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

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

June 7, 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

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June 7, 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.

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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. Introduction of New Employees

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 Receiving Public Comment and Authorizing the Reallocation and Expenditure of Fiscal Years 2008-09 and 2009-10 Supplemental Law Enforcement Services Funds [CC] 5

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VIII. CONSENT CALENDAR

A. Approval of Minutes

1. Minutes of Regular Joint Council/Agency/MHC Meeting of May 17, 2010

B. Administrative Reports

1. Consider Setting a Public Hearing to Consider Ordinance No. 10-913 Replacing Chapter 11.60 of the Montclair Municipal Code Related to Landscape Water Conservation [CC] 6

2 Consider Approval of City of Montclair Statement of Investment Policy for the Year Ending December 31, 2010 [CC] 33

3. Consider Redevelopment Agency Board of Directors' Approval of the City of Montclair Redevelopment Agency Statement of Investment Policy for the Year Ending December 31, 2010 [RDA] 46

4. Consider Montclair Housing Corporation Board of Directors' Approval of the City of Montclair Housing Corporation Statement of Investment Policy for the Year Ending December 31, 2010 [MHC} 59

5. Consider Approval of Filing of a Notice of Completion for Construction of the Vernon Avenue Sidewalk 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] 72

6. Consider Approval of Filing of a Notice of Completion for Construction of the Montera Elementary School Soccer Park 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]

   Consider Authorizing Staff to Advertise for Bids for the Installation of Additional Fence Material at Montera Elementary School [CC] 75

7. 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] 78

8. Consider Status Report on Emergency Contracting Procedures Related to the Block Wall Construction at Alma Hofman Park and Determine There is a Need to Continue the Action [CC] 80

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9. Consider "No Action" on Alcoholic Beverage Permit Application - Virk Bros. Inc. [CC] 82

10. Consider Approval of Warrant Register and Payroll Documentation [CC] 83

C. Agreements

1. Consider Award of Contract to Gentry Brothers, Inc., in the Amount of $2,361,405 [CC]

Consider Approval of Agreement No. 10-55 with Gentry Brothers, Inc., for Construction of the Mission Boulevard Improvement Phase 8 Project [CC]

Consider Authorization of a $235,000 Construction Contingency [CC] 84

2. Consider Approval of Agreement No. 10-56 with Leighton Consulting, Inc., in the Amount of $29,800 for Geotechnical Observation and Testing Services for the Mission Boulevard Improvement Phase 8 Project [CC]

Consider Authorization for City Manager to Amend the Agreement Scope of Services as May be Necessary for a Total Increase Not to Exceed $5000 [CC] 91

D. Resolutions

1. Consider Adoption of Resolution No. 10-2847 Authorizing Placement of Liens on Certain Properties for Delinquent Sewer and Trash Charges [CC] 112

IX. PULLED CONSENT CALENDAR ITEMS

X. RESPONSE - None

XI. COMMUNICATIONS

A. City Attorney/Agency Counsel

1. Closed Session Pursuant to Section 54957.6 of the Government Code Regarding Conference with Designated Labor Negotiator Acting City Manager Edward C. Starr

Agency: City of Montclair

Employee Organizations: City Manager
Management
Montclair Fire Fighters Association
Montclair Police Officers Association
San Bernardino Public Employees Assoc.

B. City Manager/Executive Director

C. Mayor/Chairman

D. Council/Agency Board

E. Committee Meeting Minutes *(For Informational Purposes Only)*

1. Minutes of the Public Works Committee Meeting of April 15, 2010 — 119

2. Minutes of the Personnel Committee Meeting of May 17, 2010 — 123

XII. COUNCIL/AGENCY WORKSHOP

A. Preliminary Budget Review

(Council/Agency may consider continuing this item to an adjourned joint meeting on Tuesday, June 15, 2010, at 6:00 p.m. in the City Council Chambers).

XIII. ADJOURNMENT OF REDEVELOPMENT AGENCY AND MONTCLAIR HOUSING CORPORATION BOARDS OF DIRECTORS

(At this time, the City Council will meet in Closed Session regarding labor negotiations and public employee employment).

XIV. CLOSED SESSION ANNOUNCEMENTS

XV. ADJOURNMENT OF CITY COUNCIL

The next regularly scheduled City Council, Redevelopment Agency, and Montclair Housing Corporation meetings will be held on Monday, May 17, 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, Donna M. Jackson, City Clerk, hereby certify that I posted, or caused to be posted, a copy of this Agenda not less than 72 hours prior to this meeting on the bulletin board adjacent to the south door of Montclair City Hall on June 3, 2010.

AGENDA REPORT

SUBJECT:	CONSIDER RECEIVING PUBLIC COMMENT AND AUTHORIZING THE REALLOCATION AND EXPENDITURE OF FISCAL YEARS 2008-09 AND 2009-10 SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND MONEYS	**DATE:**	June 7, 2010
		SECTION:	PUBLIC HEARINGS
		ITEM NO.:	A
		FILE I.D.:	PDT362
BUSINESS PLAN:	N/A	**DEPT.:**	POLICE

REASON FOR CONSIDERATION: The City Council is requested to consider authorizing the reallocation and expenditure of Supplemental Law Enforcement Services Fund (SLESF) moneys in the Fiscal Years 2008-09 and 2009-10 Police Department Budgets to enhance Patrol services.

BACKGROUND: The City Council authorized the allocation of SLESF moneys to the Fiscal Years 2008-09 and 2009-10 Police Department Budgets on December 15, 2008, and November 16, 2009, respectively. The 2008 allocation of $12,500 included funding for promotional items and satellite telephone services. The 2009 allocation of $49,226 included funding for traffic enforcement overtime, 9-1-1 first responder tools, and a computer server.

Since the City Council's authorization of the 2008 and 2009 SLESF allocations, the City has experienced an economic downturn that required a reevaluation of the Department's primary fiscal needs. As a result, the Police Chief is requesting the reallocation of $54,127 in unexpended SLESF moneys to supplement Patrol overtime in the Fiscal Year 2010-11 Police Department Budget. The proposed reallocation would allow the Police Department to meet the needs of the community.

FISCAL IMPACT: If authorized by the City Council, the reallocation of Fiscal Years 2008-09 and 2009-10 SLESF moneys would create no fiscal impact to the City's General Fund.

RECOMMENDATION: Staff recommends the City Council receive public comment and authorize the reallocation and expenditure of Fiscal Years 2008-09 and 2009-10 Supplemental Law Enforcement Services Fund moneys.

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

AGENDA REPORT

SUBJECT:	CONSIDER SETTING A PUBLIC HEARING TO CONSIDER ORDINANCE NO. 10-913 REPLACING CHAPTER 11.60 OF THE MONTCLAIR MUNICIPAL CODE RELATED TO LANDSCAPE WATER CONSERVATION	**DATE:**	June 7, 2010
		SECTION:	ADMIN. REPORTS
		ITEM NO.:	1
		FILE I.D.:	ENV400
BUSINESS PLAN:	N/A	**DEPT.:**	COMMUNITY DEV.

REASON FOR CONSIDERATION: Amendments to the Municipal Code require public hearing review and approval by the City Council.

BACKGROUND: In 2006, Assembly Bill 1881, the Water Conservation in Landscaping Act of 2006, mandated increased water efficiency for both new and existing development statewide. The law required the California Department of Water Resources (DWR) to update the Model Water Efficient Landscape Ordinance (MWELO) in 2009 to take effect in 2010. A chief reason behind the passage of AB 1881 was the recognition that landscape irrigation accounts for half of urban water use in California. With the state's increasing population and the difficulties in developing new water supplies and storage, increased efficiency in the use of landscape irrigation water is needed.

The updated state MWELO contains several new landscape and irrigation design requirements aimed at reducing water consumption and waste in landscape irrigation. All local land use agencies are required to adopt the state MWELO prepared by the DWR or develop their own ordinance that is at least as effective by January 1, 2010. Should no action be taken, the MWELO would automatically become effective in January 2010 by statute.

In response to the above mandate, City staff participated in a joint effort with the Inland Empire Utilities Agency (IEUA), representatives from local water agencies and municipalities served by IEUA, and landscape professionals to develop a model ordinance that would be consistent with and/or exceed the provisions of the state model and yet be tailored to local conditions. The IEUA Model Ordinance was completed in the summer of 2009.

Using the IEUA Model Ordinance as the base document, staff developed proposed Ordinance No. 10-913 to comply with state requirements and meet the City's particular needs. The intent of the proposed Ordinance is to protect water supplies through implementation of a comprehensive approach to the design, installation, and maintenance of landscapes, which results in water-conserving climate-appropriate landscapes. Since the proposed Ordinance is more comprehensive than the City's existing Ordinance, it was not possible to merely incorporate new changes. Instead, staff is recommending Chapter 11.60 of the Montclair Municipal Code be replaced in its entirety with the

Prepared by:	Steve Lustro	Reviewed and Approved by:	Steve Lustro
Proofed by:	Dawn Berke	Presented by:	

proposed Water Efficient and Conservation Landscape Ordinance. Should the City Council approve the new Ordinance, it would supersede the City's existing water-efficient landscape requirements contained therein. A copy of proposed Ordinance No. 10-913 is included in the Council packet for reference.

Staff conducted a workshop for the Planning Commission on the proposed Ordinance on April 26, 2010. The Commission expressed unanimous support for the proposed Ordinance and urged staff to submit it to City Council for consideration.

FISCAL IMPACT: The cost to publish a Notice of Public Hearing in the ***Inland Valley Daily Bulletin*** related to Ordinance No. 10-913 should not exceed $400.

RECOMMENDATION: The Planning Commission and staff recommend the City Council set a public hearing for Monday, June 21, 2010, at 7:00 p.m. in the Council Chambers to consider adoption of Ordinance No. 10-913 replacing Chapter 11.60 of the Montclair Municipal Code related to landscape water conservation.

ORDINANCE NO. 10-913

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR REPLACING CHAPTER 11.60 OF THE MONTCLAIR MUNICIPAL CODE (LANDSCAPE WATER CONSERVATION) WITH A NEW ORDINANCE RELATED TO WATER-EFFICIENT LANDSCAPING AND CONSERVATION AND RECENT UPDATES TO STATE LAW

WHEREAS, the State Legislature adopted the "Water Conservation in Landscaping Act of 2006" (AB 1881) requiring the Department of Water Resources (DWR) to update the State Model Water Efficient Landscape Ordinance. The updated model ordinance contains several new landscape and irrigation design requirements aimed at reducing water consumption and waste in landscape irrigation; and

WHEREAS, all local land use agencies are required to adopt the model ordinance, or develop an ordinance that is at least as effective by January 1, 2010. Should no action be taken, by statute the DWR model ordinance would automatically become effective; and

WHEREAS, since 2008, City staff has worked with Inland Empire Utilities Agency (IEUA), representatives from local water agencies and municipalities served by IEUA, and landscape professionals to develop an ordinance tailored to meet the region's needs that is based on, and in some areas exceeds, the requirements of the State Model Water Efficient Landscape Ordinance; and

WHEREAS, the provisions of this ordinance are intended to protect water supplies through the implementation of a comprehensive approach to the design, installation, and maintenance of landscapes, which results in water conserving, climate-appropriate landscapes; and

WHEREAS, the purpose of this Ordinance is to provide standards and requirements for the installation of landscaping for all new and expanded development within the City in order to promote the general welfare of the community, encourage attractive and logical development, and to aid in conserving water by encouraging the use of varieties of plants, trees and shrubs indigenous to arid regions which are characterized by low water consumption; and

WHEREAS, the new Water Efficient Landscape and Conservation Ordinance ("Proposed Ordinance") will be incorporated into Title 11 of the Montclair Municipal Code (Zoning and Development) and will supersede the existing Landscape Water Conservation Ordinance contained in Chapter 11.60; and

WHEREAS, the City Council finds that the provisions of this ordinance are at least as effective in conserving water as the Model Water Efficient Landscape Ordinance adopted by the California Department of Water Resources pursuant to

the Water Conservation in Landscaping Act (Government Code Section 65591 *et seq.*); and

WHEREAS, the Director of Community Development is directed to submit a copy of this ordinance and evidence in the record supporting the preceding findings to the California Department of Water Resources; and

WHEREAS, the City Council finds that this ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Sections 15307 and 15308 of the State CEQA Guidelines as an action taken to assure the maintenance, restoration, enhancement, and protection of natural resources and the environment where the regulatory process involves procedures for protection of the environment. Moreover, the ordinance will not have a significant effect on the environment as it does not in itself approve any construction activities, but instead establishes standards, permit requirements, and other measures that regulate the design, installation, and maintenance of new and rehabilitated landscapes more stringently than existing codes; and

WHEREAS, the Director of Community Development is directed to file a Notice of Exemption in accordance with CEQA and the State CEQA Guidelines.

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

Section I. Chapter 11.02.010 ("Definitions") of Title 11 ("Zoning and Development") of the Montclair Municipal Code is hereby amended to include the following:

11.02.010 Definitions.

Antidrain Check Valve - A valve located under a sprinkler head to hold water in the system to prevent drainage from the lower elevation sprinkler heads when the system is off.

Applicant - As it relates to Chapter 11.60 herein, any person required to submit a Landscape Documentation Package. Applicant may include the property owner or an agent of the owner.

Application Rate - The depth of water applied to a given area, usually measured in inches per hour or gallons per hour.

Applied Water - The portion of water supplied by the irrigation system to the landscape area.

Approval - The decision by a public agency which commits the agency to a definite course of action in regard to a project intended to be carried out by any person. Approval occurs when the public agency commits to allow a use and/or issue a permit, grant, license, or other entitlement. The exact date of approval of any project is a matter determined by each public agency according to its rules, regulations, and ordinances.

Automatic Rain Shutoff Feature - A system capability which detects rainfall and automatically suspends the operation of the irrigation system during rain events.

Backflow Prevention Device - A safety device used to prevent pollution or contamination of the water supply due to the reverse flow of water from the irrigation system.

Botanical Gardens and Arboretums - Public or private facilities for the demonstration and observation of the cultivation of flowers, fruits, vegetables, or ornamental plants.

Building Permit - An authorizing document issued by local agencies for new construction or rehabilitated landscape.

California Irrigation Management Information System (CIMIS) - A program in the Office of Water Use Efficiency (OWUE), California Department of Water Resources (DWR) that manages a network of over 120 automated weather stations in the state of California. CIMIS was developed in 1982 by the DWR and the University of California at Davis to assist California's irrigators in managing their water resources efficiently.

Certified Landscape Irrigation Auditor - A person certified to perform landscape irrigation audits by an accredited educational institution or a professional trade organization.

CFS - Cubic feet per second.

Community Development Director - The person responsible for directing the activities of the Community Development Department including the implementation of planning, zoning, and related codes and policies.

Control Valve - A device used to control the flow of water in the irrigation system. It may also mean all of the sprinklers or emitters in a line controlled by the valve.

Controller - An automatic timing device used to control valves or heads to operate an irrigation system. A weather-based controller is a controller that uses evapotranspiraion or weather data. A self-adjusting irrigation controller is a controller that uses sensor data (*i.e.*, soil moisture sensor).

Conversion Factor (0.62) - A number that converts the maximum applied water allowance from acre-inches per acre per year, to gallons per square foot per year. The conversion factor is calculated as follows:

(325,851 gallons/43,560 SF)/12 inches = 0.62

Where: 325,851 gallons = one acre foot
43,560 square feet = one acre
12 inches = one foot

To convert gallons per year to 100 CF per year, divide gallons per year by 748 (748 gallons equals 100 CF).

Cultivated Landscape Area - Planted areas that are frequently maintained by mowing, irrigating, pruning, fertilizing, etc.

Design Review - Design review is the local government practice of examining public and private projects for their aesthetic, architectural, or urban design quality and compatibility with nearby development. Design review focuses on the appearance of new construction, site planning, and such concerns as landscaping, signage, and other aesthetic issues. Design review typically involves reviewing development projects for their consistency with a

community's adopted standards or criteria addressing community character and aesthetic quality.

Developer - A landowner or owner's agent responsible for the development of land. This definition does not include homeowners or landlords of single-family homes.

Development - The uses to which land will be put; the buildings and structures to be constructed on the land, and all alteration of the land and other construction associated with these uses, buildings, and structures.

Ecological Restoration Project - A project where the site is intentionally altered to establish a defined, indigenous, historic ecosystem.

Emitter - Drip irrigation fittings that deliver water slowly from the irrigation system to the soil.

Established Landscape - The point in which plants in the landscape area have developed roots into the soil adjacent to the root ball. Typically, most plants are established after one (1) or two (2) years of growth.

Establishment Period - The first year after installing plant material in the landscape area, or the first two (2) years if irrigation will be terminated after establishment.

Estimated Annual Applied Water Use - The portion of the estimated annual total water use that is derived from applied water. The estimated annual applied water use shall not exceed the maximum applied water allowance.

Estimated Total Water Use - The annual total amount of water estimated to be needed to keep the plants in the landscaped area healthy. It is based upon such factors as the local evapotranspiration rate, the size of the landscaped area, the types of plants, and the efficiency of the irrigation system.

ET Adjustment Factor - A factor of 0.7, that, when applied to reference evapotranspiration, adjusts for plant factors and irrigation efficiency, two major influences upon the amount of water to be applied to the landscape area. A combined plant mix with a statewide average 0.5 is the basis of the plant factor portion of this calculation. The irrigation efficiency for purposes of the ET adjustment factor is 0.71.

ETo (Reference Evapotranspiration) - A standard measurement of environmental parameters that affect the water use of plants. ETo is given in inches per day, month, or year, and is an estimate of the evapotranspiration of a large field of 4 to 7 inch tall cool-season grass that is well watered.

Evapotranspiration - The quantity of water evaporated from adjacent soil surfaces and transpired by plants during a specific time. The reference evapotranspiration rates (in inches) for the City of Montclair are as follows:

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual ETo
2.1	2.9	3.9	4.5	5.7	6.5	7.3	7.1	5.9	4.2	2.6	2.0	54.6

Flow Rate - The rate at which water flows through pipes and valves, usually in GPM or CFS.

GPM - Gallons per minute.

Ground Cover - Plants, other than turf grass, normally reaching an average maximum height of not more than two (2) feet at maturity.

Hardscape or Hardscaping - Nonliving and inanimate and/or durable elements of a landscaping plan, including but not limited to pavement, masonry

work or woodwork. Decorative hardscape elements include appropriately sized fountains or boulders, river rock, cobbles, crushed rock, gravel, organic mulches, walks, decorative pavers, and artificial turf that complement living plant materials and enhance the appearance of the property and structures built thereon, and serve as an integral part of an overall landscape concept. Pools and other water features are considered part of the landscaped area and not considered hardscapes for purposes of Chapter 11.60 herein.

Homeowner - A homeowner, for purposes of Chapter 11.60 herein, is a person who owns the subject property and occupies the dwelling thereon. This definition excludes speculative homes, which are not owner-occupied dwellings and that are subject to the requirements applicable to developer-installed residential landscape projects. This definition also excludes rental units regardless of number of units on a property.

Homeowner Installed Landscape - Any landscaping either installed by the homeowner or by a contractor, person, or persons hired by the homeowner.

Hydrozone - A portion of the landscape area with plants having similar watering needs and which is served by a valve or set of valves with the same watering schedule.

Impervious Surface - A surface composed of any material which impedes or prevents the natural infiltration of water into the soil. Such surfaces include all concrete, asphalt and gravel surfaces. These include, but are not be limited to, streets and parking areas, sidewalks, patios, and structures which cover the land.

Infiltration Rate - The rate of water entry into the soil, expressed as a depth of water per unit of time (inches per hour).

Invasive Species - Nonindigenous species that adversely affect the habitats they and that can damage environmental or economic resources. Invasive species may be regulated by county agricultural agencies as noxious species. "Noxious weeds" means any weed designated by the Weed Control Regulations in the Weed Control Act and identified on a Regional District noxious weed control list. Lists of invasive plants are maintained at the California Invasive Plant Inventory and USDA invasive and noxious weeds database.

IPH - Inches Per Hour

Irrigation Audit - The evaluation of an irrigation system's performance and efficiency as conducted by a Certified Landscape Irrigation Auditor.

Irrigation Efficiency - The measurement of the amount of water beneficially used, divided by the amount of water applied. Irrigation efficiency is derived from measurements and estimates of irrigation system characteristics and management practices. The minimum irrigation efficiency for purposes of Chapter 11.60 is 0.71. Greater irrigation efficiency can be expected from well designed and maintained systems.

Irrigation System - A permanent artificial watering system designed to transport and distribute water to plants.

Landscape Architect - A person licensed to practice landscape architecture in the State of California pursuant to Chapter 3.5 (commencing with Section 5615) of Division 3 of the Business and Professions Code.

Landscape Area - The planting areas, turf areas, and water features in a landscape design plan subject to the Maximum Applied Water Allowance (MAWA) calculation. The landscape area does not include footprints of buildings

or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, artificial turf, other pervious or nonpervious hardscapes, and other nonirrigated areas designated for nondevelopment (*e.g.*, open spaces and existing native vegetation).

Landscaping - Any combination of living plant materials (such as trees, shrubs, vines, ground covers, or turf) and nonliving material (such as artificial turf, rocks, pebbles, sand, mulch, walls, fences, or decorative paving materials). Parking, storage areas, or vehicular ways are not considered landscaping.

Landscape Concept Plan - The portion of a landscape documentation package that includes a design statement for the project, irrigation notes, planting notes, the plant palette, meeting the water conservation goals, design standards, and specifications contained in Chapter 11.60 herein.

Landscape Construction Drawings - The portion of a landscape documentation package that includes the irrigation plan, plant and soils plan, water management plan, and conforms with the requirements of Chapter 11.60 herein.

Landscape Documentation Package - The complete packet of documents required under Section 11.60.120 to be submitted to the local agency. Documentation packages include the landscape concept plan and landscape construction drawings.

