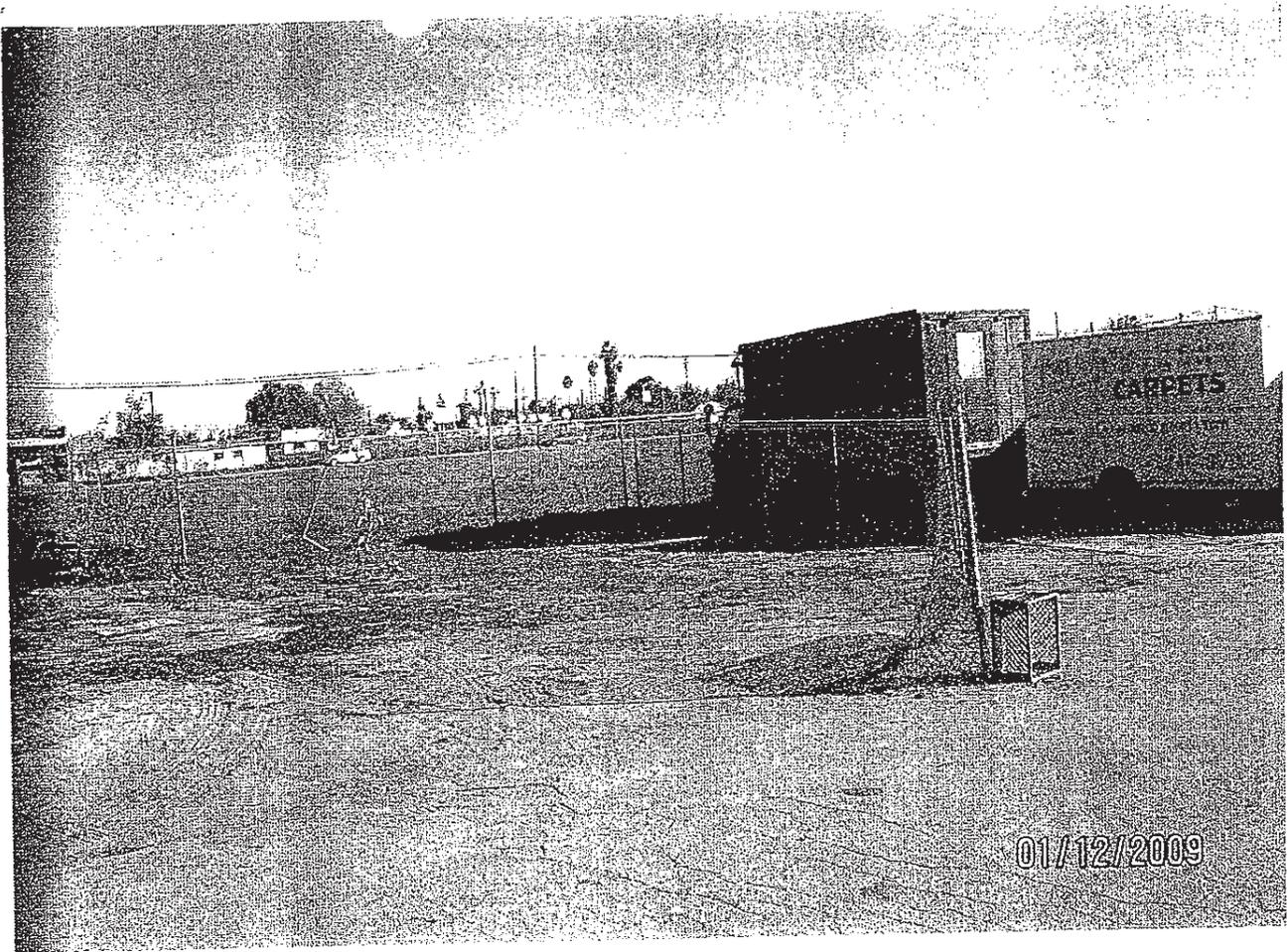
Dated: 4/28/10

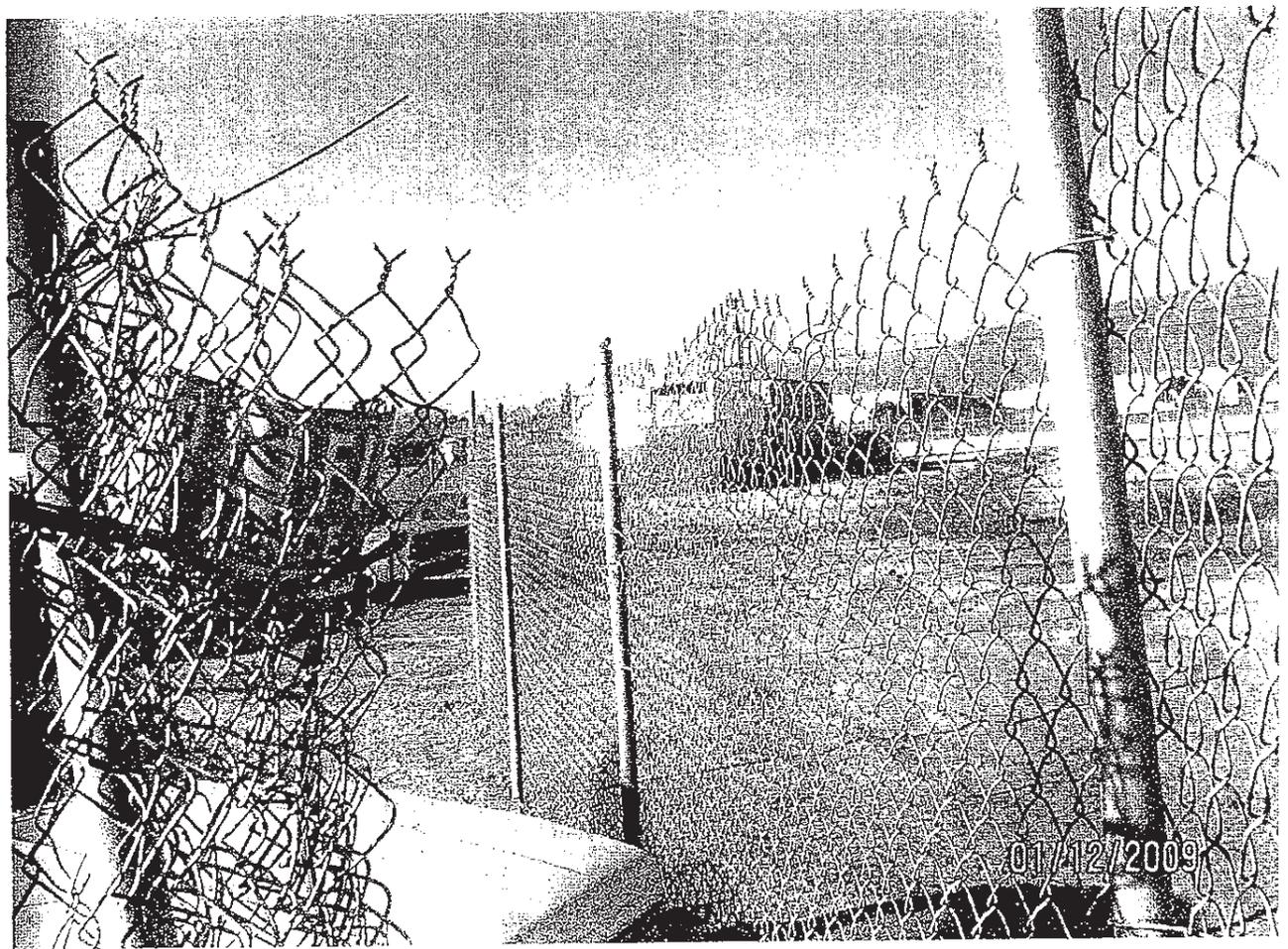