Landscape Water Audit - An in-depth evaluation of the performance of an irrigation system conducted by a Certified Landscape Irrigation Auditor. Audits include, but are not limited to, inspection, system tune-up, system test for distribution uniformity, verification of minimal overspray or runoff that causes overland flow and preparation of an irrigation schedule.

Local Agency - A local agency is the entity responsible for the approval of a permit, plan check, and design review for a project. The City of Montclair is the local agency responsible for adopting and implementing the requirements in this Title.

Local Water Purveyor - Any entity including a public agency, city, county, or private water company that provides retail water service.

Low-Head Drainage - Drainage from a sprinkler that is caused by water flowing through an irrigation system from a higher level of elevation.

Maximum Applied Water Allowance (MAWA) - For design purposes, the upper limit of annual applied water for the established landscape area as specified in Section 11.60.150 herein *(Calculation of the Maximum Applied Water Allowance)*. The maximum applied water allowance is based upon the reference evapotranspiration, the ET adjustment factor, and the size of the landscape area.

Mulch - Any organic material such as leaves, or bark, or inorganic material such as pebbles, stones, gravel, decorative sand or decomposed granite left loose and applied to the soil surface to reduce evaporation.

Operating Pressure - The pressure at which a system of sprinklers is designed to operate, usually indicated at the base of a sprinkler.

Overspray - Irrigation that is delivered beyond the landscape area, wetting pavement, walkways, structures, or other nonlandscaped areas.

Parkway - That area of land located between the back of the street curb and the property line including any sidewalk or landscaping area located therein.

Pervious Surface - Any surface or material that allows the passage of water through the material and into the underlying soil.

Plant Materials - All living plant species consisting of trees, shrubs, annuals, perennials, vines, groundcovers, ornamental and turf grasses that will thrive in the City's climate.

Planting Plan - Plan submitted with the construction drawings indicating a list and quantity of plants.

Potable Water - Water meant for human consumption that is treated to legal standards for human consumption.

Pressure Regulator - A device used in sprinkler systems for radius and high pressure control.

PSI - Pounds per square inch.

Recycled Water - Treated wastewater of a quality suitable for nonpotable uses, such as landscape irrigation and water features. Because it is suitable for a direct beneficial use or a controlled use that would not otherwise occur, it is considered a valuable resource. This water is not intended for human consumption.

Regular Maintenance - Regular maintenance shall include, proper pruning, staking, mowing and aerating of lawns, weeding, removal of litter, fertilizing, replacement of plants and mulch when necessary, and watering in accordance with required watering schedule. Also included is the routine inspection, adjustment, and repair of the irrigation system and its components; conducting water audits; prescribing the amount of water applied per landscaped acre; aerating and dethatching turf areas; replenishing mulch; fertilizing; and pruning and weeding in all landscape areas.

Rehabilitated Landscapes - Any relandscaping associated with a project that requires a building permit and meets the requirements of Section 11.60.030.

Runoff - Water that is not absorbed by the soil or landscape area to which it is applied and flows from the area. For example, runoff may result from water that is applied at too great a rate (application rate exceeds infiltration rate), for an excessive time period, or when there is a steep slope.

SMART Irrigation Controller - Weather-based or soil moisture-based irrigation controller that monitors and uses information about the environmental conditions at a specific location and landscape to automatically adjust water schedules.

Softscape - See "Plant Materials."

Soil Amendments - Any material added to a soil to improve its physical properties, such as water retention, permeability, water infiltration, and drainage.

Soil Management Plan - Plan submitted with the construction drawings indicating results from soil tests and recommended soil amendments.

Soil Test - A test done by a soil test lab that indicates, at a minimum, soil texture, water holding capacity, pH, and soluble salts.

Soil Type - The classification of soil based on the percentage of its composition of sand, silt, and clay.

Special Landscape Area - Landscape areas dedicated to edible plants or irrigated with recycled water, water features filled with recycled water,

cemeteries, and areas dedicated to active play such as parks, sports fields, and golf courses.

Sprinkler Head - A device which delivers water through a nozzle.

Static Water Pressure - Water main pressure available from the water purveyor (Monte Vista Water District).

Station - An area served by one valve or by a set of valves that operates simultaneously.

Sunset Western Climate Zone System - The climate zone system designed and published by Sunset Magazine for its Western Garden Book. The Sunset System is designed to account for such factors as precipitation, summer heat, and plant performance in assigning zone designations. For the purposes of Chapter 11.60 herein, the City of Montclair is located in Zones 18 and 19.

Synthetic Turf - An artificial product manufactured from synthetic materials that effectively simulate the appearance of live turf, grass, sod, or lawn. The use of indoor or outdoor plastic or nylon carpeting as a replacement of synthetic turf or natural turf shall be prohibited.

Tree Topping - Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the natural canopy and disfigure the tree. Crown reduction by a qualified arborist may be substituted, where appropriate.

Turf - A surface layer of earth containing mowed grass or grass-like plant with its roots, planted as sod, seed, or hydroseed. Common cool-season turfs include annual bluegrass, Kentucky bluegrass, perennial ryegrass, red fescue, and tall fescue. Common warm-season turfs include Bermuda grass, Kikuyu grass, Seashore Paspalum, St. Augustine grass, Zoysia grass, Carex pansa, and Buffalo grass.

Valve - A device used to control the flow of water in an irrigation system.

Vegetation, Native - Any plant species with a geographic distribution indigenous to all or part of the southern region of the state of California. Plant species that have been introduced by man are not native vegetation.

Water-Conserving Landscape Design - A landscape design developed to conserve water.

Water Efficiency - The planned management of water to prevent waste, overuse, and exploitation of the resource. Water efficiency planning incorporates the analysis of costs and uses of water; specification of water-saving solutions; installation of water-saving measures; and verification of savings to maximize the cost-effective use of water resources. Water-efficient irrigation and landscaping measures include use of water-efficient irrigation systems, irrigation control systems, low-flow sprinkler heads, water-efficient scheduling practices, and drought-resistant plant materials.

Water Feature - Any object that utilizes water for nonirrigation, decorative purposes. Fountains, streams, man-made ponds, man-made lakes, and swimming pools are considered water features.

Water Management Plan - A plan submitted with the construction drawings as part of the landscape documentation package.

Water Quality Management Plan (WQMP) - A guideline for project-specific post construction Best Management Practices and to address management of urban runoff quantity and quality to protect receiving waters.

Water Schedules - Schedule of irrigation times through a given year.

WUCOLS - A publication (Water Use Classification of Landscape Species) by the University of California Cooperative Extension, the Department of Water Resources, and the Bureau of Reclamation (2000). The purpose and intended use is to provide guidance to landscape professionals when selecting plant material and when estimating the amount of water used by plants. It also serves as a guide to assist in developing irrigation schedules for existing landscapes.

Section II. Chapter 11.60 (Landscape Water Conservation) of the Montclair Municipal Code is hereby repealed and deleted in its entirety.

Section III. Chapter 11.60 (Water Efficient Landscape and Conservation Ordinance) is hereby added to Title 11 ("Zoning and Development") of the Montclair Municipal Code to read as follows:

Chapter 11.60

WATER EFFICIENT LANDSCAPING AND CONSERVATION

Sections:

11.60.010	Purpose and Intent
11.60.020	Authority
11.60.030	Applicability
11.60.040	Exemptions
11.60.050	General Landscape Requirements For All Properties
11.60.060	Fences, Walls, and Retaining Walls
11.60.070	Parkway Planter Standards
11.60.080	Review Process
11.60.090	Landscape Architect Required
11.60.100	Plan Readability and Enforceability
11.60.110	Landscaping Documentation Package
11.60.120	Conceptual Landscape Plan Requirements
11.60.130	Synthetic Turf
11.60.140	Development of a Water Budget
11.60.150	Landscape Construction Plans
11.60.160	Irrigation Requirements
11.60.170	Recycled Water
11.60.180	Water Quality Management Plan
11.60.190	Modification or Waiver from Specific Requirements
11.60.200	Coordination with Local Water Agency
11.60.210	Minor Revisions to Approved Landscape Plans
11.60.220	Certificate of Completion
11.60.230	Inspection and Enforcement
11.60.240	Maintenance of Approved Landscapes

11.60.010 Purpose and Intent.

The purpose of the Water Efficient Landscape and Conservation Ordinance is to:

A. Recognize that landscaping enhances the aesthetic appearance of developments and communities;

B. Support the beneficial, efficient, and responsible use of water resources for all customers/users within the City of Montclair;

C. Retain the land's natural hydrological role within the Santa Ana Watershed and promote the infiltration of surface water into the groundwater in the Chino Basin;

D. Acknowledge that landscape water use accounts for more than 60 percent of all domestic water use in the City of Montclair and the need to utilize water and other resources as efficiently as possible;

E. Promote the use of low-water-use plants and minimize the use of cool season turf;

F. Preserve existing natural vegetation and the incorporation of native plants, plant communities, and ecosystems into landscape design, where possible;

G. Conserve potable water by maximizing the use of recycled water and other water conserving technology for appropriate applications;

H. Encourage the appropriate design, installation, maintenance, and management of landscapes so that water demand can be decreased, runoff can be retained, and flooding can be reduced without a decline in the quality or quantity of landscapes;

I. Increase public education about water conservation and efficient water management;

J. Reduce or eliminate water waste;

K. Be at least as effective in conserving water as the model ordinance adopted pursuant to Government Code §65595, commonly known as Assembly Bill 1881.

11.60.020 Authority.

The Director of Community Development or his/her designee shall have the duty and authority to administer and enforce the provisions of this Ordinance. For projects requiring Planning Commission or City Council review and approval, additional conditions may be imposed as may be deemed necessary in order to fully carry out the provisions and intent of this ordinance.

No building permits or design approval shall be granted for projects subject to this Ordinance without prior review and approval of the Landscaping Documentation Package as required herein.

11.60.030 Applicability.

After [date of adoption], 2010, the provisions of this Chapter shall apply to all of the following types of landscape projects:

A. New construction and rehabilitated landscape areas associated with all public agency projects; private commercial, industrial, and institutional projects; and developer-initiated single-family subdivisions and multifamily residential projects that require a building permit and/or design review *and* have a net aggregate project landscape area equal to or greater than a total of 2,500 square feet.

B. New construction and rehabilitated residential landscape areas associated with a homeowner-installed project (do-it-yourself or contractor projects) that require a building permit *and* have a total net aggregate project landscape area equal to or greater than 5,000 square feet.

11.60.040 Exemptions.

This ordinance shall not apply to:

A. Existing landscapes installed before the effective date of this ordinance. Voluntary upgrades of existing landscaping to meet the General Requirements for all Properties as listed in this Chapter are strongly encouraged.

B. Registered local, state, or federal historical sites;

C. Ecological restoration projects that do not require a permanent irrigation system;

D. Mined land reclamation projects that do not require a permanent irrigation system; or

E. Botanical gardens and arboretums open to the public.

11.60.050 General Landscape Requirements For All Properties.

Landscaping shall be required for all residential, commercial, and industrial properties. It shall be the responsibility of the Planning Division to regulate and control the scope, quantity, and quality of all landscape development within the City, including, but not limited to street trees, open areas, parking lots, City parkways, front and street side yards, residential tract entries, and establish criteria for hardscape elements such as walls and fences.

The following landscape standards and requirements shall be used when preparing new landscape plans development projects within the City including modifications to existing planned development(s):

A. A landscape design plan shall illustrate a recognizable pattern or theme for the overall improvement of the property and shall incorporate basic design principles of scale, balance, texture, form, and unity. Creativity is encouraged in the preparation of landscape schemes so long as the designs are attractive, easy to maintain, and promote water conservation.

B. Each landscape plan shall address functional aspects of landscaping, including, but not limited to, the following:

1. Drainage, erosion prevention, and wind barriers

2. Slope protection. Any disturbed slopes to be revegetated with erosion protective plantings and surfacing

3. Provision for shade, reduction of glare, recreation use, and visual relief

4. Screen adjacent uses from parking or storage areas, trash enclosures, public utilities, and other similar land uses or elements that could cause a negative impact on adjacent uses based on aesthetics, noise, odors, etc.

5. Provide landscaping that is compatible with the neighboring uses

6. Relieve solid, unbroken building elevations and/or to soften the appearance of continuous wall planes

7. Specify vines or planted wall coverings to deter graffiti of walls and other architectural surfaces.

C. Landscaping plans shall feature the predominate use of water saving plant materials suitable to the local climate that are grouped together into distinct hydrozones (plants having similar water needs and microclimate growing requirements), and be of a variety that will provide a high degree of visual interest during all seasons.

D. Concrete and/or asphalt pavement surfaces may not be used within landscape areas, except for required driveways and walkways.

E. Softscape: Plant materials—including vines, shrubs, perennials, ornamental grasses, turf, and groundcover plants—shall comprise a minimum of

50 percent of the landscape area of the front and street side yard areas. Turf grasses may not comprise more than 50 percent of the living plant materials used within any required front and street side yard landscape areas.

F. Decorative hardscape elements may not exceed a maximum of 50 percent of a required front and street side yard landscape area. Decorative hardscape elements include appropriately sized fountains or boulders, river rock, cobbles, crushed rock, gravel, organic mulches, walks, decorative pavers, and artificial turf which complement living plant materials, enhances the appearance of the property and structures built thereon, and an integral part of an overall landscape concept.

G. Clear Vision Triangle: On all corner lots, in zones with a required front yard, this triangle is defined as an area bounded by the front and side property lines and a line connecting them at two (2) points thirty feet (30') back from their intersection. Within this triangle, no plant material or structure may exceed three feet (3') in height, measured from top of the adjacent curb.

H. Painted surfaces or use of artificial plants, except synthetic turf as allowed by this Ordinance, shall not be permitted under any circumstances.

I. Existing healthy and mature trees shall be preserved or relocated elsewhere on the site, wherever feasible.

J. Landscaping shall be compatible with the character of landscaping on adjacent property, provided that the quality of the adjacent landscape meets the standards of this Chapter. It is not the intent of this section to require the use of identical plant materials or landscape designs.

K. All landscaped areas shall be supported by an automatic irrigation system and a backflow prevention assembly according to standard details adopted by the City. All irrigation systems and landscaped areas shall be designed, constructed, and maintained so as to promote water conservation, avoid overspray onto walls and structures, and to prevent water overflow or seepage onto the street, sidewalk, parking areas, or other nonpervious areas to the maximum extent feasible.

L. All aboveground irrigation devices, such as timers, Fire Department connections (FDC), double detector check valves (DDC), backflow devices, etc., shall be incorporated into planting areas and located out of public view or screened to minimize the aesthetic impacts to the greatest extent possible. For FDC and DDC devices, the applicant shall consult with the local water purveyor and/or Fire Department to verify technical requirements and to find the least prominent location(s) possible.

M. Each landscape plan shall demonstrate a concern for solar access, including exposure and shading of window areas.

N. Property owners shall be responsible for regularly maintaining all landscaping in a healthy and vigorous living condition at all times. This requirement shall include proper pruning, mowing of lawns, weeding, removal of litter and debris, 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.

O. In addition to conforming to this Chapter, all landscaping shall also conform to the specific landscape requirements contained in all other applicable Code sections. If a discrepancy arises between any landscape requirements, the section requiring the most landscaping and stricter design criteria shall apply.

11.60.060 Fences, Walls, and Retaining Walls.

Fence, wall, and retaining wall materials height and placement are regulated by the provisions of Title 11 herein and require a building permit. Scaled construction plans and details—including dimensions, materials, and finishes—shall be provided for fences and walls including a site plan that shows the location, height, and length of each fence, wall, and retaining wall. No permits shall be issued if this information is not provided or if the information provided is incomplete.

11.60.070 Parkway Standards.

Property owners shall properly landscape, irrigate and maintain City parkways adjacent to and/or fronting their properties. All work within City parkways shall be reviewed and approved by the City and, depending on the scope of work occurring within the parkway, an Encroachment Permit or Construction Permit may be required.

The following minimum guidelines shall apply to landscaping and improvements within parkway planters:

A. Use of a parkway shall be limited to landscaping. At least 75 percent of a curb-adjacent parkway shall be devoted to plant materials and appropriate organic mulching materials. For noncurb adjacent parkways, landscaping shall be provided and incorporated into the landscaping scheme of the adjoining front or street yard area.

B. The placement of any plant materials, hardscape, or structures within a curb adjacent parkway shall not obstruct car doors from opening and/or the ability of passengers to safely exit from parked vehicles.

C. New plant materials installed within the parkway shall be water efficient plants that grow to a maximum height of 18 inches or less. The replacement of turf in the parkway with new water conserving plant materials is greatly encouraged.

D. No structures shall be allowed in parkways, except for mailboxes when required by the US Postal Service (USPS), or other utility structures as approved by the City Engineer.

1. Mail boxes shall be subject to USPS standards, and of a size that is limited to the smallest size necessary to safely secure the mail box and not obstruct visibility. Mail boxes shall not protrude beyond back of curb.

2. Mailbox structures shall be designed to be compatible with the design of the main structure it serves.

E. Parkway improvements shall not interfere with above- or belowground public or private utilities. Any changes or damages to any public or private utility caused by the installation shall be repaired at the sole expense of the property owner.

F. Only street trees listed on the official City Street Tree List shall be planted within the parkway. City street trees shall not be pruned, removed or damaged in any way. Removed or damaged trees shall be replaced with trees of similar size and maturity as that which was removed or as otherwise required by the Community Development Director.

G. No cacti, thorny plants, or other hazardous plant species shall be allowed.

H. The growing of crops, fruit-bearing trees, or vegetables shall not be permitted.

I. All rock/stones, bark and mulch shall be no higher than the plane established by the top of the adjacent curb and the sidewalk. Grouted rock or stonework shall be subject to review and approval of the City Engineer.

J. Only natural earth tone colors will be permitted for mulch, stones, or rocks and shall be subject to review and approval by the Community Development Director and the City Engineer.

K. Proper maintenance of parkways shall be the sole responsibility of the adjacent property owner at all times and at no expense to the City of Montclair.

11.60.080 Review Process.

The review of all landscaping projects subject to the provisions of this Chapter shall be performed by the Community Development Department pursuant to its general development review process for projects within the City as specified in Chapters 11.06 and 11.80. Landscaping may be reviewed as an individual project or as part of a larger development review submittal, whichever applies.

A. Submittal - Prior to issuance of a building permit or approval of an entitlement where landscaping is required, the project applicant shall submit a Landscape Documentation Package to the City for review and approval. The Landscape Documentation Package shall contain the information required by Section 11.60.110 herein.

The Landscape Documentation Package shall include certification indicating that the Landscape Concept Plan and water use calculations have been prepared by or under the supervision of a California licensed landscape architect and are certified to be in compliance with the provisions of this Chapter.

B. Review for Compliance - Landscape Documentation Package will be reviewed for completeness and compliance with the requirements of this Chapter. Water use calculations shall be consistent with calculations contained herein and shall be provided to the local water purveyor, as appropriate, under procedures determined by the City.

Following a review of the Landscape Documentation Package, the City will approve the Landscape Documentation Package if it is complete and in compliance with the requirements of this Chapter and will issue a permit, approve a plan check, or proceed to obtain formal project design review and approval from the Planning Commission or City Council. If the Landscape Documentation Package is not complete or not in compliance with the requirements of this Chapter, it will be returned to the applicant for required corrections. Failure to comply with the requirements of this Chapter shall be grounds for denial of the project.

C. Design Approval - A Landscape Documentation Package shall be approved when the Community Development Director verifies that the proposed Landscape Concept Plan for the project complies with the provisions of this Chapter, other applicable provisions of this code, and when any applicable land use permit or other entitlement requirements have been fulfilled. A copy of the approved plan will be kept on file in order to use at a later date to ensure that the plan was implemented as permitted and maintained as required.

D. Plan Check - When a Landscape Documentation Package has been approved by the Community Development Director, it shall be submitted to the Building Division and/or City Engineer for plan check review and subsequent issuance of required permits. Plans submitted for plan check review shall be

shall be consistent with and in compliance with the approved Landscape Documentation Package for a project.

E. Inspection Prior to Occupancy - Prior to the issuance of a Certificate of Occupancy or a final approval of a building permit, a field inspection requested by the owner must be conducted by the City to determine that materials have been installed in accordance with the approved Landscape Concept Plan.

F. Verification - Verification of compliance of the landscape installation with the approved plans shall be obtained through a *Certification of Completion* in conjunction with a Certificate of Occupancy or final permit approval process. The Landscape Architect shall submit, prior to issuance of a Certificate of Occupancy or final approval inspection, a sealed letter of concurrence certifying that the project has been implemented in accordance with the approved plans signed and sealed by the landscape architect.

Any as-built changes made during construction and approved by the landscape architect must be noted in digital and conventional drawings delivered to the Director with the written letter of certification. This certification does not make the landscape architect responsible for the success of the project, responsible for required maintenance, or responsible for the long-term survivability of the living materials used in the project.

11.60.090 Landscape Architect Required.

All landscape plans for landscaping projects subject to the provisions of this Chapter shall be prepared by a licensed landscape architect and bear the official seal and signature of the landscape architect responsible for their preparation.

11.60.100 Plan Readability and Enforceability.

The landscape plan is a legal document that is binding on the developer or owner, successors, and assigns. The landscape plan is a commitment to quality and is a long-term maintenance agreement. Therefore, the plans must be complete and legible and will not be accepted if information is illegible or missing.

11.60.110 Landscape Documentation Package.

Projects subject to the provisions of this Chapter shall be required to provide a complete Landscape Documentation Package meeting the intent and design criteria of this Chapter. The Landscape Documentation Package shall include the following items:

A. Development Review Application accompanied by the associated fee.

B. Landscape Concept Plan.

C. Water Budget.

D. Landscape Construction Drawings (including a grading plan, irrigation plan, plant plan).

E. Soils Test presenting laboratory analysis of soil samples and recommendations; and

F. Approved Water Quality Management Plan (WQMP).

11.60.120 Landscape Concept Plan Requirements.

The Landscape Concept Plan shall be prepared by a licensed landscape architect. Any documentation packages submitted without the signature of a

licensed landscape architect shall not be accepted for review. The Landscape Concept Plan shall include the following elements:

A. Design Statement and Concept. The design statement and concept plan shall demonstrate awareness of the water conservation goals and design standards and specifications contained in this Chapter.