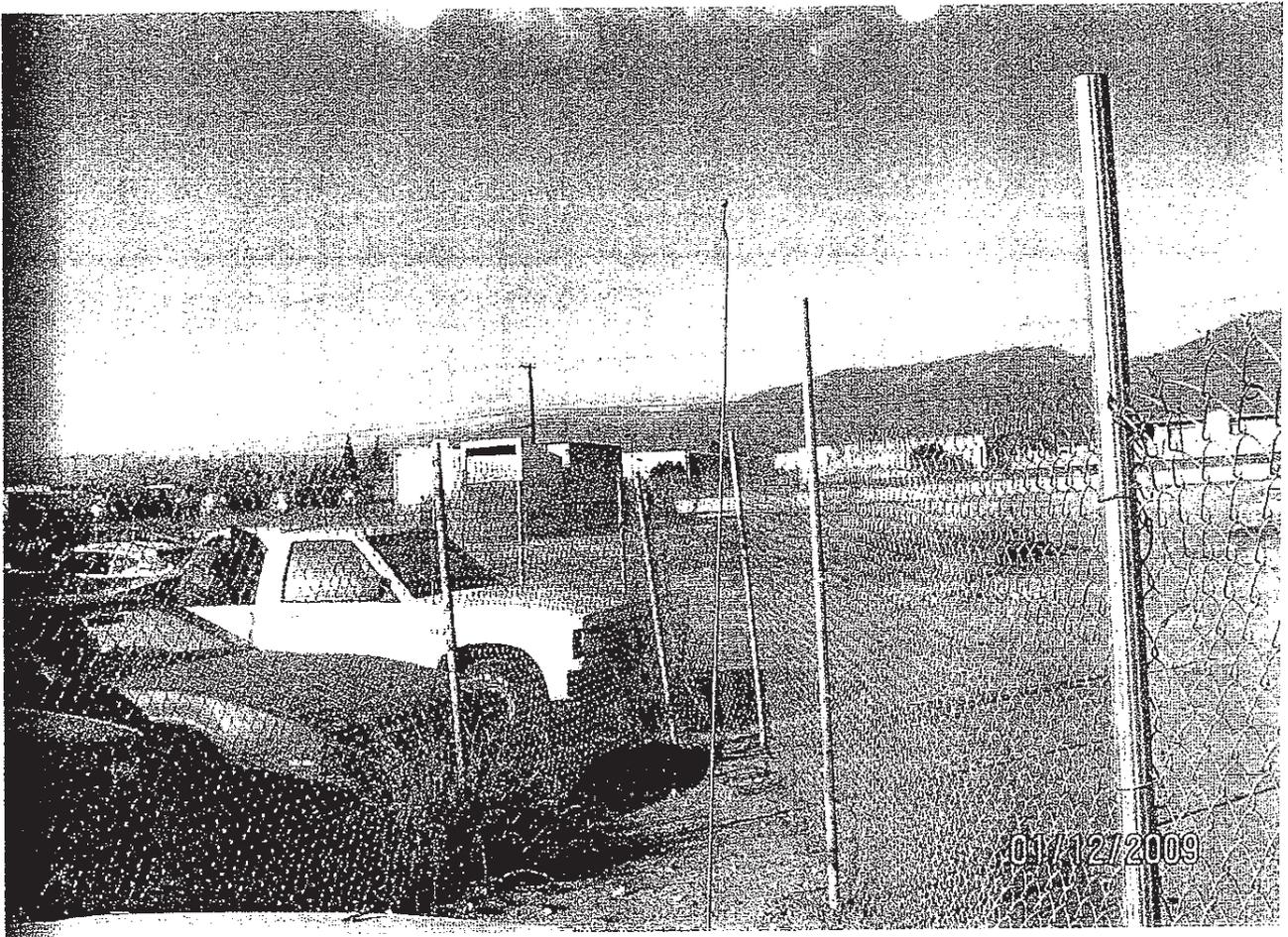
By: 
Sira Kessler











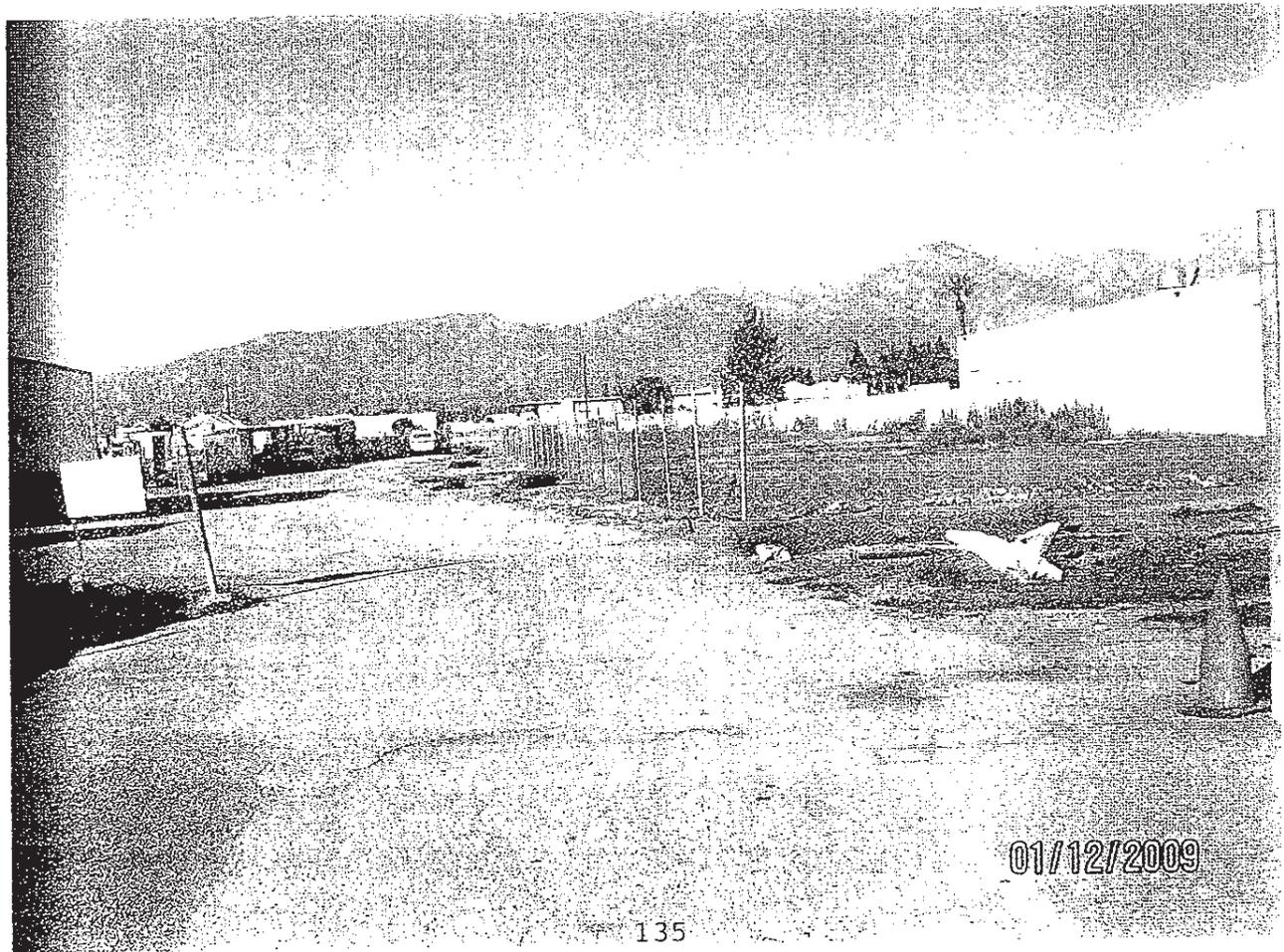