B. Landscape Site Plan. The landscape site plan shall be drawn to scale, fully dimensioned and detailed, and shall include the following information:

1. A north arrow, scale, site boundaries, calculation of the total landscape area, identification of topographic features on and adjacent to the site, approximate slope percentages, and solar exposure.

2. Location of all buildings, parking areas, and any other physical structures/improvements on the project site including fences and walls, light fixtures, meters and utility boxes, transformers, fire equipment, other ground mounted equipment, etc.

3. Proposed hydrozones, plant palette (with botanic and common names), and planting notes (*i.e.*, number and size of plants, planting distances, etc.).

4. Location of existing plant materials to be preserved (including street trees) on the site.

5. Tree staking, plant installation, soil preparation details, and other applicable planting and installation details.

6. Any Water Quality Management Plan requirement as it relates to landscape design.

7. Any other such information that may be required by the Community Development Director that is reasonable and necessary to determine that the landscape design plan meets the requirements of this Chapter.

C. Plant Selection and Grouping Criteria. The following criteria shall be considered in selecting plants and for plan preparation:

1. Unless otherwise prohibited by this Chapter or the Montclair Municipal Code, any plant may be used in the landscape plan if the EAWU (Estimated Annual Applied Water Use) does not exceed the MAWA (Maximum Annual Water Allowance).

2. Select plants based upon their adaptability to the climate, geologic, and topographical conditions of the site. The use of long-lived drought tolerant or native and/or regionally grown plant species are recommended to meet MAWA limits. A water-efficient landscape material list meeting these criteria is on file with the Community Development Department.

3. Short-lived annual or exotic plant species may be utilized in moderation as a supplement to the long-lived materials.

4. Group plants having similar water needs together in distinct hydrozones.

5. Protect and preserve existing native species, particularly healthy trees and natural areas whenever feasible.

D. Minimum Plant Quantities and Sizes:

1. Street Trees: All Street Tree selections shall be consistent with the Approved Street Tree Plan. Ultimate placement and spacing will depend on tree species, parkway width, existing in-ground or overhead utility poles and wires, and/or any other extraordinary field condition as determined by the Community Development Director.

a. For residential properties: a minimum of 1 (one) street tree per street frontage and/or 2 street trees for every corner lot. Minimum tree size shall be 24-inch box size.

b. For nonresidential properties: A minimum of one 24-inch box size street tree shall be planted per property street frontage, spaced at 35 feet on center, or as otherwise specified by the Community Development Director.

2. Trees: A minimum of one 15-gallon-sized tree shall be planted for every 300 square feet of landscaped area on the property.

a. One tree or 20 percent of the required number of trees (whichever is greatest) shall be in a minimum box size of 24 inches.

b. Required trees may be located anywhere within the street yard planting area at least 5 feet away from adjacent public sidewalks.

3. Shrubs: A minimum of one shrub shall be planted for each 25 square feet of front and street corner side yard areas. Minimum shrub size at installation shall be 5-gallon size or 1-gallon size for California Native shrubs.

4. Groundcovers: Ground covers shall be installed in all landscaped areas at a quantity and spacing distance that will achieve at least 80 percent coverage within one (1) year from the date of planting.

5. Turf: Minimize the use of turf. Where turf is installed, the following standards shall be considered:

a. Turf areas shall be used wisely in response to functional needs and shall not exceed the MAWA.

b. Use of warm-season turf is strongly encouraged.

c. Limit the use of turf to high use areas or for specific recreational uses.

d. Turf shall not be permitted on slopes greater than 4:1.

e. All turf areas shall be separated from other landscaped areas by concrete curbing, redwood header board, or other acceptable and durable material.

f. Use of turf within parking area landscape islands is strongly discouraged. In no case shall turf be allowed in any landscaping islands or planters with less than an 8-foot dimension in any direction

6. Avoid use of invasive species of plants especially near parks, buffers, greenbelts, water bodies, and open spaces because of their potential to cause harm in sensitive areas.

7. Use organic mulch within developed landscapes to retain moisture. At least two inches of mulch shall be used in all nonturf planting areas and slopes of 4:1 or greater. For slopes of 4:1 or greater, jute netting or other slope stabilization measures shall be required.

E. Water Features:

1. Recirculating water systems shall be used for decorative water features.

2. Where available, recycled water shall be used as the source for water features (excluding swimming pools and spas).

3. The surface area of a water feature shall be included in the MAWA calculation with the evaporation rate being equivalent to that of a high-water-use plant.

11.60.130 Synthetic Turf.

Synthetic turf may be incorporated as an element of a landscaping plan as a substitute for natural turf and for the purposes of water conservation. The

Community Development Director shall review and approve all requests to install synthetic turf subject to the following criteria:

A. Synthetic turf shall consist of lifelike individual blades of grass that emulate real grass in look and color and have a minimum pile height of 1 1/2 inches. The use of indoor or outdoor plastic or nylon carpeting as a substitute for artificial turf or natural turf is prohibited.

B. Synthetic turf shall be limited to a maximum of 50 percent of the of the landscape area visible to a public street, and shall be permitted only in combination with other live plant materials (*i.e.*, trees, shrubs, and groundcover) that are designed to achieve an overall natural landscaped appearance for the property.

C. In no case shall synthetic turf be used in combination with natural turf in the same landscape area, or in a landscaping scheme where both elements can be viewed together.

D. Proper drainage shall be provided for all synthetic turf installations to prevent excess runoff or pooling of water. In some cases, a drainage plan prepared by a Registered Civil Engineer may be required.

E. Synthetic turf shall be professionally installed and routinely maintained to effectively simulate the appearance of a well-maintained live lawn. The turf shall be maintained in a green fadeless condition and shall be maintained free of weeds, debris, tears, holes, and impressions.

F. Synthetic turf shall not be included as part of the landscape area when calculating the MAWA.

11.60.140 Development of a Water Budget.

To promote water conservation, projects subject to this ordinance shall develop a water budget. The water budget is based on the Maximum Applied Water Allowance (MAWA), which is a calculation of the maximum amount of water allowed to be used within the landscape area, and the Estimated Applied Water Use (EAWU), which is the actual amount of water to be used within the landscape area. The EAWU cannot exceed the MAWA.

A. Maximum Applied Water Allowance (MAWA). A landscape's maximum applied water allowance shall be calculated using the following formula:

MAWA = (ETo) (0.7) (LA) (0.62)

Where:

ETo = Evapotranspiration Rate
0.7 = Evapotranspiration (ET) Adjustment Factor
LA = Landscape Area
0.62 = Conversion factor (to gallons)

For special landscape areas, the ET adjustment factor is 1.0. When the project area consists of both standard and special landscape areas, calculate each area separately and combine to receive a final MAWA.

B. Estimated Applied Water Use (EAWU): A landscape's Estimated Applied Water Use shall be calculated using the following formula:

Where:

ETo = Evapotranspiration Rate
0.62 = Conversion factor (to gallons)
PF = Plant Factor
HA = Hydrozone area (square feet)
0.71 = Irrigation efficiency
SLA = Special Landscape Area (square feet)

C. Water Budget Calculations. All water budget calculations shall adhere to the following requirements:

1. The plant factor used shall be from "Water Use Classification of Landscape Species" (WUCOLS). Plant factor ranges from 0.0 to 0.3 for low-water-use plants, from 0.4 to 0.6 for moderate-water-use plants and from 0.7 to 1.0 for high-water-use plants.
2. All water features shall be included in the high water use hydrozone and temporarily irrigated areas shall be included in the low water use hydrozone.

11.60.150 Landscape Construction Plans.

A. Grading Plan - Grading onsite shall be designed to minimize unnecessary soil compaction, erosion, and water waste. Grading plans must satisfy City grading ordinances and be submitted as part of the Landscape Documentation Package. The grading plan shall include the following information:

1. Locations of all physical improvements on the site, including buildings/ structures, paving, curbing, walls/fences, etc., with grade elevations noted.
2. All cut-and-fill slopes indicated with appropriate symbols and noting slope ratios.
3. Sufficient information about the grades of adjacent properties and streets so as to make clear the relationship of the subject property to the adjacent properties.
4. Drainage patterns and improvements.
5. Erosion and sediment control measures for all phases of the construction project.

B. Soil Testing - Soil testing shall be performed after mass grading, but prior to landscape installation, to ensure the selection of appropriate plant material that is suitable for the site and reported in a Soil Management Plan. The Soil Management Plan shall include:

1. Determination of soil texture indicating the available water holding capacity.
2. An approximate soil infiltration rate as measured or derived from a soil texture/infiltration rate table. A range of infiltration rates shall be noted where appropriate.
3. Measure of pH and total soluble salts.
4. Recommended soil amendments.

C. Water Management Plan - A Water Management Plan shall be prepared and submitted as part of the Landscape Documentation Package in accordance

with the requirements of this Chapter. The Plan shall include the following information:

1. A description of the site conditions and the anticipated water requirements in inches per year, and water budget for the various hydrozones identified in the Landscape Concept Plan. The Water Management Plan shall include calculations demonstrating an overall water budget that requires no more irrigation than the 0.7 of the ET adjustment factor. This includes full calculations for both the MAWA and EAWU.
2. Identify the party(ies) responsible for implementation of the Water Management Plan.
3. Describe water delivery systems, including the type of irrigation system to be used, and water conservation methods to be applied.
4. Specify seasonal irrigation water schedules or procedures for programming proposed SMART controllers.
5. Provide a maintenance schedule for the ongoing operation and maintenance of the irrigation system.

11.60.160 Irrigation Requirements.

A. Irrigation Plan. The irrigation plan shall be prepared and submitted as part of the Landscape Documentation Package for review and approval. The plan shall use the same format and scale as the Landscape Concept Plan and shall include the following information:

1. The location and size of water meter(s) used for landscape irrigation purposes;
2. The location, type, and size of all components of the irrigation system including automatic controllers, main and lateral lines, valves, sprinkler heads, recycled water systems, moisture sensing devices, rain cutoff switches, quick couplers, and backflow prevention devices;
3. The static water pressure at the point of connection to the public water supply;
4. The flow rate (GPM), application rate/inches per hour (IPH), and design operating pressure (PSI) for each station.
5. An irrigation schedule that identifies the runtime (in minutes per cycle), number of cycles per day, and number of days per week.
6. The amount of applied water (in 100 cubic feet) recommended on a monthly and annual basis.
7. A regular maintenance schedule for checking, adjusting, and repairing irrigation equipment and resetting automatic controllers.

B. Irrigation System Design Criteria

1. Dedicated (*i.e.*, separate) landscape water meters shall be installed for all projects with landscape areas greater than 5,000 square feet, except for single-family residences. Dedicated landscape water meters are also highly recommended on landscape areas less than 5,000 square feet to facilitate water management.
2. Provide separate valves for each plant hydrozone. The planting areas shall be grouped and irrigated in relation to hydrozones based on similarity of water requirements (*i.e.*, turf separate from shrubs and groundcover, full sun exposure areas separate from shade areas, top of slope separate from toe of slope).

3. All irrigation systems shall be designed to prevent runoff, overspray, low-head drainage, and other similar conditions to the greatest extent practical. This can be accomplished through the use of low-trajectory spray nozzles to reduce the effect of wind velocity on the spray system and by placing sprinkler heads to reduce or eliminate direct overspray onto impervious areas.

4. Soil types and infiltration rates shall be considered when designing irrigation systems.

5. Irrigation systems shall be designed, constructed, managed, and maintained to achieve as high an overall efficiency as possible. For the purpose of determining the MAWA, irrigation efficiency is assumed to be 0.71. Irrigation systems shall be designed, maintained, and managed to meet or exceed 0.71 efficiency.

6. All irrigation systems shall include a SMART irrigation controller, or other equivalent technology which automatically adjusts the frequency and/or duration of irrigation events in response to changing weather conditions.

7. A rain sensor with an automatic rain shutoff feature shall be required as part of any irrigation system.

8. Sprinkler heads and emitters shall have consistent application rates within each control valve circuit. Sprinkler heads shall be selected for proper area coverage, application rate, operating pressure, adjustment capability, and ease of maintenance.

9. Soil moisture-sensing devices are recommended where appropriate.

10. Narrow or irregularly shaped areas, including turf, with a dimension of less than eight (8) feet in any direction, shall be irrigated with subsurface irrigation or other low volume irrigation technology.

11. Overhead irrigation shall not be permitted within 24 inches of any impervious surfaces. Allowable irrigation within the setback from impervious surfaces may include drip, drip line, or other low flow nonspray technology. The setback area may be planted or unplanted. The surfacing of the setback may be mulch, gravel, or other porous material. These restrictions may be modified if:

a. The landscape area is adjacent to pervious surfacing and no overspray and runoff occurs;

b. The adjacent impervious surfaces are designed and constructed to drain entirely to landscape areas; or

c. The irrigation designer specifies an alternative design or technology that will prevent overspray and runoff.

12. Nonturf areas on slopes greater than 25 percent shall be irrigated with drip irrigation or other low-volume irrigation technology.

13. An antidrain check valve(s) shall be installed to prevent low-head drainage in sprinkler heads.

14. A pressure regulator shall be installed when the static water pressure exceeds the maximum recommended operating pressure of the irrigation system.

C. Irrigation Maintenance

1. Landscape irrigation shall be maintained to ensure water efficiency. A regular maintenance schedule shall include, but not be limited to, checking, adjusting, and repairing irrigation equipment; resetting automatic controllers; aerating and dethatching turf areas; replenishing mulch; fertilizing; and pruning and weeding.

2. Repair of irrigation equipment shall be done with the originally specified materials or their equivalents.

11.60.170 Recycled Water.

A. The installation of recycled water irrigation systems (*i.e.*, dual distribution systems) shall be required to allow for the current and future use of recycled water, unless a written exemption by the Monte Vista Water District has been granted stating that recycled water will not be available in the foreseeable future.

B. The recycled water irrigation systems shall be designed and operated in accordance with all local agency, Monte Vista Water District, and State codes and regulations.

11.60.180 Water Quality Management Plan.

A Water Quality Management Plan (WQMP) combines practices into the landscape, irrigation, and grading design plans to minimize runoff and increase retention and infiltration, and is highly recommended onsite. Each project shall incorporate stormwater management practices into the project design that minimize runoff, increase onsite infiltration, and improve water quality as necessary to comply with applicable stormwater regulations.

A. Implementing stormwater Best Management Practices (BMPs) into the landscape, irrigation, and grading design plans to minimize runoff, and increase retention and infiltration are highly recommended onsite.

B. Prior to submitting an application for plans examination, grading permit or building permit, all qualifying land development/redevelopment projects shall submit and receive approval from the City for a WQMP. The WQMP shall identify all BMPs that will be incorporated into the project to control stormwater and nonstormwater pollutants during and after construction and shall be revised as necessary during the life of the project. The WQMP submittal applies to construction projects covered by the NPDES Permit and General Construction Permit as well as construction projects less than five (5) acres.

C. No Certificate of Occupancy shall be issued for a development/ redevelopment project without ensuring that all treatment control BMPs as specified in the approved WQMP will be maintained in compliance with the requirements of the municipal permit. To ensure maintenance of BMPs, the owner of the development site shall enter into a permanent storm water quality BMP maintenance agreement with the City and have the maintenance agreement recorded at the County of San Bernardino.

D. Project applicants shall refer to the local agency or Regional Water Quality Control Board for information on any stormwater ordinances and WQMPs.

11.60.190 Modification or Waiver from Specific Requirements.

The Community Development Director may administratively modify or waive one or more such requirements of this Chapter when practical difficulties make their strict application infeasible. The Community Development Director shall review the plans and a written detailed explanation of the reason(s) for the waiver request, and make a determination on the request based on both of the following findings:

A. Practical difficulties make the strict application of portions of the ordinance infeasible; and

B. The waiver is consistent with the purpose and intent of the Ordinance in that the project substantially achieves the overall objective of water conservation.

11.60.200 Coordination with Local Water Agency.

The City shall coordinate with the Monte Vista Water District in the review of Landscape Documentation Package, including assistance in the review of proposed water budgets for projects. Whenever feasible, the City shall seek District assistance in requiring dedicated irrigation meters for all new metered connections, in providing irrigation surveys and/or water use analyses to existing and new landscapes, in developing and distributing public information materials on water conservation, and in reviewing project applications for future recycled water usage potential and recycled water system design specifications. Whenever feasible, the City shall assist the District in enforcing applicable water waste prevention measures as established by District ordinances and/or resolutions.

11.60.210 Minor Revisions to Approved Landscape Plans.

Minor changes to approved landscape plans subject to this Ordinance may be approved by the Community Development Director, or designee, when there is:

A. No significant reduction in the quantity of plant materials.

B. No significant change in size or location of plant materials.

C. A lack of availability for specified plant materials and the new plants are of the same general category (*e.g.*, evergreen tree or shrub) and have the same general design characteristics as the materials being replaced.

D. No significant change in the approved irrigation plan or MAWA calculations.

11.60.220 Certificate of Completion.

A. Upon completion of the installation of landscaping and irrigation systems, a certified landscape irrigation auditor shall conduct an irrigation audit.

B. A licensed landscape architect or contractor, or other licensed or certified professional in a related field, shall conduct a final field inspection and shall prepare a Certificate of Completion, which shall be filed with the Community Development Director. The Certificate of Completion shall specifically indicate that plants were installed as specified by the landscape design plan, that the irrigation system was installed as specified by the irrigation design plan, and that an irrigation audit has been performed.

C. The Certificate of Completion shall include the following:

1. Date
2. Project name
3. Project applicant name, telephone, and mailing address
4. Project address and location
5. Property owner name, telephone, and mailing address
6. Certification by either the signer of the landscape design plan, the signer of the irrigation design plan, or the licensed landscape contractor that

the landscape project has been installed per the approved Landscape Documentation Package

7. Landscape and irrigation maintenance schedule
8. Irrigation Audit Report
9. Soil analysis report and documentation verifying implementation of soil report recommendations

11.60.230 Inspection and Enforcement.

Upon notice to the property owner, the Community Development Director, or his/her designee, shall have the right to enter the project site to conduct inspections for the purpose of enforcing this Ordinance before, during, and immediately after installation of the landscaping.

A. Any landscaping that is installed, constructed, altered, enlarged, converted, moved, or maintained contrary to the provisions of this Chapter, or failure to comply with any of the conditions of a permit or variance granted under this Chapter is declared to be unlawful. The City Attorney may initiate an action or proceeding to enforce the provisions of this Chapter, as appropriate.

B. A copy of the approved Landscape Documentation Package shall be submitted to the Monte Vista Water District. If the property is found to be in excess of its established MAWA, the property shall be subject to a landscape water audit conducted by the District or its designee and shall implement remedies recommended by the audit.

C. Landscaping found to be improperly installed or not according to approved plans is subject to correction. Installations deemed to be significantly different than approved may be required to resubmit plans for City review and approval including the payment of additional fees.

11.60.240 Maintenance of Approved Landscapes.

All landscaping and irrigation systems shall be maintained in accordance with the approved site and/or landscape plan to ensure water use efficiency. A regular maintenance schedule shall be submitted to the City with the Certificate of Completion and a copy shall be kept by the property owner for reference.

A. Any plant material that does not survive or which was removed or destroyed, shall be replaced upon its demise or removal, with plant material of like type and size as that which was originally approved and installed.

B. Plant material shall not be severely pruned such that the natural growth pattern or characteristic form are significantly altered. 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 as defined by this Ordinance, 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 the Community Development Director.

C. All landscape areas and material shall be maintained in a healthy, neat, clean, and weed-free condition.

D. Modifications to and/or removal of existing landscaping shall require prior approval by the Planning Division.

Section III. Severability.

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

Section 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. 10-913 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

AGENDA REPORT

SUBJECT:	CONSIDER APPROVAL OF THE CITY OF MONTCLAIR STATEMENT OF INVESTMENT POLICY FOR THE YEAR ENDING DECEMBER 31, 2010	**DATE:**	June 7, 2010
		SECTION:	ADMIN. REPORTS
		ITEM NO.:	2
		FILE I.D.:	FIN370
BUSINESS PLAN:	N/A	**DEPT.:**	ADMIN. SVCS.

REASON FOR CONSIDERATION: The City Council is requested to consider approval of the City of Montclair Statement of Investment Policy for the Year Ending December 31, 2010. The Statement of Investment Policy is attached for consideration by the City Council.

BACKGROUND: The City of Montclair Statement of Investment Policy for calendar year 2010 outlines the following:

- The Treasurer's authority to invest surplus moneys
- The criteria for investment selection
- The permissible investment media as set forth in Government Code Section 53635
- Internal control procedures
- The City's investment strategy for 2010

The Policy is submitted to the City Council in accordance with Government Code Section 53646—Section 53646 was added to the Government Code as a result of the 1995 Orange County bankruptcy.

In addition to an annual investment policy, the Treasurer or his designee may issue a quarterly report to the City Council that provides specifics of the investment activity during the period covered, a statement of compliance with the investment policy, and a statement denoting the City's ability to meet its expenditure requirements during the next six months.

Beginning in calendar year 2001, Assembly Bill 943 added a requirement that each city must semiannually submit a copy of its investment report to the State Treasurer. AB 943 also requires each city to annually submit a copy of its investment policy to the State Treasurer. The Statement of Investment Policy for 2010, in all important respects, is identical to last year's policy approved by the City Council during April 2009.