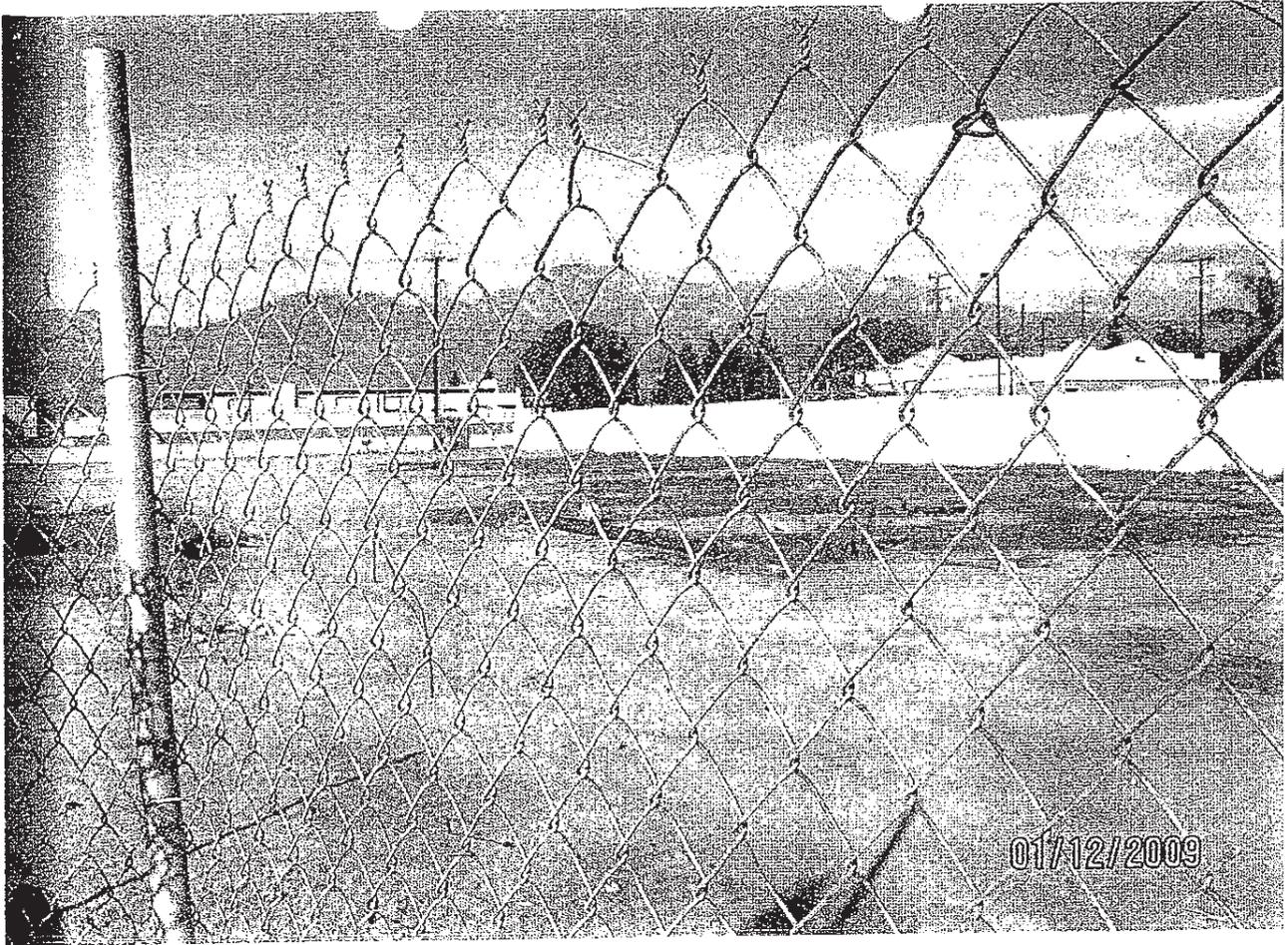