Prepared by: _____ Reviewed and Approved by: _____

Proofed by: Kathy Dalton Presented by: _____

Prior to 2006, Government Code Section 53646 required municipalities to annually review and approve, at a public meeting, their investment policies and present quarterly reports to their respective legislative bodies. As part of the reform of the State Mandate Reimbursement Program, these two requirements were changed to become optional and, thus, ineligible for state mandate reimbursement by simply changing the word "shall" to "may" as demonstrated below:

- "In the case of any other local agency, the treasurer or chief fiscal officer of the local agency *may* annually render to the legislative body of that local agency and any oversight committee of that local agency a statement of investment policy, which the legislative body of the local agency shall consider at a public meeting."

- "The treasurer or chief fiscal officer *may* render a quarterly report to the chief executive officer, the internal auditor, and the legislative body of the local agency."

The State Legislature encourages city officials to continue taking the actions formerly mandated by Government Code Section 53646 in recognition of state and local interests.

It is important to note a recent change to Section 53646 of the Government Code: The requirement that the City must continue with semiannual submission of the investment report and annual submission of the investment policy as required by AB 943 was deleted from this Section.

FISCAL IMPACT: Approval of the City of Montclair Statement of Investment Policy for the Year Ending December 31, 2010, would create no fiscal impact to the City's General Fund.

RECOMMENDATION: Staff recommends the City Council approve the City of Montclair Statement of Investment Policy for the Year Ending December 31, 2010.

MONTCLAIR

CITY OF MONTCLAIR

Statement of Investment Policy for the Year Ending December 31, 2010

I. PURPOSE

The purpose of this investment policy is as follows: (1) to fix the responsibility for investing surplus moneys with the City Treasurer and his designee; (2) to establish criteria for selecting investments; (3) to outline investment media in which a local agency may invest its surplus money; (4) to establish internal control procedures to assure the investment program is operated in a safe and prudent manner; and (5) to set forth the investment strategy for calendar year 2010.

II. SCOPE

It is intended that this policy cover all funds and investment activities under the direct authority of the City of Montclair.

III. TREASURER'S AUTHORITY TO INVEST SURPLUS MONEYS

It is the responsibility of the City Treasurer and his designee, the Assistant Finance Director, to invest the City's surplus moneys. Government Code Section 53607 enables a city council to delegate its responsibility to invest surplus moneys to the treasurer, provided he submits to the council a monthly report of investment transactions (Treasurer's Report).

IV. PUBLIC TRUST

All participants in the investment process shall act as custodians of the public trust. The City Treasurer or his designee, the Assistant Finance Director, shall recognize that the investment portfolio is subject to public review and evaluation. The overall program shall be designed and managed with a degree of professionalism that is worthy of the public trust. In a diversified portfolio it must be recognized that occasional measured losses are inevitable, and must be considered within the context of the overall portfolio's investment return, provided that adequate diversification has been implemented.

V. PRUDENCE

The City of Montclair adheres to the guidance provided by the "prudent investor standard," which obligates a fiduciary to insure that all persons investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing public funds shall act with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent

person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the City.

VI. DIVERSIFICATION

The investment portfolio will be diversified to avoid incurring unreasonable and avoidable risks regarding specific security types or individual financial institutions.

VII. MARKET-AVERAGE RATE OF RETURN

The investment portfolio shall be designed to attain a market-average rate of return throughout budgetary and economic cycles, taking into account the City of Montclair's risk constraints, the cash flow characteristics of the portfolio, state and local laws, and Ordinances and Resolutions that restrict investments.

VIII. CRITERIA FOR INVESTMENT SELECTION

In accordance with Government Code Section 53600.5, the primary criteria, in priority of order, which investment decisions shall be based upon are as follows:

A. SAFETY: Safety of principal is the most important criteria of investment. Attention must be given to the continued solvency of financial institutions in which the City invests money. Also, investments in long-term securities must be considered from the standpoint of potential losses incurred upon sale of securities to meet operating needs.

B. LIQUIDITY: The City's investment portfolio will remain sufficiently liquid to meet all operating requirements that might be reasonably anticipated.

C. YIELD (RETURN ON INVESTMENT): Investments should be made with the objective of maximizing the rate of return consistent with safety and liquidity requirements.

IX. PERMISSIBLE INVESTMENTS

Government Code Section 53635 authorizes a local agency to deposit a portion or all of its moneys in state or national banks, savings associations or federal associations, credit unions, or any federally insured industrial loan company in this state. Also, Code Section 53635 enumerates investment media in which a local agency may invest its surplus moneys pursuant to Code Section 53601. The following list of permissible investment media is verbatim from Government Code Section 53601:

A. Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the local agency or by a department, board, agency, or authority of the local agency.

B. United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

C. Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the state or by a department, board, agency, or authority of the state.

D. Registered Treasury notes or bonds of any of the other 49 United States in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 United States, in addition to California.

E. Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency or by a department, board, agency, or authority of the local agency.

F. Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises.

G. Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as banker's acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of banker's acceptances may not exceed 180 days maturity or 40 percent of the agency's surplus funds, which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the banker's acceptances of any one commercial bank pursuant to this section.

H. Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Nationally Recognized Statistical-Rating Organization (NRSRO). The entity that issues the commercial paper shall meet all of the following conditions in either Items 1 or 2:

1. The entity must be organized and operating in the United States as a general corporation having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, as provided for by a nationally recognized statistical-rating organization.

2. The entity must be organized within the United States as a special purpose corporation, trust, or limited liability company having programwide credit enhancements including, but not limited to, overcollaterization, letters of credit, or surety bond, and having commercial paper that is "A-1" or higher rating, or the equivalent, by a nationally recognized statistical-rating organization.

Purchases of eligible commercial paper may not exceed 270 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. No more than 40 percent of the agency's money may be invested in eligible commercial paper.

I. Negotiable certificates of deposit issued by a nationally or state-chartered bank or a savings association or federal association or a state or federal credit union or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money, which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposit do not come within Article 2 (commencing with Section 53630), except that the amount so invested shall be subject to the limitations of Section 53638. The legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or any person with investment decision-making authority in the administrative office, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee of the state or federal credit union issuing the negotiable certificates of deposit.

J. 1. Investments in repurchase agreements or reverse repurchase agreements or securities lending agreements of any securities authorized by this section, as long as the agreements are subject to this subsection including the delivery requirements specified in this section.

2. Investments in repurchase agreements may be made, on any investment authorized in this section, when the term of the

agreements does not exceed one year. The market value of securities that underlay a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities and the value shall be adjusted no less than quarterly.

3. Reverse repurchase agreements or securities lending agreements may be utilized only when all of the following conditions are met:

   (a) The security to be sold on reverse repurchase agreement or securities lending agreements has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale.

   (b) The total of all reverse repurchase agreements and securities lending agreement owned by the local agency does not exceed 20 percent of the base value of the portfolio.

   (c) The agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

   (d) Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty by way of a reverse repurchase agreement or securities lending agreement shall not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement or securities lending agreement, unless the reverse repurchase agreement or securities lending agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

4. (a) Investments in reverse repurchase agreements, securities lending agreements, or similar investments in which the local agency sells securities prior to purchase with a simultaneous agreement to repurchase the security may only be made upon prior approval of the governing body of the local agency and shall only be made with primary dealers of the Federal Reserve Bank

of New York or with a nationally or state-chartered bank that has or has had a significant banking relationship with a local agency.

(b) For purposes of this chapter, "significant banking relationship" means any of the following activities of a bank:

(i) Involvement in the creation, sale, purchase, or retirement of a local agency's bonds, warrants, notes, or other evidence of indebtedness.

(ii) Financing of a local agency's activities.

(iii) Acceptance of a local agency's securities or funds as deposits.

5. (a) "Repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty will deliver the underlying securities to the local agency by book entry, physical delivery, or by third party custodial agreement. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery.

(b) "Securities," for purpose of repurchase under this subsection, means securities of the same issuer, description, issue date, and maturity.

(c) "Reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase the securities on or before a specified date, and includes other comparable agreements.

(d) "Securities lending agreement" means an agreement under which a local agency agrees to transfer securities to a borrower who, in turn, agrees to provide collateral to the local agency. During the term of the agreement, both the securities and the collateral are held by a third party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

(e) For purposes of this section, the base value of the local agency's pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool

by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements, securities lending agreements, or other similar borrowing methods.

(f) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement and the earnings obtained on the reinvestment of the funds.

K. Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subsection shall be rated "A" or better by a nationally recognized rating service. Purchases of medium-term notes shall not include other instruments authorized by this section and may not exceed 30 percent of the agency's money that may be invested pursuant to this section.

L. 1. Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations as authorized by subsections A to K, inclusive, and subsections M to O, inclusive, and that comply with the investment restrictions of this article and Article 2 (commencing with Section 53630). However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement or securities lending agreement is not required to be a primary dealer of the Federal Reserve Bank of New York if the company's board of directors finds that the counterparty presents a minimal risk of default, and the value of the securities underlying a repurchase agreement or securities lending agreement may be 100 percent of the sales price if the securities are marked to market daily.

2. Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 *et seq.*).

3. If investment is in shares issued pursuant to Item 1, the company shall have met either of the following criteria:

(a) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(b) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations authorized by subsections A to K, inclusive, and subsections M to O, inclusive, and with assets under management in excess of five hundred million dollars ($500,000,000).

4. If investment is in shares issued pursuant to subsection 2, the company shall have met either of the following criteria:

(a) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(b) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars ($500,000,000).

5. The purchase price of shares of beneficial interest purchased pursuant to this subsection shall not include any commission that the companies may charge and shall not exceed 20 percent of the agency's money that may be invested pursuant to this section. However, no more than 10 percent of the agency's funds may be invested in shares of beneficial interest of any one mutual fund pursuant to Item 1.

M. Moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease installment sale, or other agreement, or to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

N. Notes, bonds, or other obligations that are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank that

is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.

O. Any mortgage pass-through security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable pass-through certificate, or consumer receivable-backed bond of a maximum of five years' maturity. Securities eligible for investment under this subsection shall be issued by an issuer having an "A" or higher rating for the issuer's debt as provided by a nationally recognized rating service and rated in a rating category of "AA" or its equivalent or better by a nationally recognized rating service. Purchase of securities authorized by this subsection may not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section.

P. Shares of beneficial interest issued by a joint powers authority organized pursuant to Section 6509.7 that invests in the securities and obligations authorized in subsections A to O, inclusive. Each share shall represent an equal proportional interest in the underlying pool of securities owned by the joint powers authority. To be eligible under this section, the joint powers authority issuing the shares shall have retained an investment adviser who meets all of the following criteria:

    1. The adviser is registered or exempt from registration with the Securities and Exchange Commission.

    2. The adviser has not less than five years of experience investing in the securities and obligations authorized in subsections A to O, inclusive.

    3. The adviser has assets under management in excess of five hundred million dollars ($500,000,000).

Government Code Section 16429.1 authorizes a local agency to deposit a portion or all of its surplus moneys in the Local Agency Investment Fund (LAIF). LAIF is an account established by the state that offers a local agency a safe highly liquid means to invest its surplus funds. Government Code Section 16430 limits LAIF to investing in securities, which are essentially the same as those prescribed in Section 53635 above. An agency may deposit $40,000,000 with LAIF and engage in 15 transactions per month.

X. INTERNAL CONTROL PROCEDURES

The following internal control procedures are established to assure that the investment program is operated in a safe and prudent manner. An employee of the City, other than the City Treasurer or his designee, will verify on a monthly basis to the City Council that all investment activity undertaken during the month has been conducted in compliance with the investment policy including the below internal control procedures.

A. SAFEKEEPING: Securities purchased from brokers/dealers must be held in a third-party custodial safekeeping account. The securities should be held in a manner that establishes the City's right of ownership.

B. CONFIRMATION: Confirmation receipts for purchase of authorized securities should include the following information: trade date, par value, maturity value, interest rate, price, settlement date, description of securities purchased, agency's name, net amount due, and third-party custodial information. The confirmation receipt must be issued by the third-party custodian and must be received by the City prior to remitting payment for the security.

C. PAYMENT: Payment for securities should be on a delivery versus payment (DVP) basis. This must be done via the City's third-party safekeeping agent. NOTE: Book entry is considered delivery.

D. WIRE TRANSFERS: All wire transfers for the purchase of securities should be initiated by the City Treasurer or his designee who is authorized to invest on behalf of the City. The bank document used to initiate a wire transfer must be approved by the employee responsible for monitoring compliance with internal control procedures prior to executing the wire transfer. NOTE: This procedure does not apply to deposits with the LAIF.

XI. BANKS AND SECURITIES DEALERS

In selecting financial institutions for the deposit or investment of the City of Montclair funds, the Treasurer or his designee, the Assistant Finance Director, shall consider the creditworthiness of institutions. The Treasurer and his designee, the Assistant Finance Director, shall continue to monitor financial institutions' credit characteristics and financial history throughout the period in which funds are deposited or invested.

XII. RISK TOLERANCE

The City of Montclair recognizes that investment risks can result from issuer defaults, market price changes, or various technical complica-

tions leading to temporary illiquidity. Portfolio diversification is employed as a way to control risk. The City Treasurer and his designee, the Assistant Finance Director, are expected to display prudence in the selection of securities, as a way to minimize default risk. No individual investment transaction shall be undertaken, which jeopardizes the total capital position of the overall portfolio. The Treasurer or his designee, the Assistant Finance Director, may periodically establish guidelines and strategies to control risks of default, market price changes, and illiquidity.

XIII. INVESTMENT STRATEGY FOR CALENDAR YEAR 2010

The City shall invest at least 15 percent of its surplus moneys to mature within one year. The moneys will be deposited in the LAIF, in certificates of deposit issued by banks and savings and loans in amounts which are fully insured by FDIC and invested in the securities discussed in subsections A through P of Section IX above, provided no moneys will be invested in reverse repurchase agreements, nor will any securities be purchased on margin. Further, pursuant to Government Code Section 53601.6, no moneys will be invested in inverse floaters, range notes, or interest-only strips that are derived from a pool of mortgages.

The City shall invest at least 50 percent of its surplus moneys, including the moneys invested pursuant to paragraph (1), in investment media with maturities no greater than three years. The investment restrictions outlined in paragraph (1) will apply to investments made in accordance with this paragraph.

The City may invest the balance of its surplus funds in any of the investment media set forth in paragraph (1), provided the investment has a maturity no greater than five years. The investment restrictions outlined in paragraph (1) will apply to investments made in accordance with this paragraph.

AGENDA REPORT

SUBJECT:	CONSIDER REDEVELOPMENT AGENCY BOARD OF DIRECTORS' APPROVAL OF THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY STATEMENT OF INVESTMENT POLICY FOR THE YEAR ENDING DECEMBER 31, 2010	**DATE:**	June 7, 2010
		SECTION:	ADMIN. REPORTS
		ITEM NO.:	3
		FILE I.D.:	FIN360
BUSINESS PLAN:	N/A	**DEPT.:**	REDEVELOPMENT

REASON FOR CONSIDERATION: The Redevelopment Agency Board of Directors is requested to consider approval of the City of Montclair Redevelopment Agency Statement of Investment Policy for the Year Ending December 31, 2010. The Statement of Investment Policy is attached for consideration by the Redevelopment Agency Board of Directors.

BACKGROUND: The Redevelopment Agency Statement of Investment Policy for calendar year 2010 outlines the following:

- The Treasurer's authority to invest surplus moneys
- The criteria for investment selection
- The permissible investment media as set forth in Government Code Section 53635
- Internal control procedures
- The Agency's investment strategy for 2010

The Policy is submitted to the Redevelopment Agency Board of Directors in accordance with Government Code Section 53646—Section 53646 was added to the Government Code as a result of the 1995 Orange County bankruptcy.

In addition to an annual investment policy, the Treasurer or his designee may issue a quarterly report to the Redevelopment Agency Board of Directors that provides specifics of the investment activity during the period covered, a statement of compliance with the investment policy, and a statement denoting the Agency's ability to meet its expenditure requirements during the next six months.

Beginning in calendar year 2001, Assembly Bill 943 added a requirement that each municipal governing board must semiannually submit a copy of its investment report to the State Treasurer. AB 943 also requires each municipal governing board to annually submit a

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

copy of its investment policy to the State Treasurer. The Statement of Investment Policy for 2010, in all important respects, is identical to last year's policy approved by the Redevelopment Agency Board of Directors during April 2009.

Prior to 2006, Government Code Section 53646 required municipal governing boards to annually review and approve, at a public meeting, their investment policies and present quarterly reports to their respective legislative bodies. As part of the reform of the State Mandate Reimbursement Program, these two requirements were changed to become optional and, thus, ineligible for state mandate reimbursement by simply changing the word "shall" to "may" as demonstrated below:

- "In the case of any other local agency, the treasurer or chief fiscal officer of the local agency *may* annually render to the legislative body of that local agency and any oversight committee of that local agency a statement of investment policy, which the legislative body of the local agency shall consider at a public meeting."

- "The treasurer or chief fiscal officer *may* render a quarterly report to the chief executive officer, the internal auditor, and the legislative body of the local agency."

The State Legislature encourages local agency officials to continue taking the actions formerly mandated by Government Code Section 53646 in recognition of state and local interests.

It is important to note a recent change to Section 53646 of the Government Code: The requirement that the Agency must continue with semiannual submission of the investment report and annual submission of the investment policy as required by AB 943 was deleted from this Section.

FISCAL IMPACT: Approval of the City of Montclair Redevelopment Agency Statement of Investment Policy for the Year Ending December 31, 2010, would create no fiscal impact for the Agency.

RECOMMENDATION: Staff recommends the Redevelopment Agency Board of Directors approve the City of Montclair Redevelopment Agency Statement of Investment Policy for the Year Ending December 31, 2010.

MONTCLAIR

CITY OF MONTCLAIR REDEVELOPMENT AGENCY

Statement of Investment Policy for the Year Ending December 31, 2010

I. PURPOSE

The purpose of this investment policy is as follows: (1) to fix the responsibility for investing surplus moneys with the Agency Treasurer and his designee; (2) to establish criteria for selecting investments; (3) to outline investment media in which a local agency may invest its surplus money; (4) to establish internal control procedures to assure the investment program is operated in a safe and prudent manner; and (5) to set forth the investment strategy for calendar year 2010.

II. SCOPE

It is intended that this policy cover all funds and investment activities under the direct authority of the Montclair Redevelopment Agency.

III. TREASURER'S AUTHORITY TO INVEST SURPLUS MONEYS

It is the responsibility of the Agency Treasurer and his designee, the Assistant Finance Director, to invest the Agency's surplus moneys. Government Code Section 53607 enables a legislative body to delegate its responsibility to invest surplus moneys to the treasurer, provided he submits to the legislative body a monthly report of investment transactions.

IV. PUBLIC TRUST

All participants in the investment process shall act as custodians of the public trust. The Agency Treasurer or his designee, the Assistant Finance Director, shall recognize that the investment portfolio is subject to public review and evaluation. The overall program shall be designed and managed with a degree of professionalism that is worthy of the public trust. In a diversified portfolio it must be recognized that occasional measured losses are inevitable, and must be considered within the context of the overall portfolio's investment return, provided that adequate diversification has been implemented.

V. PRUDENCE

The City of Montclair Redevelopment Agency adheres to the guidance provided by the "prudent investor standard," which obligates a fiduciary to insure that all persons investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing public funds shall act with care, skill,

prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the Agency.

VI. DIVERSIFICATION

The investment portfolio will be diversified to avoid incurring unreasonable and avoidable risks regarding specific security types or individual financial institutions.

VII. MARKET-AVERAGE RATE OF RETURN

The investment portfolio shall be designed to attain a market-average rate of return throughout budgetary and economic cycles, taking into account the Montclair Redevelopment Agency risk constraints, the cash flow characteristics of the portfolio, state and local laws, and ordinances and resolutions that restrict investments.

VIII. CRITERIA FOR INVESTMENT SELECTION

In accordance with Government Code Section 53600.5, the primary criteria, in priority of order, which investment decisions shall be based upon are as follows:

A. SAFETY: Safety of principal is the most important criteria of investment. Attention must be given to the continued solvency of financial institutions in which the Agency invests money.

B. LIQUIDITY: The Agency's investment portfolio will remain sufficiently liquid to meet all operating requirements that might be reasonably anticipated.

C. YIELD (RETURN ON INVESTMENT): Investments should be made with the objective of maximizing the rate of return consistent with safety and liquidity requirements.

IX. PERMISSIBLE INVESTMENTS

Government Code Section 53635 authorizes a local agency to deposit a portion or all of its moneys in state or national banks, savings associations and federal associations, credit unions, or any federally insured industrial loan company in this state. Also, Code Section 53635 enumerates investment media in which a local agency may invest its surplus moneys pursuant to Code Section 53601. The following list of permissible investment media is verbatim from Government Code Section 53601:

A. Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property owned,

controlled or operated by the local agency or by a department, board, agency or authority of the local agency.

B. United States Treasury notes, bonds, bills or certificates of indebtedness or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

C. Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the state or by a department, board, agency or authority of the state.

D. Registered treasury notes or bonds of any of the other 49 United States in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency or authority of any of the other 49 United States, in addition to California.

E. Bonds, notes, warrants or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the local agency or by a department, board, agency or authority of the local agency.

F. Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises.

G. Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as banker's acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of banker's acceptances may not exceed 180 days maturity or 40 percent of the agency's surplus funds, which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the banker's acceptances of any one commercial bank pursuant to this section.

H. Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Nationally Recognized Statistical-Rating Organization (NRSRO). The entity that issues the commercial paper shall meet all of the following conditions in either Items 1 or 2:

   1. The entity must be organized and operating in the United States as a general corporation having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debt, other than

commercial paper, as provided for by a nationally recognized statistical-rating organization.

2. The entity must be organized within the United States as a special purpose corporation, trust, or limited liability company having programwide credit enhancements including, but not limited to, overcollaterization, letters of credit, or surety bond, and having commercial paper that is "A-1" or higher rating, or the equivalent, by a nationally recognized statistical-rating organization.

Purchases of eligible commercial paper may not exceed 270 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. No more than 40 percent of the agency's money may be invested in eligible commercial paper.

I. Negotiable certificates of deposit issued by a nationally or state-chartered bank or a savings association or federal association or a state or federal credit union or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money, which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposit do not come within Article 2 (commencing with Section 53630), except that the amount so invested shall be subject to the limitations of Section 53638. The legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or any person with investment decision-making authority in the administrative office, manager's office, budget office, auditor/controller's office, or treasurer's office of the local agency also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee of the state or federal credit union issuing the negotiable certificates of deposit.

J. 1. Investments in repurchase agreements or reverse repurchase agreements or securities lending agreements of any securities authorized by this section, as long as the agreements are subject to this subsection, including the delivery requirements specified in this section.

2. Investments in repurchase agreements may be made, on any investment authorized in this section, when the term of the agreements does not exceed one year. The market value of securities that underlay a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed

against those securities and the value shall be adjusted no less than quarterly.

3. Reverse repurchase agreements or securities lending agreements may be utilized only when all of the following conditions are met:

   (a) The security to be sold on reverse repurchase agreement or securities lending agreements has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale.

   (b) The total of all reverse repurchase agreements and securities lending agreement owned by the local agency does not exceed 20 percent of the base value of the portfolio.

   (c) The agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

   (d) Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty by way of a reverse repurchase agreement or securities lending agreement shall not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement or securities lending agreement, unless the reverse repurchase agreement or securities lending agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

4. (a) Investments in reverse repurchase agreements, securities lending agreements, or similar investments in which the local agency sells securities prior to purchase with a simultaneous agreement to repurchase the security may only be made upon prior approval of the governing body of the local agency and shall only be made with primary dealers of the Federal Reserve Bank of New York or with a nationally or state-chartered bank that has or has had a significant banking relationship with a local agency.

(b) For purposes of this chapter, "significant banking relationship" means any of the following activities of a bank:

(i) Involvement in the creation, sale, purchase, or retirement of a local agency's bonds, warrants, notes, or other evidence of indebtedness.

(ii) Financing of a local agency's activities.

(iii) Acceptance of a local agency's securities or funds as deposits.

5. (a) "Repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty will deliver the underlying securities to the local agency by book entry, physical delivery, or by third party custodial agreement. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery.

(b) "Securities," for purpose of repurchase under this subsection, means securities of the same issuer, description, issue date, and maturity.

(c) "Reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase the securities on or before a specified date, and includes other comparable agreements.

(d) "Securities lending agreement" means an agreement under which a local agency agrees to transfer securities to a borrower who, in turn, agrees to provide collateral to the local agency. During the term of the agreement, both the securities and the collateral are held by a third party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

(e) For purposes of this section, the base value of the local agency's pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse repurchase agreements, securities lending agreements, or other similar borrowing methods.

(f) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement and the earnings obtained on the reinvestment of the funds.

K. Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subsection shall be rated "A" or better by a nationally recognized rating service. Purchases of medium-term notes shall not include other instruments authorized by this section and may not exceed 30 percent of the agency's money that may be invested pursuant to this section.

L. 1. Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations as authorized by subsections A to K, inclusive, and subsections M to O, inclusive, and that comply with the investment restrictions of this article and Article 2 (commencing with Section 53630). However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement or securities lending agreement is not required to be a primary dealer of the Federal Reserve Bank of New York if the company's board of directors finds that the counterparty presents a minimal risk of default, and the value of the securities underlying a repurchase agreement or securities lending agreement may be 100 percent of the sales price if the securities are marked to market daily.

2. Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 *et seq.*).

3. If investment is in shares issued pursuant to paragraph (1), the company shall have met either of the following criteria:

(a) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(b) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations authorized by subsections A to K, inclusive, and subsections M to O,

inclusive, and with assets under management in excess of five hundred million dollars ($500,000,000).

4. If investment is in shares issued pursuant to paragraph (2), the company shall have met either of the following criteria:

   (a) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

   (b) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars ($500,000,000).

5. The purchase price of shares of beneficial interest purchased pursuant to this subsection shall not include any commission that the companies may charge and shall not exceed 20 percent of the agency's money that may be invested pursuant to this section. However, no more than 10 percent of the agency's funds may be invested in shares of beneficial interest of any one mutual fund pursuant to paragraph (1).

M. Moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease installment sale, or other agreement, or to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

N. Notes, bonds, or other obligations that are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank that is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.

O. Any mortgage pass-through security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable pass-through certificate, or consumer receivable-backed bond of a maximum of five years' maturity. Securities eligible for investment under this subsection shall be issued by an issuer having an "A" or higher rating for the issuer's debt as provided by a nationally recognized rating service and rated in a rating category of "AA" or its equivalent or better by a nationally recognized rating service. Purchase of securities authorized by this subsection may not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section.

P. Shares of beneficial interest issued by a joint powers authority organized pursuant to Section 6509.7 that invests in the securities and obligations authorized in subsections A to O, inclusive. Each share shall represent an equal proportional interest in the underlying pool of securities owned by the joint powers authority. To be eligible under this section, the joint powers authority issuing the shares shall have retained an investment adviser that meets all of the following criteria:

1. The adviser is registered or exempt from registration with the Securities and Exchange Commission.

2. The adviser has not less than five years of experience investing in the securities and obligations authorized in subsections A to O, inclusive.

3. The adviser has assets under management in excess of five hundred million dollars ($500,000,000).

Government Code Section 16429.1 authorizes a local agency to deposit a portion or all of its surplus moneys in the Local Agency Investment Fund (LAIF). LAIF is an account established by the state that offers a local agency a safe, highly liquid means to invest its surplus funds. Government Code Section 16430 limits LAIF to investing in securities that are essentially the same as those prescribed in Section 53635 above. An agency may deposit $40,000,000 with LAIF and engage in 15 transactions per month.

X. INTERNAL CONTROL PROCEDURES

The following internal control procedures are established to assure that the investment program is operated in a safe and prudent manner. An employee of the Agency, other than the Agency Treasurer or his designee, will verify on a monthly basis to the Agency Board that all investment activity undertaken during the month has been conducted in compliance with the investment policy, including the below internal control procedures.

A. SAFEKEEPING: Securities purchased from brokers/dealers must be held in a third-party custodial safekeeping account. The securities should be held in a manner that establishes the Agency's right of ownership.

B. CONFIRMATION: Confirmation receipts for purchase of authorized securities should include the following information: trade date, par value, maturity value, interest rate, price, settlement date, description of securities purchased, agency's name, net amount due and third-party custodial information. The confirmation receipt must be issued by the third-party custodian and must be received by the Agency prior to remitting payment for the security.

C. PAYMENT: Payment for securities should be on a Delivery Versus Payment (DVP) basis. This must be done via the Agency's third-party safekeeping agent. NOTE: Book entry is considered delivery.

D. WIRE TRANSFERS: All wire transfers for the purchase of securities should be initiated by the Agency Treasurer or his designee who is authorized to invest on behalf of the Agency. The bank document used to initiate a wire transfer must be approved by the employee responsible for monitoring compliance with internal control procedures prior to executing the wire transfer. NOTE: This procedure does not apply to deposits with the LAIF.

XI. BANKS AND SECURITIES DEALERS

In selecting financial institutions for the deposit or investment of Montclair Redevelopment Agency funds, the Treasurer or his designee, the Assistant Finance Director, shall consider the creditworthiness of institutions. The Treasurer and his designee, the Assistant Finance Director, shall continue to monitor financial institutions' credit characteristics and financial history throughout the period in which funds are deposited or invested.

XII. RISK TOLERANCE

The Montclair Redevelopment Agency recognizes that investment risks can result from issuer defaults, market price changes, or various technical complications leading to temporary illiquidity. Portfolio diversification is employed as a way to control risk. The Agency Treasurer and his designee, the Assistant Finance Director, are expected to display prudence in the selection of securities, as a way to minimize default risk. No individual investment transaction shall be undertaken which jeopardizes the total capital position of the overall portfolio. The Treasurer or his designee, the Assistant Finance Director, may periodically establish guidelines and strategies to control risks of default, market price changes and illiquidity.

XIII. INVESTMENT STRATEGY FOR CALENDAR YEAR 2010

The Agency will invest at least 25 percent of its surplus moneys (excluding tax allocation bond proceeds) in the LAIF and in certificates of deposit issued by banks and savings and loans provided, however, that money deposited with banks and savings and loans are fully insured by FDIC and have maturities of no more than one year. The balance of the Agency's surplus moneys may be invested in any of the investment media discussed in subsections A to P of Section IX above, provided the investment term is no greater than three years and no investments are made in reverse repurchase agreements. Further, pursuant to Government Code Section 53601.6, no moneys will be invested in inverse floaters, range notes, or interest-only strips that are derived from a pool of mortgages.

Remaining tax allocation bond proceeds, however, will be invested directly in short-term governmental securities and mutual funds comprised of short-term governmental securities. Investments of tax allocation bond proceeds will be made pursuant to Government Code Section 5922 and the bond indentures. The permitted investments set forth in Government Code Section 5922 and the bond indentures are substantially the same as those set forth in Government Code Section 53635.

AGENDA REPORT

SUBJECT:	CONSIDER MONTCLAIR HOUSING CORPORATION BOARD OF DIRECTORS' APPROVAL OF THE CITY OF MONTCLAIR HOUSING CORPORATION STATEMENT OF INVESTMENT POLICY FOR THE YEAR ENDING DECEMBER 31, 2010	**DATE:**	June 7, 2010
		SECTION:	ADMIN. REPORTS
		ITEM NO.:	4
		FILE I.D.:	FIN380
BUSINESS PLAN:	N/A	**DEPT.:**	MHC

REASON FOR CONSIDERATION: The Montclair Housing Corporation Board of Directors is requested to consider approval of the City of Montclair Housing Corporation Statement of Investment Policy for the Year Ending December 31, 2010. The Statement of Investment Policy is attached for consideration by the Housing Corporation Board of Directors.

BACKGROUND: The Housing Corporation Statement of Investment Policy for calendar year 2010 outlines the following:

- The Treasurer's authority to invest surplus moneys
- The criteria for investment selection
- The permissible investment media as set forth in Government Code Section 53635
- Internal control procedures
- The Corporation's investment strategy for 2010

The Policy is submitted to the Housing Corporation Board of Directors in accordance with Government Code Section 53646—Section 53646 was added to the Government Code as a result of the 1995 Orange County bankruptcy.

In addition to an annual investment policy, the Treasurer or his designee may issue a quarterly report to the Housing Corporation Board of Directors that provides specifics of the investment activity during the period covered; a statement of compliance with the investment policy; and a statement denoting the Corporation's ability to meet its expenditure requirements during the next six months.

Beginning in calendar year 2001, Assembly Bill 943 added a requirement that each municipal governing board must semiannually submit a copy of its investment report to the State

Prepared by: _____ Reviewed and Approved by: _____

Proofed by: Kathy Dalton Presented by: _____

Treasurer. AB 943 also requires each municipal governing board to annually submit a copy of its investment policy to the State Treasurer. The Statement of Investment Policy for 2010, in all important respects, is identical to last year's policy approved by the Housing Corporation Board of Directors during April 2009.

Prior to 2006, Government Code Section 53646 required municipal governing boards to annually review and approve, at a public meeting, their investment policies and present quarterly reports to their respective legislative bodies. As part of the reform of the State Mandate Reimbursement Program, these two requirements were changed to become optional and, thus, ineligible for state mandate reimbursement by simply changing the word "shall" to "may" as demonstrated below:

- "In the case of any other local agency, the treasurer or chief fiscal officer of the local agency *may* annually render to the legislative body of that local agency and any oversight committee of that local agency a statement of investment policy, which the legislative body of the local agency shall consider at a public meeting."

- "The treasurer or chief fiscal officer *may* render a quarterly report to the chief executive officer, the internal auditor, and the legislative body of the local agency."

The State Legislature encourages local agency officials to continue taking the actions formerly mandated by Government Code Section 53646 in recognition of state and local interests.

It is important to note a recent change to Section 53646 of the Government Code: The requirement that the Montclair Housing Corporation must continue with semiannual submission of the investment report and annual submission of the investment policy as required by AB 943 was deleted from this Section.

FISCAL IMPACT: Approval of the City of Montclair Housing Corporation Statement of Investment Policy for the Year Ending December 31, 2010, would create no fiscal impact for the Housing Corporation.

RECOMMENDATION: Staff recommends the Montclair Housing Corporation Board of Directors approve the City of Montclair Housing Corporation Statement of Investment Policy for the Year Ending December 31, 2010.

MONTCLAIR

CITY OF MONTCLAIR HOUSING CORPORATION

Statement of Investment Policy for the Year Ending December 31, 2010

I. PURPOSE

The purpose of this investment policy is as follows: (1) to fix the responsibility for investing surplus moneys with the Housing Corporation Treasurer and his designee; (2) to establish criteria for selecting investments; (3) to outline investment media in which a local agency may invest its surplus money; (4) to establish internal control procedures to assure the investment program is operated in a safe and prudent manner; and (5) to set forth the investment strategy for calendar year 2010.

II. SCOPE

It is intended that this policy cover all funds and investment activities under the direct authority of the City of Montclair Housing Corporation.

III. TREASURER'S AUTHORITY TO INVEST SURPLUS MONEYS

It is the responsibility of the Housing Corporation Treasurer and his designee, the Assistant Finance Director, to invest the Housing Corporation's surplus moneys. Government Code Section 53607 enables a public housing corporation's board to delegate its responsibility to invest surplus moneys to the treasurer, provided he submits to the board a monthly report of investment transactions (Treasurer's Report).

IV. PUBLIC TRUST

All participants in the investment process shall act as custodians of the public trust. The Housing Corporation Treasurer or his designee, the Assistant Finance Director, shall recognize that the investment portfolio is subject to public review and evaluation. The overall program shall be designed and managed with a degree of professionalism that is worthy of the public trust. In a diversified portfolio it must be recognized that occasional measured losses are inevitable, and must be considered within the context of the overall portfolio's investment return, provided that adequate diversification has been implemented.

V. PRUDENCE

The City of Montclair adheres to the guidance provided by the "prudent investor standard," which obligates a fiduciary to insure that all

persons investing, reinvesting, purchasing, acquiring, exchanging, selling, and managing public funds shall act with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the Housing Corporation.

VI. DIVERSIFICATION

The investment portfolio will be diversified to avoid incurring unreasonable and avoidable risks regarding specific security types or individual financial institutions.

VII. MARKET-AVERAGE RATE OF RETURN

The investment portfolio shall be designed to attain a market-average rate of return throughout budgetary and economic cycles, taking into account the City of Montclair Housing Corporation's risk constraints, the cash flow characteristics of the portfolio, state and local laws, and ordinances and resolutions that restrict investments.

VIII. CRITERIA FOR INVESTMENT SELECTION

In accordance with Government Code Section 53600.5, the primary criteria, in priority of order, which investment decisions shall be based upon are as follows:

A. SAFETY: Safety of principal is the most important criteria of investment. Attention must be given to the continued solvency of financial institutions in which the Housing Corporation invests money. Also, investments in long-term securities must be considered from the standpoint of potential losses incurred upon sale of securities to meet operating needs.

B. LIQUIDITY: The Housing Corporation's investment portfolio will remain sufficiently liquid to meet all operating requirements, which might be reasonably anticipated.

C. YIELD (RETURN ON INVESTMENT): Investments should be made with the objective of maximizing the rate of return consistent with safety and liquidity requirements.

IX. PERMISSIBLE INVESTMENTS

Government Code Section 53635 authorizes a local agency to deposit a portion or all of its moneys in state or national banks, savings associations or federal associations, credit unions, or any federally insured industrial loan company in this state. Also, Code Section 53635 enumerates investment media in which a local agency may invest its surplus moneys pursuant to Code Section 53601. The

following list of permissible investment media is verbatim from Government Code Section 53601:

A. Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the local agency or by a department, board, agency, or authority of the local agency.

B. United States Treasury notes, bonds, bills or certificates of indebtedness or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

C. Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the state or by a department, board, agency or authority of the state.

D. Registered treasury notes or bonds of any of the other 49 United States in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 United States, in addition to California.

E. Bonds, notes, warrants or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the local agency or by a department, board, agency or authority of the local agency.

F. Federal agency or United States government-sponsored enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises.

G. Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as banker's acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of banker's acceptances may not exceed 180 days maturity or 40 percent of the agency's surplus funds, which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the banker's acceptances of any one commercial bank pursuant to this section.

H. Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Nationally Recognized Statistical-Rating Organization (NRSRO). The entity that issues the commercial paper shall meet all of the following conditions in either paragraph (1) or paragraph (2):

1. The entity must be organized and operating in the United States as a general corporation having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, as provided for by a nationally recognized statistical-rating organization.

2. The entity must be organized within the United States as a special purpose corporation, trust, or limited liability company having programwide credit enhancements including, but not limited to, overcollaterization, letters of credit, or surety bond, and having commercial paper that is "A-1" or higher rating, or the equivalent, by a nationally recognized statistical-rating organization.

Purchases of eligible commercial paper may not exceed 270 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. No more than 40 percent of the agency's money may be invested in eligible commercial paper.

I. Negotiable certificates of deposit issued by a nationally or state-chartered bank or a savings association or federal association or a state or federal credit union or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money, which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposit do not come within Article 2 (commencing with Section 53630), except that the amount so invested shall be subject to the limitations of Section 53638. The legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or any person with investment decision-making authority in the administrative office, manager's office, budget office, auditor/controller's office, or treasurer's office of the local agency also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee of the state or federal credit union issuing the negotiable certificates of deposit.

J. 1. Investments in repurchase agreements or reverse repurchase agreements or securities lending agreements of any securities authorized by this section, as long as the agreements are subject to this subsection, including the delivery requirements specified in this section.

2. Investments in repurchase agreements may be made, on any investment authorized in this section, when the term of the agreements does not exceed one year. The market value of

securities that underlay a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities and the value shall be adjusted no less than quarterly.

3. Reverse repurchase agreements or securities lending agreements may be utilized only when all of the following conditions are met:

   (a) The security to be sold on reverse repurchase agreement or securities lending agreements has been owned and fully paid for by the local agency for a minimum of 30 days prior to sale.

   (b) The total of all reverse repurchase agreements and securities lending agreement owned by the local agency does not exceed 20 percent of the base value of the portfolio.

   (c) The agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

   (d) Funds obtained or funds within the pool of an equivalent amount to that obtained from selling a security to a counterparty by way of a reverse repurchase agreement or securities lending agreement shall not be used to purchase another security with a maturity longer than 92 days from the initial settlement date of the reverse repurchase agreement or securities lending agreement, unless the reverse repurchase agreement or securities lending agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of a security using a reverse repurchase agreement or securities lending agreement and the final maturity date of the same security.

4. (a) Investments in reverse repurchase agreements, securities lending agreements, or similar investments in which the local agency sells securities prior to purchase with a simultaneous agreement to repurchase the security may only be made upon prior approval of the governing body of the local agency and shall only be made with primary dealers of the Federal Reserve Bank of New York or with a nationally or state-chartered bank

that has or has had a significant banking relationship with a local agency.

(b) For purposes of this chapter, "significant banking relationship" means any of the following activities of a bank:

(i) Involvement in the creation, sale, purchase, or retirement of a local agency's bonds, warrants, notes, or other evidence of indebtedness.

(ii) Financing of a local agency's activities.

(iii) Acceptance of a local agency's securities or funds as deposits.

5. (a) "Repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the counterparty seller will repurchase the securities on or before a specified date and for a specified amount and the counterparty will deliver the underlying securities to the local agency by book entry, physical delivery, or by third party custodial agreement. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery.

(b) "Securities," for purpose of repurchase under this subsection, means securities of the same issuer, description, issue date, and maturity.

(c) "Reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase the securities on or before a specified date, and includes other comparable agreements.

(d) "Securities lending agreement" means an agreement under which a local agency agrees to transfer securities to a borrower who, in turn, agrees to provide collateral to the local agency. During the term of the agreement, both the securities and the collateral are held by a third party. At the conclusion of the agreement, the securities are transferred back to the local agency in return for the collateral.

(e) For purposes of this section, the base value of the local agency's pool portfolio shall be that dollar amount obtained by totaling all cash balances placed in the pool by all pool participants, excluding any amounts obtained through selling securities by way of reverse

repurchase agreements, securities lending agreements, or other similar borrowing methods.

(f) For purposes of this section, the spread is the difference between the cost of funds obtained using the reverse repurchase agreement and the earnings obtained on the reinvestment of the funds.

K. Medium-term notes, defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subsection shall be rated "A" or better by a nationally recognized rating service. Purchases of medium-term notes shall not include other instruments authorized by this section and may not exceed 30 percent of the agency's money that may be invested pursuant to this section.

L. 1. Shares of beneficial interest issued by diversified management companies that invest in the securities and obligations as authorized in subsections A to K, inclusive, and subsections M to O, inclusive, and that comply with the investment restrictions of this article and Article 2 (commencing with Section 53630). However, notwithstanding these restrictions, a counterparty to a reverse repurchase agreement or securities lending agreement is not required to be a primary dealer of the Federal Reserve Bank of New York if the company's board of directors finds that the counterparty presents a minimal risk of default, and the value of the securities underlying a repurchase agreement or securities lending agreement may be 100 percent of the sales price if the securities are marked to market daily.

2. Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 *et seq.*).

3. If investment is in shares issued pursuant to subsection 1, the company shall have met either of the following criteria:

(a) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

(b) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience

investing in the securities and obligations authorized by subsections A to K, inclusive, and subsections M to O, inclusive, and with assets under management in excess of five hundred million dollars ($500,000,000).

4. If investment is in shares issued pursuant to paragraph (2), the company shall have met either of the following criteria:

   (a) Attained the highest ranking or the highest letter and numerical rating provided by not less than two nationally recognized statistical rating organizations.

   (b) Retained an investment adviser registered or exempt from registration with the Securities and Exchange Commission with not less than five years' experience managing money market mutual funds with assets under management in excess of five hundred million dollars ($500,000,000).