EXHIBIT "B"

LOWEST, MOST REASONABLE MOVING BID

Please see attached moving bid

Proposal

ALL PRO FENCE

1015 S. ATLANTIC DR., COMPTON, CA 90221

Cal. State Lic. # 452961

(562) 426-0431 • (310) 635-2924 • Fax (310) 763-2909

PROPOSAL SUBMITTED TO <u>Overland Pacific Cutler</u>	PHONE <u>562-304-2000</u>	DATE <u>8-13-09</u>
STREET <u>100 W. Broadway</u>	JOB NAME <u>Robert and Siss Kessler</u>	
CITY, STATE and ZIP CODE <u>Long Beach, CA 90802</u>	JOB LOCATION <u>4848 W. Mission Bl Montclair CA</u>	
ATTN: <u>Karen Jackson</u>	FAX NO: <u>951-683-2353</u>	JOB PHONE

We Propose hereby to furnish material and labor - complete in accordance with specifications below, for the sum of:

Twenty Five Thousand two hundred eighty dollars (\$ 25,280.⁰⁰)
Payment to be made as follows: If not customer will be charged 1.5% on unpaid balance

All material is guaranteed to be as specified. All work to be completed in a workmanlike manner according to standard practices. Any alteration or deviation from specifications below involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workman's Compensation Insurance.

Authorized
Signature _____

Note: This proposal may be
withdrawn by us if not accepted within _____ days.

We hereby submit specifications and estimates for:

Remove and relocate existing chainlink
fence approx 1,725 ft.

In the event that it becomes necessary to institute or to employ an attorney to collect any payment or payments due the undersigned for labor or materials furnished under this agreement or any modification thereof, then you shall be liable to the undersigned for court costs and attorney fees. Buyer is responsible for property line designation, fence location and underground lines.

"Contractors are required by law to be licensed and regulated by the Contractors' State License Board. Any questions concerning a contractor may be referred to the registrar of the Board whose address is: Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826."

Acceptance of Proposal - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Date of Acceptance: _____

Signature _____

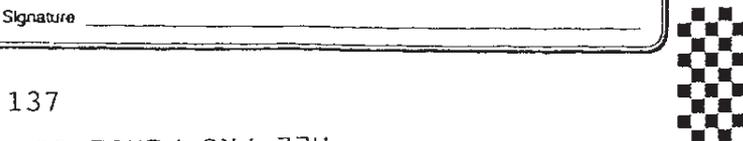
Signature _____

"NOTICE TO OWNER"

(Section 7018 - Contractors' License Law)

Under the Mechanics Lien Law, any contractor, subcontractor, laborer, materialman or other person who helps to improve your property and is not paid for his labor, services or material, has a right to enforce his claim against your property.

Under the law you may protect yourself against such claims by filing, before commencing such work of improvement, an original contract for the work of improvement or a modification thereof, in the office of the county recorder of the county where the property is situated and requiring that a contractor's payment bond be recorded in such office. Said bond shall be in an amount not less than fifty percent (50%) of the contract price and shall, in addition to any conditions for the performance of the contract, be conditioned for the payment in full of the claims of all persons furnishing labor, services, equipment or materials for the work described in said contract.



AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 10-2843 APPROVING A SCHEDULE OF FEES WITH DIETZ TOWING AND PACIFIC TRUCK AND AUTO TOWING, INC.	DATE: May 17, 2010 SECTION: RESOLUTIONS ITEM NO.: 1 FILE I.D.: FLP170 DEPT.: POLICE
BUSINESS: PLAN: N/A	

REASON FOR CONSIDERATION: The City Council is requested to consider adoption of Resolution No. 10-2843 approving a schedule of fees with Dietz Towing and Pacific Truck and Auto Towing, Inc., related to towing and storage pursuant to California Vehicle Code Section 14602.6, the 30-day impound law.

BACKGROUND: Agreement Nos. 10-30 and 10-45 approved by City Council action this evening require incorporation of the California Vehicle Code impound, storage, and tow rates. Proposed Resolution No. 10-2843 contains the schedule of rates mandated by the California Vehicle Code.

Under Agreement Nos. 10-30 and 10-45, the City would receive cost-recovery funds from the tow companies for all vehicles stored pursuant to California Vehicle Code Section 14602.6. Proposed Resolution No. 10-2843 sets forth a schedule of fees that may be charged by the tow companies and cost-recovery fees that are to be paid to the City of Montclair by the tow companies.