5. The purchase price of shares of beneficial interest purchased pursuant to this subsection shall not include any commission that the companies may charge and shall not exceed 20 percent of the agency's money that may be invested pursuant to this section. However, no more than 10 percent of the agency's funds may be invested in shares of beneficial interest of any one mutual fund pursuant to paragraph (1).

M. Moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease installment sale, or other agreement, or to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

N. Notes, bonds, or other obligations that are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank that is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal

regulations applicable to the types of securities in which the security interest is granted.

O. Any mortgage pass-through security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable pass-through certificate, or consumer receivable-backed bond of a maximum of five years' maturity. Securities eligible for investment under this subsection shall be issued by an issuer having an "A" or higher rating for the issuer's debt as provided by a nationally recognized rating service and rated in a rating category of "AA" or its equivalent or better by a nationally recognized rating service. Purchase of securities authorized by this subsection may not exceed 20 percent of the agency's surplus money that may be invested pursuant to this section.

P. Shares of beneficial interest issued by a joint powers authority organized pursuant to Section 6509.7 that invests in the securities and obligations authorized in subsections A to O, inclusive. Each share shall represent an equal proportional interest in the underlying pool of securities owned by the joint powers authority. To be eligible under this section, the joint powers authority issuing the shares shall have retained an investment adviser that meets all of the following criteria:

1. The adviser is registered or exempt from registration with the Securities and Exchange Commission.

2. The adviser has not less than five years of experience investing in the securities and obligations authorized in subsections A to O, inclusive.

3. The adviser has assets under management in excess of five hundred million dollars ($500,000,000).

Government Code Section 16429.1 authorizes a local agency to deposit a portion or all of its surplus moneys in the Local Agency Investment Fund (LAIF). LAIF is an account established by the state that offers a local agency a safe, highly liquid means to invest its surplus funds. Government Code Section 16430 limits LAIF to investing in securities, which are essentially the same as those prescribed in Section 53635 above. An agency may deposit $40,000,000 with LAIF and engage in 15 transactions per month.

X. INTERNAL CONTROL PROCEDURES

The following internal control procedures are established to assure that the investment program is operated in a safe and prudent manner. An employee of the Housing Corporation, other than the Housing Corporation Treasurer or his designee, will verify on a monthly basis to the Housing Corporation's Board that all investment activity

undertaken during the month has been conducted in compliance with the investment policy, including the below internal control procedures.

A. SAFEKEEPING: Securities purchased from brokers/dealers must be held in a third-party custodial safekeeping account. The securities should be held in a manner that establishes the Housing Corporation's right of ownership.

B. CONFIRMATION: Confirmation receipts for purchase of authorized securities should include the following information: trade date, par value, maturity value, interest rate, price, settlement date, description of securities purchased, agency's name, net amount due, and third-party custodial information. The confirmation receipt must be issued by the third-party custodian and must be received by the Housing Corporation prior to remitting payment for the security.

C. PAYMENT: Payment for securities should be on a Delivery Versus Payment (DVP) basis. This must be done via the Housing Corporation's third-party safekeeping agent. NOTE: Book entry is considered delivery.

D. WIRE TRANSFERS: All wire transfers for the purchase of securities should be initiated by the Housing Corporation Treasurer or his designee who is authorized to invest on behalf of the Housing Corporation. The bank document used to initiate a wire transfer must be approved by the employee responsible for monitoring compliance with internal control procedures prior to executing the wire transfer. NOTE: This procedure does not apply to deposits with the LAIF.

XI. BANKS AND SECURITIES DEALERS

In selecting financial institutions for the deposit or investment of the City of Montclair Housing Corporation funds, the Treasurer or his designee, the Assistant Finance Director, shall consider the credit-worthiness of institutions. The Treasurer and his designee, the Assistant Finance Director, shall continue to monitor financial institutions' credit characteristics and financial history throughout the period in which funds are deposited or invested.

XII. RISK TOLERANCE

The City of Montclair Housing Corporation recognizes that investment risks can result from issuer defaults, market price changes, or various technical complications leading to temporary illiquidity. Portfolio diversification is employed as a way to control risk. The Housing Corporation Treasurer and his designee, the Assistant Finance Director, are expected to display prudence in the selection of securities, as a way to minimize default risk. No individual investment transaction shall be undertaken that jeopardizes the total capital

position of the overall portfolio. The Treasurer or his designee, the Assistant Finance Director, may periodically establish guidelines and strategies to control risks of default, market price changes, and illiquidity.

XIII. INVESTMENT STRATEGY FOR CALENDAR YEAR 2010

The Housing Corporation will invest at least 50 percent of its surplus moneys in the LAIF and in certificates of deposit issued by banks and savings and loans provided, however, that money deposited with banks and savings and loans are fully insured by FDIC and have maturities of no more than one year. The balance of the Housing Corporation's surplus moneys may be invested in any of the investment media discussed in subsections A to P of Section IX above, provided the investment term is no greater than three years and no investments are made in reverse repurchase agreements. Further, pursuant to Government Code Section 53601.6, no moneys will be invested in inverse floaters, range notes, or interest-only strips that are derived from a pool of mortgages.

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF FILING OF A NOTICE OF COMPLETION FOR CONSTRUCTION OF THE VERNON AVENUE SIDEWALK IMPROVEMENT PROJECT; REDUCTION OF FAITHFUL PERFORMANCE BOND TO 10 PERCENT; AND RETENTION OF PAYMENT BOND FOR SIX MONTHS

CONSIDER RELEASE OF RETENTION 30 DAYS AFTER RECORDATION OF NOTICE OF COMPLETION

DATE: June 7, 2010

SECTION: ADMIN. REPORTS

ITEM NO.: 5

FILE I.D.: STA650

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 February 24, 2010, Southland Construction, Inc., was awarded a contract for construction of the Vernon Avenue Sidewalk Improvement Project and entered into Agreement No. 10-23. All work required pursuant to Agreement No. 10-23 has been satisfactorily completed. Work included construction of concrete sidewalk, pedestrian ramps, gutter, masonry, and asphalt pavement.

Following the award of a contract to Southland Construction, Inc., the City of Montclair was authorized by the San Bernardino County Department of Community Development and Housing (CDH) to include some additional sidewalk improvements to Shirley Lane, which is a dead-end street located within the vicinity of the Vernon Avenue Sidewalk Improvement Project. An additional $40,000 was authorized by CDH for the additional improvements. In total, the City was authorized $113,650 for the project.

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 including the Shirley Lane improvements. The changes ultimately increased the total construction cost from the awarded amount of $73,650 to the final cost of $111,420 a $37,770 increase.

Prepared by: _____ Reviewed and Approved by: M. STARR

Proofed by: _____ Presented by: _____

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

1. Approve the filing of a Notice of Completion with the Office of the San Bernardino 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.

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 Vernon Avenue Sidewalk Improvement Project

for the undersigned City of Montclair, a Municipal Corporation, on the 7th day of June, 2010

The City accepted the job on the 29th day of April, 2010

The Contractor on said job was Southland Construction, Inc
3943 Irvine Boulevard #40
Irvine, Ca. 92602

The improvement consisted of Concrete sidewalk, gutter, masonry and pedestrian ramps

The property upon which said work of improvement was completed is described as: 10300 Vernon Avenue

VERIFICATION

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

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

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

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

_____
City Engineer, City of Montclair

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF FILING OF A NOTICE OF COMPLETION FOR CONSTRUCTION OF THE MONTERA ELEMENTARY SCHOOL SOCCER PARK PROJECT; REDUCTION OF FAITHFUL PERFORMANCE BOND TO 10 PERCENT; AND RETENTION OF PAYMENT BOND FOR SIX MONTHS

CONSIDER RELEASE OF RETENTION 30 DAYS AFTER RECORDATION OF NOTICE OF COMPLETION

CONSIDER AUTHORIZING STAFF TO ADVERTISE FOR BIDS FOR THE INSTALLATION OF ADDITIONAL FENCE MATERIAL AT MONTERA ELEMENTARY SCHOOL

DATE: June 7, 2010

SECTION: ADMIN. REPORTS

ITEM NO.: 6

FILE I.D.: PRK375

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 December 7, 2009, Cal Grove Corp. was awarded a contract for construction of the Montera Elementary School Soccer Park Project and entered into Agreement No. 09-127. All work required pursuant to Agreement No. 09-127 has been satisfactorily completed. Work included construction of concrete sidewalk, chain-link fencing, asphalt walkway modifications, handicap accessibility measures, drinking fountain, and soccer goals.

At the February 16, 2010, City Council meeting, an additional $30,000 was appropriated to cover change orders and some additional perimeter netting. The netting is required to prevent balls from being kicked, hit, or thrown over existing walls onto adjacent residential properties. The problem existed prior to the City's project, but the City has agreed to accept responsibility for fixing the problem. After failing to negotiate an acceptable price for the netting as a construction change order with Cal Grove Corp., staff now recommends filing a Notice of Completion for this contract. The netting work will be completed as a separate contract and advertised accordingly.

Prepared by: _____ Reviewed and Approved by: _____

Proofed by: _____ Presented by: _____

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 in order to comply with both Montera Elementary School and state Division of State Architect requirements. The changes ultimately increased the total construction cost from the awarded amount of $62,550 to the final cost of $81,955, a $19,405 increase.

RECOMMENDATION: Staff recommends the City Council take the following actions related to completion of the Montera Elementary School Soccer Park Project:

1. Approve the filing of a Notice of Completion with the Office of the San Bernardino 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.

5. Authorize staff to advertise for bids for the installation of additional fence material at Montera Elementary School.

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 Montera Elementary School Soccer Park Project

for the undersigned City of Montclair, a Municipal Corporation, on the 7th day of June, 2010

The City accepted the job on the 27th day of May, 2010

The Contractor on said job was Cal Grove Corp.
2521 Apollo Dr.
Los Angeles, Calif. 90046

The improvement consisted of Concrete sidewalk, asphalt pavement, fencing and soccer goals

The property upon which said work of improvement was completed is described as: 4900 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 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:**	June 7, 2010
		SECTION:	ADMIN. REPORTS
		ITEM NO.:	7
		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.

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

Prepared by:		Reviewed and Approved by:	M. STATES
Proofed by:		Presented by:	

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 AND DETERMINE THERE IS A NEED TO CONTINUE THE ACTION	**DATE:**	June 7, 2010
		SECTION:	ADMIN. REPORTS
		ITEM NO.:	8
		FILE I.D.:	PRK200
BUSINESS PLAN:	N/A	**DEPT.:**	PUBLIC WORKS

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

Prepared by: _____ Reviewed and Approved by: _____

Proofed by: _____ Presented by: _____

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.

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 "NO ACTION" ON ALCOHOLIC BEVERAGE PERMIT APPLICATION - VIRK BROS. INC.	**DATE:**	June 7, 2010
		SECTION:	ADMIN. REPORTS
		ITEM NO.:	9
		FILE I.D.:	FLP025
BUSINESS PLAN:	N/A	**DEPT.:**	ADMIN. SVCS.

REASON FOR CONSIDERATION: Applications for Alcoholic Beverage Licenses are routinely presented to the City Council for review.

BACKGROUND: Satish Kumar Jain, President, Virk Bros. Inc., has applied for an "Off-Sale Beer and Wine" license for Virk Bros. Inc., 4545 Mission Boulevard, Suite A, Montclair, California.

FISCAL IMPACT: No fiscal impact

RECOMMENDATION: Staff recommends the City Council take "No action" on the California Department of Alcoholic Beverage Control Application for Alcoholic Beverage License(s) for Virk Bros. Inc., 4545 Mission Boulevard, Suite A, Montclair, California.

Prepared by:	Yvonne L. Smith	Reviewed and Approved by:	[signature]
Proofed by:	[signature]	Presented by:	[signature]

AGENDA REPORT

SUBJECT:	CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION	**DATE:**	June 7, 2010
		SECTION:	ADMIN. REPORTS
		ITEM NO.:	10
		FILE I.D.:	FIN540
BUSINESS PLAN:	N/A	**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 June 7, 2010, and Payroll Documentation dated April 11, 2010, finds them to be in order and recommends their approval.

FISCAL IMPACT: The Warrant Register dated June 7, 2010, totals $3,495,741.54. The Payroll Documentation dated April 11, 2010, totals $634,250.70, with $458,809.27 being the total cash disbursement.

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

Prepared by: _____ Reviewed and Approved by: _____

Proofed by: _____ Presented by: _____

AGENDA REPORT

SUBJECT: CONSIDER AWARD OF CONTRACT TO GENTRY BROTHERS, INC., IN THE AMOUNT OF $2,361,405.00

CONSIDER APPROVAL OF AGREEMENT NO. 10-55 WITH GENTRY BROTHERS, INC., FOR CONSTRUCTION OF THE MISSION BOULEVARD IMPROVEMENT PHASE 8 PROJECT

CONSIDER AUTHORIZATION OF A $235,000 CONSTRUCTION CONTINGENCY

DATE: June 7, 2010

SECTION: AGREEMENTS

ITEM NO.: 1

FILE I.D.: SSP178

DEPT.: PUBLIC WORKS

BUSINESS PLAN: **STRATEGIC PRIORITY NO. 3**

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

Approval of Agreement No. 10-55 would satisfy a portion of Strategic Priority No. 3, Goal 3, as contained in Montclair's "Business Plan."

BACKGROUND: The City Council, at its meeting of November 2, 2009, authorized staff to advertise for bids for construction of the Mission Boulevard Improvement Phase 8 Project. This project is the eighth phase of a multiphase project to rehabilitate and beautify the Mission Boulevard Corridor from the County line at the San Antonio Channel to Benson Avenue.

Phase 8 work for the Mission Boulevard Corridor Improvement Project will extend from the easterly limit of Phase 6 improvements, approximately 300 feet west of Central Avenue, and continue easterly through the Central Avenue intersection and terminate at the City limits at Benson Avenue. The project will include new median islands; landscaping and irrigation; pavement reconstruction; curb, gutter, and sidewalk construction; traffic signal modifications; intersection enhancements; and restriping.

On Thursday, May 6, 2010, the City Clerk received and opened seven bid proposals for construction of the Mission Boulevard Improvement Phase 8 Project. The bid results are as follows:

Prepared by: _____ Reviewed and Approved by: _____

Proofed by: _____ Presented by: _____

Contractor	*Bid Amount*
Gentry Brothers, Inc.	$ 2,361,405.00
All American Asphalt, Inc.	$ 2,589,000.00
Excel Paving Company	$ 2,827,038.17
Hillcrest Contracting, Inc.	$ 2,863,089.00
Sequel Contractors, Inc.	$ 2,891,830.00
Laird Construction Co., Inc.	$ 2,994,499.00
Riverside Construction Company, Inc.	$ 2,998,282.00
Engineer's Estimate	**$ 3,300,000.00**

Following the bid opening, all bid proposals were reviewed for completeness and accuracy. Gentry Brothers, Inc., provided all the required documents and was deemed to be the lowest, responsible, responsive bidder for the project.

Gentry Brothers, Inc., has previously done work for the City including the most recently completed Mission Boulevard Phase 7 Improvement Project. Based on past projects with the City, Gentry Brothers, Inc., is known to have the personnel, equipment, and job experience necessary to complete this contract in accordance with the plans and specifications.

FISCAL IMPACT: Project funding sources include approximately $300,000 of Transportation Enhancement-American Recovery and Reinvestment Act of 2009 (TE-ARRA) funds made available through San Bernardino Associated Governments (SANBAG) for projects that are "shovel ready," nearly $600,000 of Community Development Block Grant funds, and Redevelopment Agency Mission Boulevard Project Area Tax Allocation Notice Proceeds.

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

1. Award contract to Gentry Brothers Inc., in the amount of $2,361,405.00.

2. Approve Agreement No. 10-55 with Gentry Brothers, Inc., for construction of the Mission Boulevard Improvement Phase 8 Project.

3. Authorize a $235,000 construction contingency.

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

A. Recitals.

(i) Pursuant to Notice Inviting Sealed Bids or Proposals, bids were received, publicly opened, and declared on the date specified in said notice.

(ii) CITY did accept the bid of CONTRACTOR.

(iii) CITY has authorized the City Clerk and Mayor to enter into a written contract with CONTRACTOR for furnishing labor, equipment, and material for the construction of the

MISSION BOULEVARD CORRIDOR IMPROVEMENT PHASE 8 PROJECT

"PROJECT" hereinafter.

B. Resolution.

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

1. GENERAL SCOPE OF WORK: CONTRACTOR shall furnish all necessary labor, tools, materials, appliances, and equipment for and do all work contemplated and embraced for the PROJECT. Said PROJECT to be performed in accordance with specifications and standards on file in the Office of the City Engineer and in accordance with bid prices hereinafter mentioned and in accordance with the instructions of the Engineer.

2. INCORPORATED DOCUMENTS TO BE CONSIDERED COMPLEMENTARY: The aforesaid specifications are incorporated herein by reference thereto and made a part hereof with like force and effect as if all of said documents were set forth in full herein. Said documents, the Notice Inviting Bids, the Instructions to Bidders, the Proposal and any City-issued addenda, together with this written Agreement, shall constitute the contract between the parties. This contract is intended to require a complete and finished piece of work and anything necessary to complete the work properly and in accordance with the law and lawful governmental regulations shall be performed by the CONTRACTOR whether set out specifically in the contract or not. Should it be ascertained that any inconsistency exists between the aforesaid documents and this written Agreement, the provisions of this written Agreement shall control.

3. TERMS OF CONTRACT: The CONTRACTOR agrees to execute the contract within ten (10) calendar days from the date of notice of award of the contract and to complete his portion of PROJECT within the time specified in the Special Provisions. CONTRACTOR agrees further to the assessment of liquidated damages in the amount specified in the Special Provisions or the Standard Specifications, whichever is higher,

for each calendar day PROJECT remains incomplete beyond the expiration of the completion date. CITY may deduct the amount thereof from any moneys due or that may become due the CONTRACTOR under this contract. Progress payments made after the scheduled date of completion shall not constitute a waiver of liquidated damages.

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

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

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

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

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

(1) Public Liability - Bodily Injury (not auto) $1,000,000 each person; $2,000,000 each accident.

(2) Public Liability - Property Damage (not auto) $500,000 each accident; $1,000,000 aggregate.

(3) Contractor's Protective - Bodily Injury $1,000,000 each person; $2,000,000 each accident.

(4) Contractor's Protective - Property Damage $500,000 each accident; $1,000,000 aggregate.

(5) Automobile - Bodily Injury $1,000,000 each person; $2,000,000 each accident.

(6) Automobile - Property Damage $500,000 each accident.

c. The policy of insurance provided for in subparagraph a. shall contain an endorsement which:

(1) Waives all right of subrogation against all persons and entities specified in subparagraph 4.d.(2) hereof to be listed as additional insureds in the policy of insurance provided for in paragraph b. by reason of any claim arising out of or connected with the operations of CONTRACTOR or any subcontractor in performing the work provided for herein;

(2) Provides it shall not be canceled or altered without thirty (30) days' written notice thereof given to CITY by registered mail.

d. Each such policy of insurance provided for in paragraph b. shall:

(1) Be issued by an insurance company approved in writing by CITY, which is qualified to do business in the State of California;

(2) Name as additional insureds the CITY, its officers, agents and employees, and any other parties specified in the bid documents to be so included;

(3) Specify it acts as primary insurance and that no insurance held or owned by the designated additional insureds shall be called upon to cover a loss under said policy;

(4) Contain a clause substantially in the following words:

"It is hereby understood and agreed that this policy may not be canceled nor the amount of the coverage thereof reduced until thirty (30) days after receipt by CITY of a written notice of such cancellation or reduction of coverage as evidenced by receipt of a registered letter."

(5) Otherwise be in form satisfactory to CITY.

e. The CONTRACTOR shall at the time of the execution of the contract present the original policies of insurance required in paragraphs a. and b., hereof, or present an endorsement of the insurance company, showing the issuance of such insurance, and the additional insureds and other provisions required herein.

5. CONTRACTOR'S LIABILITY: The City of Montclair and its respective officers, agents and employees shall not be answerable or accountable in any manner for any loss or damage that may happen to the project or any part thereof, or for any of the materials or other things used or employed in performing the project; or for injury or damage to any person or persons, either workmen, employees of the CONTRACTOR or his subcontractors or the public, whatsoever arising out of or in connection with the performance of the project. The CONTRACTOR shall be responsible for any damage or injury to any person or property resulting from defects or obstructions or from any cause whatsoever, except the sole negligence or willful misconduct of CITY, its employees, servants, or independent contractors who are directly responsible to CITY during the progress of the project or at any time before its completion and final acceptance.

The CONTRACTOR will indemnify CITY against and will hold and save CITY harmless from any and all actions, claims, damages to persons or property, penalties, obligations, or liabilities that may be asserted or claimed by any person, firm, entity, corporation, political subdivision, or other organization arising out of or in connection with the work, operation, or activities of the CONTRACTOR, his agents, employees, subcontractors, or invitees provided for herein, whether or not there is concurrent passive or active negligence on the part of CITY, but excluding such actions, claims, damages to persons or property, penalties, obligations, or liabilities arising from the sole negligence or willful misconduct of CITY, its employees, servants, or independent contractors who are directly responsible to CITY, and in connection therewith:

a. The CONTRACTOR will defend any action or actions filed in connection with any of said claims, damages, penalties, obligations, or liabilities and will pay all costs and expenses, including attorneys' fees incurred in connection therewith.

b. The CONTRACTOR will promptly pay any judgment or award rendered against the CONTRACTOR or CITY covering such claims, damages, penalties, obligations, and liabilities arising out of or in connection with such work, operations, or activities of the CONTRACTOR hereunder or reasonable settlement in lieu of judgment or award, and the CONTRACTOR agrees to save and hold the CITY harmless therefrom.

c. In the event CITY is made a party to any action or proceeding filed or prosecuted against the CONTRACTOR for damages or other claims arising out of or in connection with the project, operation, or activities of the CONTRACTOR hereunder, the CONTRACTOR agrees to pay to CITY any and all costs and expenses incurred by CITY in such action or proceeding together with reasonable attorneys' fees.