FISCAL IMPACT: Should the City Council adopt proposed Resolution No. 10-2843, annual revenue from the tow companies is anticipated to be approximately \$134,000.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 10-2843 approving a schedule of fees with Dietz Towing and Pacific Truck and Auto Towing, Inc.

Prepared by: <u>Sharon Benjamin</u>	Reviewed and Approved by: <u>K. R. Lewis</u>
Proofed by: <u>Kudry B.</u>	Presented by: <u>[Signature]</u>

RESOLUTION NO. 10-2843

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MONTCLAIR ADOPTING
FEES WITH DIETZ TOWING AND PACIFIC
TRUCK AND AUTO TOWING, INC.**

WHEREAS, the City of Montclair has entered into Agreement No. 10-30 with Dietz Towing and Agreement No. 10-45 with Pacific Truck and Auto Towing, Inc. recovering costs for all vehicles stored pursuant to California Vehicle Code Section 14602.6; and

WHEREAS, the prior Agreements with Dietz Towing and Pacific Truck and Auto Towing, Inc. were on a month-to-month basis, and the City of Montclair did not receive funds for vehicles that were released prior to 30 days of storage or for lien vehicles sold after the 30-day impoundment period; and

WHEREAS, pursuant to Agreement No. 10-30 with Dietz Towing and Agreement No. 10-45 with Pacific Truck and Auto Towing, Inc., the City of Montclair will receive cost-recovery funds for all vehicles towed pursuant to California Vehicle Code Section 14602.6, regardless of the number of days a vehicle has been stored.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair hereby sets forth as follows a schedule of fees that shall be charged by the tow companies and cost-recovery fees that are to be paid to the City of Montclair by same:

Tow Fees. The average Tow Fee that may be charged by the tow companies to tow a vehicle shall be \$175. The City shall not receive cost-recovery fees for the towing of vehicles.

Storage Fees. The average Storage Fee that may be charged by the tow companies to store a vehicle shall be \$35 to \$40 per day, or \$1,050 to \$1,200 per 30 days. The City shall receive cost-recovery fees for the storage of vehicles in an amount equal to 50 percent of the overall fees taken in by the tow companies per vehicle, regardless of the number of days the vehicles are stored.

Administrative Release Fees. The City shall receive a \$100 Administrative Release Fee for each vehicle impounded or stored.

Post Storage Hearing Fees. Post Storage Hearing Fees shall not be charged.

Lien Sale Fee. The Lien Sale Fee that may be charged by the tow companies shall be \$70. The City shall not receive cost-recovery fees for lien sales.

BE IT FURTHER RESOLVED that this fee schedule shall become effective May 18, 2010, following adoption by the Montclair City Council; and

BE IT FINALLY RESOLVED that the City Clerk is hereby directed to forward copies of this Resolution to Dietz Towing and Pacific Truck and Auto Towing, Inc.

APPROVED AND ADOPTED this XX day of XX, 2010.

Mayor

ATTEST:

Deputy City Clerk

I, Yvonne L. Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 10-2843 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, 2010, and that it was adopted by the following vote, to-wit:

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

Yvonne L. Smith
Deputy City Clerk

MINUTES OF THE MEETING OF THE MONTCLAIR
CODE ENFORCEMENT COMMITTEE HELD ON
MONDAY, APRIL 19, 2010, AT 6:00 P.M. IN THE CITY
HALL CONFERENCE ROOM, 5111 BENITO STREET,
MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

Council Member Paulitz called the meeting to order at 6:00 p.m.

II. ROLL CALL

Present: Mayor Pro Tem Dutrey; Council Member Paulitz; Acting 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 January 19, 2010.

It was the consensus of the Code Enforcement Committee to approve the minutes of the Code Enforcement Committee meeting of January 19, 2010.

IV. PUBLIC COMMENT - None

V. OLD BUSINESS - None

VI. NEW BUSINESS

- A. The Committee discussed several methods of educating the public on the City Noise Ordinance as presented by Police Chief Jones. After reviewing the various options, the Committee decided to mail a flyer to all property owners in the City by including it in the sewer and trash bills. All members of the Committee were in agreement that the flyer should be sent in English and Spanish. Mayor Pro Tem Dutrey suggested that wording referencing the \$50 fine be removed and in its place state that "persons violating this Ordinance may receive a substantial fine and/or arrest." He also suggested that language be added into the flyer's title regarding loud/party noises, and that the document should include language informing property owners that they have an obligation to inform their tenants of this Ordinance. The Committee was in agreement with the suggestions made by Mayor Pro Tem Dutrey.