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

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

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

8. CONTRACT PRICE AND PAYMENT: CITY shall pay to the CONTRACTOR for furnishing the material and doing the prescribed work the unit prices set forth in accordance with CONTRACTOR's Proposal dated **October 15, 2009**.

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

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

CITY OF MONTCLAIR, CALIFORNIA

By_____
Paul M. Eaton, Mayor

Dated_____

ATTEST:

By_____
Donna M. Jackson, City Clerk

Dated_____

CONTRACTOR:

GENTRY BROTHERS, INC.

384 Live Oak

Irwindale, CA. 91706

By_____
(Title)

By_____
(Title)

By_____
(Title)

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 10-56 WITH LEIGHTON CONSULTING, INC., IN THE AMOUNT OF $29,800 FOR GEOTECHNICAL OBSERVATION AND TESTING SERVICES FOR THE MISSION BOULEVARD IMPROVEMENT PHASE 8 PROJECT

CONSIDER AUTHORIZATION FOR CITY MANAGER TO AMEND THE AGREEMENT SCOPE OF SERVICES AS MAY BE NECESSARY FOR A TOTAL INCREASE NOT TO EXCEED $5,000

DATE: June 7, 2010

SECTION: AGREEMENTS

ITEM NO.: 2

FILE I.D.: SSP178

DEPT.: PUBLIC WORKS

BUSINESS PLAN: STRATEGIC PRIORITY NO. 3, GOAL 3

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 10-56 with Leighton Consulting, Inc., for geotechnical observation and testing services for construction of the Mission Boulevard Improvement Phase 8 Project. Awards of contracts and agreements with the City require City Council approval.

Approval of Agreement No. 10-56 would satisfy a portion of City of Montclair Business Plan Strategic Priority No. 3, Goal 3, as contained in Montclair's "Business Plan."

BACKGROUND: On November 2, 2009, the City Council authorized advertisement of the Mission Boulevard Improvement Phase 8 Project. On Thursday, May 6, 2010, staff received and opened seven bid proposals for construction of the Mission Boulevard Improvement Phase 8 Project. One of the necessary components of a successful project includes geo-techical observation and testing. Observation and testing would include soils, concrete, and asphalt testing. Based on past involvement with the management staffing of Leighton Consulting, Inc., and the design of this project, Leighton Consulting, Inc., is familiar with and understands the City's requirements and standards. Staff recommends continuing with Leighton Consulting, Inc., for geotechnical observation and testing services for the Mission Boulevard Improvement Phase 8 Project.

FISCAL IMPACT: Geotechnical observation and testing services for the Mission Boulevard Improvement Phase 8 Project were negotiated as a time and materials contract not to exceed a total of $29,800. Sufficient funds have already been appropriated for this work. Funding sources include Transportation Enhancement-American Recovery and Reinvestment Act of 2009 (TE-ARRA) funds, Community Development Block Grant funds and Redevelopment Agency Mission Boulevard Project Area Tax Allocation Notice Proceeds.

Prepared by: _____ Reviewed and Approved by: M. STARKS

Proofed by: _____ Presented by: _____

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

1. Approve Agreement No. 10-56 with Leighton Consulting, Inc., in the amount of $29,800 for geotechnical observation and testing services for the Mission Boulevard Improvement Phase 8 Project.

2. Authorize the City Manager to amend the Agreement Scope of Services as may be necessary for a total increase not to exceed $5,000.

AGREEMENT NO. 10-56

CITY OF MONTCLAIR

AGREEMENT FOR CONSULTANT SERVICES

MISSION BOULEVARD IMPROVEMENT PHASE 8 PROJECT GEOTECHNICAL SERVICES

THIS AGREEMENT is made and effective as of June 7, 2010, between the City of Montclair, a municipal corporation ("City") and Leighton Consulting, Inc. a California corporation ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. TERM

This Agreement shall commence on June 7, 2010, and shall remain and continue in effect for a period of twelve months until tasks described herein are completed, but in no event later than June 6, 2011, unless sooner terminated pursuant to the provisions of this Agreement.

2. SERVICES

Consultant shall perform the tasks described and set forth in Exhibit A attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance, which is also set forth in Exhibit A.

3. PERFORMANCE

Consultant shall at all times faithfully, competently, and to the best of his/her ability, experience, and talent, perform all tasks described herein. Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement.

4. CITY MANAGEMENT

City's City Manager shall represent City in all matters pertaining to the administration of this Agreement (review and approval of all products submitted by Consultant) but not including the authority to enlarge the Tasks to be Performed or change the compensation due to Consultant. City's City Manager shall be authorized to act on City's behalf and to execute all necessary documents that enlarge the Tasks to be Performed or change Consultant's compensation, subject to Section 5 hereof.

5. PAYMENT

(a) The City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed $29,800 for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement, which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services. The City Manager may approve additional work not to exceed ten percent (10%) of the amount of the Agreement, but in no event shall total compensation exceed Ten Thousand Dollars ($10,000.00). Any additional work in excess of this amount shall be approved by the City Council.

(c) Consultant will submit invoices monthly for actual services performed. Said invoices shall detail all costs, rates, and hours for individual tasks. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all nondisputed fees. If the City disputes any of the Consultant's fees, it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice.

(d) Consultant agrees that in no event shall City be required to pay to Consultant any sum in excess of ninety-five percent (95%) of the maximum payable hereunder prior to receipt by City of all final documents, together with all supplemental technical documents, as described herein acceptable in form and content to City. Final payments shall be made no later than sixty (60) days after presentation of final documents and acceptance thereof by City.

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

(a) The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement, such suspension or termination shall not make void or invalidate the remainder of this Agreement.

(b) In the event this Agreement is terminated pursuant to this Section, the City shall pay to Consultant on a pro-rata basis the actual value of the work performed up to

the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the City pursuant to Section 5(c).

7. DEFAULT OF CONSULTANT

(a) The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

(b) If the City Manager or his/her delegate determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, he/she shall cause to be served upon the Consultant a written notice of the default. The Consultant shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity, or under this Agreement.

8. OWNERSHIP OF DOCUMENTS

(a) Consultant shall maintain complete and accurate records with respect to billed time, sales, costs, expenses, receipts, and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to such books and records; shall give City the right to examine and audit said books and records; shall permit City to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

(b) Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, claims, applications, computer files, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused, or otherwise disposed of by the City without the permission of the Consultant. With

respect to computer files, Consultant shall make available to the City, at the Consultant's office and upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring, and printing computer files.

9. INDEMNIFICATION

(a) Indemnification for Professional Liability. When the law establishes a professional standard of care for Consultant's services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend, and hold harmless City and any and all of its officials, employees, and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs, and expenses, including attorney's fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error, or omission of Consultant, its officers, agents, employees, or subconsultants (or any entity or individual that consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

(b) Indemnification for Other Than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend, and hold harmless City, and any and all of its employees, officials, and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses, or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable including, but not limited to, officers, agents, employees, or subconsultants of Consultant. Said indemnification shall include any claim that Consultant, or Consultant's employees or agents, are considered to be employees of the City or are entitled to any employee benefits from City including, but not limited to, those available under Public Employees Retirement Law.

(c) General Indemnification Provisions. Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subconsultant or other person or entity involved by, for, with, or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity obligations from others as required here, Consultant agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth here is binding on the successors, assigns, or heirs of Consultant and shall survive the termination of this Agreement or this Section.

10. INSURANCE

(a) Consultant shall neither commence work under this Agreement until it has obtained all insurance required hereunder in a company or companies acceptable to City nor shall Consultant allow any subcontractor to commence work on a subcontract until all insurance required of the subcontractor has been obtained. Consultant shall, at all times during the term of this Agreement, maintain and keep in full force and effect, the following policies of insurance with minimum limits as indicated below and issued by insurers with A.M. Best ratings of no less than A-: VI:

Commercial general liability at least as broad as ISO CG 0001 (per occurrence)	1,000,000
Commercial general liability at least as broad as ISO CG 0001 (general aggregate)	2,000,000
Commercial auto liability at least as broad as ISO CA 0001 (per accident)	1,000,000
Professional Liability (per claim and aggregate)	1,000,000
Workers' Compensation	Statutory

(b) All insurance required by this section shall apply on a primary basis. Consultant agrees that it will not cancel or reduce said insurance coverage. Consultant agrees that if it does not keep the aforesaid insurance in full force and effect, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may take out the necessary insurance and pay, at Consultant's expense, the premium thereon.

(c) Auto liability insurance shall cover owned, nonowned and hired autos. If Consultant owns no vehicles, auto liability coverage may be provided by means of a nonowned and hired auto endorsement to the general liability policy.

(d) At all times during the term of this Agreement, Consultant shall maintain on file with City a certificate of insurance in a form acceptable to City showing that the aforesaid policies are in effect in the required amounts. The general liability policy shall contain or be endorsed to contain a provision including the Indemnitees as additional insureds. Consultant shall promptly file with City such certificate or certificates and endorsements if applicable. Coverage for the additional insureds shall apply to the fullest extent permitted by law.

(e) No policy required by this section shall prohibit Consultant from waiving any right of recovery prior to loss. Consultant hereby waives such right with regard to the Indemnitees.

(f) All insurance coverage and limits provided by Consultant and available or applicable to this agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement limits the application of such insurance coverage.

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

I am aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for Workers' Compensation or to undertake self insurance in accordance with the provisions of that Code; and I will comply with such provisions before commencing the performance of the work of this Agreement.

(h) General Insurance Requirements: All insurance required by express provision of this Agreement shall be carried only in responsible insurance companies licensed to do business in the State of California. All policies shall contain language, to the extent obtainable, to the effect that (1) the insurer, insured, and all subcontractors waive the right of subrogation against City and City's elected officials, officers, employees, and agents; (2) the policies are primary and noncontributing with any insurance that may be carried by City; and (3) they cannot be canceled or materially changed except after thirty (30) days' written notice by the insurer to City by certified mail. Consultant shall furnish City with copies of all such policies. Consultant may effect for its own account insurance not required under this Agreement.

11. INDEPENDENT CONTRACTOR

(a) Consultant is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control and shall not be construed to be employees of City for any purpose including eligibility under Public Employees Retirement Law. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against City, or bind City in any manner.

(b) No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

12. LEGAL RESPONSIBILITIES

The Consultant shall keep itself informed of State and Federal laws and regulations, which in any manner affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. The City, and its officers

and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

13. UNDUE INFLUENCE

Consultant declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of the City of Montclair in connection with the award, terms or implementation of this Agreement including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the City of Montclair will receive compensation, directly or indirectly, from Consultant, or from any officer, employee, or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling the City to any and all remedies at law or in equity.

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

No member, officer, or employee of City, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Project during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or subagreement, or the proceeds thereof, for work to be performed in connection with the project performed under this Agreement.

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

(a) All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization. Consultant, its officers, employees, agents, or subconsultants, shall not, without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, responses to interrogatories, or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

(b) Consultant shall promptly notify City should Consultant, its officers, employees, agents or subconsultants, be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, requests for admissions, or other discovery request, court order, or subpoena from any person or party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding. Consultant agrees to cooperate fully with City and to provide the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

(c) Consultant covenants that neither he/she nor any office or principal of their firm have any interest in, or shall acquire any interest, directly or indirectly, which will conflict in any manner or degree with the performance of their services hereunder. Consultant further covenants that in the performance of this Agreement, no person having such interest shall be employed by them as an officer, employee, agent or subconsultant. Consultant further covenants that Consultant has not contracted with nor is performing any services, directly or indirectly, with any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) owning property in the City or the study area and further covenants and agrees that Consultant and/or its subconsultants shall provide no service or enter into any agreement or agreements with a/any developer(s) and/or property owner(s) and/or firm(s) and/or partnership(s) owning property in the City or the study area prior to the completion of the work under this Agreement.

16. NOTICES

Any notices, which either party may desire to give to the other party under this Agreement, must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as, but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To City:	Michael C. Hudson City Engineer City of Montclair 5111 Benito Montclair, CA 91763
To Consultant:	Leighton Consulting, Inc. 10532 Acacia Street Suite B-6 Rancho Cucamonga, CA. 91730

17. ASSIGNMENT

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any moneys due hereunder, without prior written consent of the City. Because of the personal nature of the services to be rendered pursuant to this Agreement, only Leighton Consulting, Inc. (responsible employee) shall perform the services described in this Agreement.

Consultant's responsible employee may use assistants, under his direct supervision, to perform some of the services under this Agreement. Consultant shall

provide City fourteen (14) days' notice prior to the departure of the responsible employee from Consultant's employ. Should he leave Consultant's employ, the City shall have the option to immediately terminate this Agreement within three (3) days of the close of said notice period. Upon termination of this Agreement, Consultant's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the City Council and the Consultant.

18. LICENSES

At all times during the term of this Agreement, Consultant shall have, in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement including a City of Montclair business license.

19. GOVERNING LAW

The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with jurisdiction over the City of Montclair.

20. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

21. CONFIDENTIALITY

Information and materials obtained by the Consultant from City during the performance of this Agreement shall be treated as strictly confidential and shall not be used by the Consultant for any purpose other than the performance of this Agreement.

22. DISCRIMINATION

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

23. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of Consultant warrants and represents that he/she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CITY	CONSULTANT
CITY OF MONTCLAIR	**LEIGHTON CONSULTING, INC.**
By_____ Paul M. Eaton, Mayor	By_____ Vice President
ATTEST	
By_____ Donna M. Jackson, City Clerk	By_____ (Title)
APPROVED AS TO FORM	
By_____ Diane E. Robbins, City Attorney	

EXHIBIT A

Leighton Consulting, Inc.
A LEIGHTON GROUP COMPANY

April 30, 2010

Proposal No. P602-01821

To: City of Montclair
5111 Benito Street
Montclair, California 91763

Attention: Mr. Steve Stanton

Subject: Proposal for Geotechnical and Materials Observation and Testing During Mission Boulevard Corridor Improvements from Ada Street to Benson Avenue, Phase 8, City of Montclair, California, EA 08-924869

Introduction

In response to your request, Leighton Consulting is pleased to present this proposal to provide geotechnical and material testing services during construction of the Mission Boulevard Corridor Improvements Phase 8 project. This proposal is based on project plans prepared by LD King, dated April 6, 2010 and specifications prepared by the City of Montclair dated April, 2010.

Proposed Scope of Work

We understand the City of Montclair is planning to rehabilitate the existing Mission Boulevard within the Phase 8 limits of work, which begin just east of Ada Street and extend eastward to the intersection with Benson Avenue. This project will consist of rehabilitation of existing pavement, reconstruction of a new median, new driveway approaches, curbs and gutters, and sidewalk access ramps. It will also consist of construction of approximately 1,860 feet of RCP and RCB storm drains and realignment of catch basins and utility connections.

Scope of Work

Our scope of services will include the following:

Geotechnical and material observation and testing services during construction, including field density testing, geotechnical laboratory testing, performed in accordance with Cal Trans methods.

Geotechnical and Material Observation and Testing

We understand that the project duration is 90 working days. We estimate that one part-time field technician (20 hours per workweek, no overtime) will be needed, on an on-call basis, for approximately 12 weeks (240 hours total). The actual amount of time, and our associated fees, will be dependent on the contractor's schedule, pace and efficiency. For planning purposes, we propose the following scope of work:

- Leighton Consulting's field operations manager will attend one pre-construction meeting to establish points of contact and distribution of results, etc. Site safety is the responsibility of the contractor. Therefore, we will notify the contractor's site representative whenever we are on site.

- Part-time, on-call geotechnical and material observation and testing services including soil concrete and asphalt testing provided by a qualified soil technician for an estimated period of 60 workdays (no overtime). Observation and testing will be conducted periodically during trench backfill, subgrade preparation, concrete placed during construction of sidewalks, curb return access ramps, and asphalt pavement sections (Caltrans Test Methods).

- We will perform geotechnical laboratory testing of representative soil materials to determine the laboratory maximum density and optimum moisture content (Caltrans 216 Method), sand equivalent, sieve analysis, asphalt concrete extraction and gradation, and concrete compressive strength tests.

- We will provide project management, supervision, and QA/QC by our Field Operations Manager and our Associate Engineer.

- We will provide daily field reports summarizing the earthwork-related activities and the results of our field and laboratory tests during construction of the project.

- One final construction report including field and laboratory test data will be provided at the completion of the project.

Schedule

Leighton is prepared to begin our geotechnical observation and testing services when requested, upon our receipt of your signed authorization to proceed. During the course of grading and construction, we would appreciate a minimum of 24 hours advance notice for scheduling our field technicians.

Fee Estimate

Our fees will accumulate on a time-and-materials basis with an estimated budget of Twenty Nine Thousand Eight Hundred Dollars ($29,800). Table 1, attached, is a breakdown of the estimated services and fees. We will provide our services in accordance with the terms and conditions of the existing Agreement and attached Scope of Work Agreement.

Closure

We appreciate the opportunity to be of continued service to the City of Montclair. If you have any questions or information that would update our scope of work, please call us at your convenience. The undersigned can be reached at (909) 484-2205.

Respectfully submitted,

LEIGHTON CONSULTING, INC.

Michael E. Grace
Field Operations Manager

MDH/MG/rsh

Attachments: Table 1 - Breakdown of Estimated Fees
2010 Professional Fee Schedule

Enclosure: (2) Scope of Work Agreement

Distribution: (1) Addressee

EXHIBIT B

Leighton Consulting, Inc.
A LEIGHTON GROUP COMPANY

TABLE 1

BREAKDOWN OF ESTIMATED FEES

GEOTECHNICAL AND MATERIAL TESTING DURING CONSTRUCTION

Mission Boulevard Improvement Project

Preconstruction Management

	Hours	Rate	Amount	
Field Operations Manager	2	$160.00	$320.00	
Vehicle	2	$10.00	$20.00	
			Subtotal:	$340.00

Field Services

	Hours	Rate	Amount	
Soil/Material Technician (**prevailing wage**)	240	$80.00	$19,200.00	
Field Operations Manager	10	$160.00	$1,600.00	
Vehicle	250	$10.00	$2,500.00	
			Subtotal:	$23,300.00

Geotechnical and Materials Laboratory Tests

	Quantity	Unit Rate	Amount	
Relative Compaction Cal 216	9	$250	$2,250	
Extraction, Percent Asphalt and Gradation	4	$195	$780	
Sieve Analysis	2	$110.00	$220.00	
Sand Equivalent	4	$105.00	$420.00	
Concrete Cylinders Compression	16	$25.00	$400.00	
Sample Pickup	4	$80.00	$320.00	
			Subtotal:	$4,390.00

QA/QC, and Project Management

	Hours	Rate	Amount	
Associate Engineer	2	$198.00	$396.00	
Operations Manager	4	$160.00	$640.00	
			Subtotal:	$1,036.00

Final Compaction Report		$734.00
TOTAL ESTIMATED FEE:		**$29,800.00**

Leighton

2010 PROFESSIONAL FEE SCHEDULE*

PROFESSIONAL SERVICES

Technical Staff	Hourly Rate
Soil/Field Technician (Prevailing Wage) **	80
Materials Inspection Manager	110
Staff Engineer/Geologist/Scientist/Field Supervisor	121
Senior Staff Engineer/Geologist/Scientist	138
Operations Manager/Equipment Operator	160
Project Engineer/Geologist/Scientist	160
Senior Project Engineer/Geologist/Scientist	176
Associate	198
Principal	215
Senior Principal	259

Technical Support Staff	Hourly Rate
Project Administrator /Word Processor	$78
Information Specialist	105
CAD Operator	110
GIS Specialist	125

Miscellaneous	Unit Rate
Vehicle usage	$10 per hour
Nuclear density gauge	88 per day
FTP site set up (project-specific)	75 each

* Effective through December 31, 2010, after which remaining work will be billed at then-current rates.