VII. ROUNDTABLE DISCUSSION ON PROBLEM PROPERTIES

Fire Chief Ament informed the Committee that the reported violations of road blockage and mechanical repairs caused by a truck and trailer at 9851 Bel Air Avenue are being monitored by Code Enforcement and the Police Department. He also reported that the trash, junk, and debris violations at this property have been abated.

Fire Chief Ament updated the Committee on efforts to alleviate the overflowing trash dumpsters and illegal dumping at 10144 Central Avenue (Fashion Expo). Code Enforcement has been in contact with the property management company regarding the accumulation of trash at this property, and Community Development Director Lustro and City Planner Diaz are currently working on a solution to remedy the overflowing trash dumpsters.

Mayor Pro Tem Dutrey and Council Member Paulitz inquired about the level of Code Enforcement staffing in the northern and southern portions of the City. Deputy Fire Chief Shiba commented that there is one officer assigned to work in the northern portion of the City and one officer assigned to work in the southern portion of the City. Both of these officers work four days a week. He also stated that these officers are able to survey their entire area once in a two-week period.

Fire Chief Ament informed the Committee that from April 1, 2009, through April 1, 2010, \$349,650 in fines were issued for Administrative Citations.

Mayor Pro Tem Dutrey reported that there is a vacant house on the corner of Monte Vista Avenue and Bandera Street with overgrown vegetation. Deputy Fire Chief Shiba stated that Senior Code Enforcement Officer Fondario is currently working with a contractor to have the violations on the property abated.

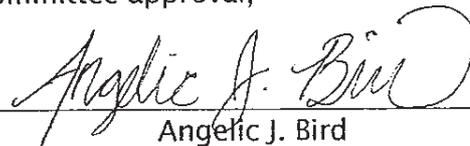
VIII. NEXT MEETING

The next meeting is scheduled for Monday, May 17, 2010, at 6:00 p.m.

IX. ADJOURNMENT

At 6:22 p.m., Council Member Paulitz adjourned the Code Enforcement Committee Meeting.

Submitted for Code Enforcement
Committee approval,



Angelic J. Bird
Secretary/Emergency Services Coordinator

MINUTES OF THE MEETING OF THE MONTCLAIR
PERSONNEL COMMITTEE HELD ON MONDAY,
MAY 3, 2010, AT 7:56 P.M. IN THE CITY
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,
MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

Mayor Eaton called the meeting to order at 7:56 p.m.

II. ROLL CALL

Present: Mayor Eaton; Council Member Ruh; and Acting City
Manager Starr

III. APPROVAL OF MINUTES

A. Minutes of the Regular Personnel Committee Meeting of
April 19, 2010.

Moved by Acting City Manager Starr, seconded by Council Member
Ruh, and carried unanimously to approve the minutes of the
Personnel Committee meeting of April 19, 2010.

IV. PUBLIC COMMENT - None

V. CLOSED SESSION

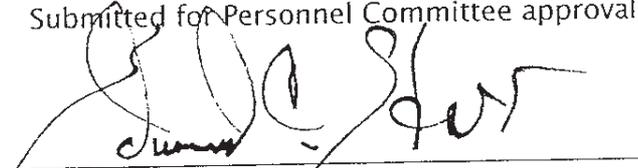
At 7:57 p.m., the Personnel Committee went into Closed Session
regarding personnel matters related to appointments, resignations/
terminations, and evaluations of employee performance.

At 8:06 p.m., the Personnel Committee returned from Closed Session.
Mayor Eaton stated that no announcements would be made at this time.

VI. ADJOURNMENT

At 8:06 p.m., Mayor Eaton adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



Edward C. Starr
Acting City Manager