** Subject to change based upon project advertised date and changes in California prevailing wage rates.

9060 302 • 1-10 Leighton 10532 Acacia Street, Suite B-6 | Rancho Cucamonga, CA 91730 *p* | 866-Leighton *f* | 909-484-2170

UNIT RATE GEOTECHNICAL (SOILS) LABORATORY TESTING

Task	Classification and Index Properties	Method	Per Test
8002	Moisture Content	ASTM D 2216	$20
8003	Moisture and Density (Ring Samples)	ASTM D 2937	30
8004	Moisture Content & Density *(Shelby tube or requires cutting)*	ASTM D 2937	40
8005	Atterberg Limits (3 points)	ASTM D 4318	150
8006	Single Point / Non-plastic	ASTM D 4318	84
8024	Atterberg Limits (Organic)	ASTM D 2487 / 4318	182
8007	Visual classification of point as non-plastic	ASTM D 2488	11
8008	Particle Size: Sieve ONLY (1½-inch to #200)	ASTM D 422	110
8023	Large Sieve (6-inch to #200)	ASTM D 422/C136	175
8009	Hydrometer ONLY	ASTM D 422	110
8010	Sieve + Hydrometer (≤3-inch sieve)	ASTM D 422	185
8011	Dispersive Characteristics of Clay Soil *(Double Hydrometer)*	ASTM D 4221	89
8012	Specific Gravity: Fine (passing #4)	ASTM D 854 / CTM 207	125
8013	Coarse (retained on #4)	ASTM C 127 / CTM 206	100
8014	Total Porosity – On Shelby tube sample	*calculated from density & specific gravity*	137
8015	Total Porosity – On other sample		105
8016	Photograph of sample		11
8017	Shrinkage Limits *(Wax Method)*	ASTM D 4943	126
8018	Pinhole Dispersion	ASTM D 4647	210
8020	Percent Passing #200 Sieve wash ONLY	ASTM D 1140	70
8021	As-Received Moisture and Density ("chunk" or carved samples)		58
8022	Sand Equivalent (SE)	ASTM D 2419 / CTM 217	105

	Soil Chemistry and Corrosivity	Method	Per Test
8050	pH	CTM CA Test 532/643	$42
8051	Electrical Resistivity – single point – in-situ moisture		42
8052	Minimum Resistivity (≥3 moisture content points)	CTM CA Test 532/643	89
8053	pH + Minimum Resistivity	CTM CA Test 532/643	131
8054	Sulfate Content - Gravimetric	CTM CA Test 417 Part II	68
8055	Sulfate Screen	HACH kit	32
8056	Chloride Content	CTM CA Test 422	68
8057	Corrosion Suite: *pH, Chloride, Minimum Resistivity & Sulfate (gravimetric)*	CTM CA Test 532/643	245
8058	Organic Matter Content	ASTM 2974	63

	Shear Strength	Method	Per Test
8070	Pocket Penetrometer		$16
8072	Direct Shear (3 points) *Consolidated Undrained - 0.05 in./min.*	ASTM D 3080 mod.	285
8073	Direct Shear (3 points) *Consolidated Drained - <0.05 in./min.*	ASTM D 3080	345
8074	Residual Shear (price per each additional pass after shear)	EM 1110-2-1906-IXA	70
8075	Remolding or Hand Trimming of specimens (3 points)		90
8076	Oriented or Block Hand Trimming (per hour)		58/hour
8077	Daily equipment usage rate (after 2 days)		35/day
8079	Single Point Shear		105
8080	Torsional Shear		620

	Compaction and Pavement Subgrade Tests	Method	Per Test
8094	Standard Proctor Compaction (Maximum Density), 4 points	ASTM D 698	
8092	4 inch diameter mold	Methods A and B	$182
8093	6 inch diameter mold	Method C	215
	Modified Proctor Compaction (Maximum Density), 4 points	ASTM D 1557-07	
8100	4 inch diameter mold	Methods A and B	220
8101	6 inch diameter mold	Method C	245
8102	Check Point	per point	65

UNIT RATE GEOTECHNICAL (SOILS) LABORATORY TESTING (Continued)

Task	Compaction and Pavement Subgrade Tests (Continued)	Method	Per Test
8000	Relative Compaction of Untreated & Treated Soils & Aggregates (Caltrans CTM 216: Caltrans wet density compaction curve)	CTM 216	$250
8103	Relative Density (0.1 cubic foot mold)	ASTM D 4253, D 4254	236
8104	California Bearing Ratio (CBR) – 3 point *	ASTM D 1883	500
8105	– 1 point *		184
	* Compaction (Maximum Density) should also be performed – not included in above prices		
8090	R-Value – Untreated	CTM 301	310
8091	R-Value – Lime or cement treated soils (≤7% additive)	CTM 301	338
	Triaxial Tests	**Method**	**Per Test**
8120	Unconfined Compression Strength of Cohesive Soil *(with stress/strain plot)*	ASTM D 2166	$135
8121	Unconsolidated Undrained Triaxial Compression Test on Cohesive Soils (USACE Q test) *(per confining stress)*	ASTM D 2850	168
8122	Consolidated Undrained Triaxial Compression Test for Cohesive Soils (CU, USACE R-bar test) with Back Pressure Saturation & Pore Water Pressure Measurement *(per confining stress)*	ASTM D 4767	375
8127	Consolidated Drained Triaxial Compression Test (CD, USACE S test) with Volume Change Measurement	EM 1110-2-1906(X)	
8123	Sand or silty sand soils *(per confining stress)*		375
8124	Silt or clayey sand soils *(per confining stress)*		500
8125	Clay soils *(per confining stress)*		705
8126	Three-stage Triaxial Tests		Above price + 75%
	Consolidation and Expansion/Swell Tests	**Method**	**Per Test**
8140	Consolidation *(11 loads up to 16 ksf & unload to 0.25 with strain vs. load curve and one time-rate-of-consolidation curve)*	ASTM D 2435	$195
8141	Each additional Time Curve		45
8142	Each additional load/unload w/o Time Reading		42
8143	Expansion Index (EI)	ASTM D 4829-08	131
8145	Swell/Collapse Test – Method A *(Up to 10 load/unloads w/o time curves)*	ASTM D 4546-A	289
8146	Single Load Swell/Collapse Test - Method B *(Seat, load, and inundate only)*	ASTM D 4546-B	105
8148	Collapse Potential of Soils	ASTM D 5333	220
	Hydraulic Tests	**Method**	**Per Test**
8162	Triaxial Permeability in Flexible-Wall Permeameter with Backpressure Saturation (at One Effective Stress)	EPA 9100/ASTM D 5084 (Falling Head Method C)	$310
8163	- Each Additional Effective Stress		121
8164	- Hand Trimming of Soil Samples for Horizontal K		58
8169	Remolding of Test Specimens		58
	Soil-Cement	**Method**	**Per Test**
8106	Moisture-Density Relations of Soil-Cement Mixtures	ASTM D 558	$240
8107	Wet-Dry Durability of Soil-Cement Mixtures*	ASTM D 559	1,205
8130	Compressive Strength of Molded Soil-Cement Cylinders* (per cylinder)	ASTM D 1633	60
8161	Soil-Cement Remolded Specimen* (for shear strength, consolidation, etc.)		236
	*Compaction (ASTM D 558 maximum density) should also be performed – not included in above price		

MATERIALS TESTING AND INSPECTION SCHEDULE OF SERVICES

Task	Pre-stressing	Method	Per Test
7320	Prestressing Wire, Tension (stress vs. strain plot)	ASTM A 416	$150
7321	Sample Preparation (cutting)		50
7322	Prestressing cable, 7 wire (Breaking strength/Modulus of Elasticity)	ASTM A 416	190

Task	Weld Procedure and Welder Qualifications		Rate
6320	Welder Certification/Weld Procedure Review (AWS/CWI)		$85/hour
7330	Weld Tensile Test		50 each
7331	Weld Bend Test		40 each
7332	Weld Macro-Etch		60 each
7333	Bolt Tensile Test		50 each
7334	Bolt, Nut or Washer Hardness Test		50 each
7335	Bold Elastic Proof Load Test		50 each

Task	Fireproofing	Method	Per Test
7340	Unit Weight (Density)	ASTM E 605-93	$60

Task	Asphalt Concrete, Specimen Testing	Method	Per Test
7350	Extraction, Percent Asphalt and Gradation, Centrifuge	ASTM D 2172/C 136	$195
7351	Extraction & Percent Asphalt (only), Centrifuge	ASTM D 2172	155
7355	Extraction and Gradation Only, Centrifuge	ASTM D 2172/C 136	175
7352	Bulk Specific Gravity – Molded Specimen or Cores	ASTM D 1188	55
7353	Maximum Density - Hveem	CTM 308	125
7354	Stabilometer Value	CTM 366	265
7357	Bituminous Mixture Preparation	CTM 304	80
7377	Moisture Content of Asphalt †	CTM 370	60
7378	Sampling Highway Materials/Products (Roadway Structural Sections) †	CTM 125	Quote
7379	Extraction by Ignition Oven	CTM 382 (8/2003)	150
	Rubberized Asphalt		add 25%

Task	Mix Design/Control	Method	Per Test
7360	Mix Design – Hveem Including Aggregate Tests per Design	ASTM D 1560/CTM 366	Quote
7361	Mix Design – Marshall Including Aggregate Tests per Design	ASTM D 1559	Quote
7362	Field Mix – Hveem Stability per point	ASTM D 1560/CTM 366	$200
7363	Field Mix - Marshall Stability per point	ASTM D 1559	200

Task	Moisture Vapor Emission Rate (MVER) Test	Method	Per Test
6325	Moisture Test Kit (excludes labor to perform test)	ASTM E 1907	$60

Task	Other Services	Method	Rate
6260	Non-Destructive Testing (NDT) each weld	ANSI	$92 each
6259	Radiographic Testing		Quote
6270	Project Closeout		215/hour

Ŧ soil † material ж soil & materials

TERMS AND CONDITIONS

- **Overtime**: Overtime for field personnel will be charged at 1.5 times basic hourly rates when exceeding 8 hours up to 12 hours per 24 hour interval, and 2 times basic hourly rates when exceeding 12 hours in 24 hours or on Sunday, and 3 times basic hourly rates on California official holidays.

- **Expert Witness Time**: Expert witness deposition and testimony will be charged at 2 times hourly rates listed on the previous pages, with a minimum charge of four hours per day.

- **Minimum Hourly Charges for Geotechnical and Environmental Technicians** (field time only):

  1. Monday-Friday ..... 2 hours
  2. Saturday and Sunday ..... 4 hours

- **Minimum Hourly Charges for Special Inspectors or Material Testing Field Services** (field time only):

  1. Cancellation of inspections not canceled by 4:00 p.m. on preceding day* ..... 2 hours
  2. One-half working day or less except as No. 3 (below) applies ..... 4 hours
  3. Over one-half working day, or begins before noon and extends into afternoon ..... 8 hours

  *No charge if cancellation is made before 4:00 p.m. of the preceding work day.

- **Outside Direct Costs (ODCs)**: Heavy equipment, subcontractor fees and expenses, project-specific permits and/or licenses, project-specific supplemental insurance, travel, subsistence, project-specific parking charges, shipping, reproduction, and other reimbursable expenses will be invoiced at cost plus 20%, unless billed directly to and paid by client.

- **Insurance and Limitation of Liability**: These rates are predicated on standard insurance coverage and a limit of Leighton's liability equal to our total fees for a given project.

- **Invoicing**: Invoices are rendered monthly, payable upon receipt in United States dollars. A service charge of 1½-percent per month will be charged for late payment.

- **Proposal Expiration**: Proposals are valid for at least 30 days, subject to change after 30 days; unless otherwise stated in the attached proposal. Fees are subject to change on January 1st. of every year.

- **Client Disclosures**: Client agrees to provide all information in Client's possession about actual or possible presence of buried utilities and hazardous materials on the project site, prior to fieldwork, and agrees to reimburse Leighton for all costs related to unanticipated discovery of utilities and/or hazardous materials. Client is also responsible for providing safe and legal access to the project site for all Leighton field personnel.

- **Earth Material Samples**: Quoted testing unit rates are for soil and/or rock (earth) samples free of hazardous materials. Additional costs will accrue beyond these standard testing unit rates for handling, testing and/or disposing of soil and/or rock containing hazardous materials. Hazardous materials will be returned to the site or the site owner's designated representative at additional cost not included in listed unit rates. Standard turn-around time for geotechnical-laboratory test results is 10 working days. Samples will be stored for 2 months, after which they will be discarded. Prior documented notification is required if samples need to be stored for a longer time. A monthly storage fee of $10 per bag and $5 per sleeve or tube will be applied. Quoted unit rates are only for earth materials sampled in the United States. There may be additional cost for handling imported samples.

- **Construction Material Samples**: After all designated 28-day breaks for a given set meet specified compressive or other client-designated strength, all "hold" cylinders or specimens will be automatically disposed of, unless specified in writing prior to the 28-day break. All other construction materials will be disposed of after completion of testing and reporting.

AGENDA REPORT

SUBJECT:	CONSIDER ADOPTION OF RESOLUTION NO. 10-2847 AUTHORIZING PLACEMENT OF LIENS ON CERTAIN PROPERTIES FOR DELINQUENT SEWER AND TRASH CHARGES	**DATE:**	June 7, 2010
		SECTION:	RESOLUTIONS
		ITEM NO.:	1
		FILE I.D.:	STB300-17
BUSINESS PLAN:	N/A	**DEPT.:**	ADMIN. SVCS.

REASON FOR CONSIDERATION: Staff has identified 200 sewer and trash accounts in the even-numbered-month billing cycle that are more than three billing periods delinquent. Pursuant to Montclair Municipal Code Chapter 1.12, these properties are subject to lien.

BACKGROUND: Ordinance No. 02-815 authorizes the placement of liens on properties on which delinquent civil debts have accrued and makes property owners responsible for delinquent sewer and trash charges accrued after the effective date of the Ordinance (March 1, 2002) for accounts in tenants' names. Prior to adoption of the Ordinance, property owners were responsible only for those accounts in their own names.

The 200 liens presented for approval are for accounts which are at least 90 days delinquent.

FISCAL IMPACT: Recoverable amount is $49,313.72 plus $10,000.00 in lien fees, for a total of $59,313.72.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 10-2847 authorizing placement of liens on the properties listed on Exhibit A of the Resolution for delinquent sewer and trash charges.

Prepared by: Janet Kulbeck Reviewed and Approved by:

Proofed by: Kathy Dalton Presented by:

RESOLUTION NO. 10-2847

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

WHEREAS, Chapter 1.12 of the Montclair Municipal Code authorizes the City to place liens on properties on which delinquent civil debts have accrued; and

WHEREAS, all owners of property in the City of Montclair were notified about the adoption of Ordinance No. 02-815 authorizing placement of liens on properties on which delinquent civil debts have accrued; and

WHEREAS, it has been determined that there are 200 sewer and/or trash accounts on which there are delinquencies in excess of 90 days; and

WHEREAS, the owners of these properties have received regular billing statements and late notices since the onset of such delinquencies; and

WHEREAS, the owners of these properties were notified on May 17, 2010, that their delinquent accounts are subject to causing liens to be placed on their properties for settlement of such delinquencies; and

WHEREAS, the owners of these properties were again notified on May 27, 2010, and that such liens would be considered for approval by the Montclair City Council on Monday, June 7, 2010.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair approve the placement of liens on the properties and in the amounts specified in Exhibit A, entitled *Report of Delinquent Civil Debts - June 2010,* attached hereto.

BE IT FURTHER RESOLVED that the City Clerk is authorized to provide the San Bernardino County Auditor/Controller-Recorder with the documents required to cause such liens to be placed.

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 Resolution No. 10-2847 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

_____
Donna M. Jackson
City Clerk

Exhibit A to Resolution No. 10-2847
Report of Delinquent Civil Debts - June 2010

Service Address	Type	Delinquency	Lien Fee	Total Lien Amount
10412 Benson Avenue	Residential	$201.81	$50.00	$251.81
10208 Benson Avenue	Residential	$207.76	$50.00	$257.76
10395 Vernon Avenue	Residential	$197.85	$50.00	$247.85
10236 Vernon Avenue	Residential	$195.11	$50.00	$245.11
10145 Bel Air Avenue	Residential	$100.21	$50.00	$150.21
11142 Amherst Avenue	Residential	$226.37	$50.00	$276.37
4763 Bandera Street	Residential	$100.00	$50.00	$150.00
5171 Fauna Street	Residential	$207.22	$50.00	$257.22
4912 Canoga Street	Residential	$197.85	$50.00	$247.85
10221 Santa Anita Avenue	Residential	$197.85	$50.00	$247.85
4103 Howard Street	Residential	$197.96	$50.00	$247.96
4835 Orchard Street	Residential	$176.40	$50.00	$226.40
4852 Fauna Street	Residential	$198.11	$50.00	$248.11
10216 Coalinga Avenue	Residential	$176.40	$50.00	$226.40
10231 Coalinga Avenue	Residential	$198.11	$50.00	$248.11
5171 Orchard Street	Residential	$198.87	$50.00	$248.87
10124 Poulsen Avenue	Residential	$198.11	$50.00	$248.11
10154 Poulsen Avenue	Residential	$197.85	$50.00	$247.85
10246 Saratoga Avenue	Residential	$218.09	$50.00	$268.09
10201 Columbine Avenue	Residential	$207.22	$50.00	$257.22
10115 Vernon Avenue	Residential	$114.86	$50.00	$164.86
10186 Bel Air Avenue	Residential	$195.64	$50.00	$245.64
10109 Bel Air Avenue	Residential	$172.50	$50.00	$222.50
10166 Santa Anita Avenue	Residential	$292.60	$50.00	$342.60
10148 Del Mar Avenue	Residential	$213.03	$50.00	$263.03
10212 Del Mar Avenue	Residential	$154.39	$50.00	$204.39
10209 Del Mar Avenue	Residential	$176.40	$50.00	$226.40
5476 Kingsley Street	Residential	$197.95	$50.00	$247.95
5051 Flora Street	Residential	$208.51	$50.00	$258.51
10208 Monte Vista Avenue	Residential	$284.75	$50.00	$334.75
10282 Greenwood Avenue	Residential	$197.85	$50.00	$247.85
10289 Tudor Avenue	Residential	$198.11	$50.00	$248.11
10243 Tudor Avenue	Residential	$207.37	$50.00	$257.37
10129 Galena Avenue	Residential	$209.68	$50.00	$259.68
10241 Camulos Avenue	Residential	$197.96	$50.00	$247.96
10252 Camulos Avenue	Residential	$197.34	$50.00	$247.34
10217 Oak Glen Avenue	Residential	$323.69	$50.00	$373.69
10163 Oak Glen Avenue	Residential	$123.64	$50.00	$173.64
4219 Fauna Street	Residential	$197.85	$50.00	$247.85
4244 Fauna Street	Residential	$168.04	$50.00	$218.04
4993 Manzanita Street	Senior	$196.17	$50.00	$246.17
10407 Camarena Avenue	Residential	$198.73	$50.00	$248.73
4949 Canoga Street	Residential	$197.81	$50.00	$247.81
5019 Kingsley Street	Residential	$197.85	$50.00	$247.85
5555 Vernon Court	Residential	$176.40	$50.00	$226.40
5598 Bandera Street	Residential	$176.40	$50.00	$226.40
4846 Mane Street	Residential	$197.86	$50.00	$247.86
4646 Mane Street	Residential	$290.05	$50.00	$340.05

Service Address	Type	Delinquency	Lien Fee	Total Lien Amount
4381 Howard Street	Residential	$307.35	$50.00	$357.35
4426 Rodeo Street	Residential	198.73	$50.00	$248.73
11158 Carriage Avenue	Residential	$197.95	$50.00	$247.95
4675 Saddleback Street	Residential	$201.81	$50.00	$251.81
5198 Kingsley Street	Multifamily	$396.22	$50.00	$446.22
8919-21 Felipe Avenue	Multifamily	$393.40	$50.00	$443.40
5193 Canoga Street	Multifamily	$305.56	$50.00	$355.56
10360 Amherst Avenue	Multifamily	$593.53	$50.00	$643.53
10431 Amherst Avenue	Multifamily	$395.68	$50.00	$445.68
10421 Amherst Avenue	Multifamily	$395.68	$50.00	$445.68
10386 Kimberly Avenue	Multifamily	$550.00	$50.00	$600.00
4536 Yosemite Drive	Residential	$205.95	$50.00	$255.95
4548 Yosemite Drive	Residential	$168.04	$50.00	$218.04
4505 Donner Court	Residential	$197.85	$50.00	$247.85
4523 Bodega Court	Residential	$290.06	$50.00	$340.06
4515 Yosemite Drive	Residential	$197.85	$50.00	$247.85
5177 San Antonio Way	Residential	$205.95	$50.00	$255.95
11014 San Miguel Way	Residential	$192.84	$50.00	$242.84
11022 San Juan Way	Residential	$197.60	$50.00	$247.60
11032 San Juan Way	Residential	$292.60	$50.00	$342.60
10556 Mustang Circle	Residential	$195.64	$50.00	$245.64
11180 Carriage Avenue	Residential	$176.40	$50.00	$226.40
4315 Clydesdale Way	Residential	$197.84	$50.00	$247.84
4924 Canoga Street	Residential	$197.85	$50.00	$247.85
10310-12 Lehigh Avenue	Multifamily	$395.68	$50.00	$445.68
10273 Monte Vista Avenue	Residential	$108.64	$50.00	$158.64
5225 Belvedere Way	Residential	$205.29	$50.00	$255.29
10290 Monte Vista Avenue	Senior	$213.38	$50.00	$263.38
10187 Lehigh Avenue	Residential	$278.04	$50.00	$328.04
9802 Central Avenue	Commercial	$2,886.50	$50.00	$2,936.50
10235 Monte Vista Avenue	Residential	$133.53	$50.00	$183.53
10463 Yosemite Drive	Residential	$195.64	$50.00	$245.64
4661 Mane Street	Residential	$181.09	$50.00	$231.09
10594 Oak Glen Avenue	Residential	$130.56	$50.00	$180.56
4999 Grand Avenue	Residential	$197.96	$50.00	$247.96
10493 Adobe Court	Residential	$192.18	$50.00	$242.18
11076 Kimberly Avenue	Residential	$197.60	$50.00	$247.60
5554 Vernon Court	Residential	$412.34	$50.00	$462.34
10236 Del Mar Avenue	Residential	$197.85	$50.00	$247.85
4883 Kingsley Street	Residential	$202.79	$50.00	$252.79
11263 Whitewater Avenue	Residential	$195.64	$50.00	$245.64
11151 Amherst Avenue	Residential	$197.59	$50.00	$247.59
4528 Donner Court	Residential	$205.95	$50.00	$255.95
10462 Yosemite Drive	Residential	$198.11	$50.00	$248.11
10206 Pradera Avenue	Residential	$256.05	$50.00	$306.05
5242 Kingsley Street	Residential	$176.40	$50.00	$226.40
10133 Santa Anita Avenue	Residential	$195.64	$50.00	$245.64
11049 Fremont Avenue	Residential	$176.40	$50.00	$226.40
4785 Manzanita Street	Residential	$203.00	$50.00	$253.00
10250 Poulsen Avenue	Residential	$197.85	$50.00	$247.85
11075 Kimberly Avenue	Residential	$197.60	$50.00	$247.60

Service Address	Type	Delinquency	Lien Fee	Total Lien Amount
5572 Kingsley Street	Residential	$197.95	$50.00	$247.95
4612 Canoga Street	Multifamily	$1,375.41	$50.00	$1,425.41
10437 Camarena Avenue	Residential	$105.34	$50.00	$155.34
10582 Oak Glen Avenue	Residential	$205.95	$50.00	$255.95
10970 Shetland Avenue	Residential	$217.64	$50.00	$267.64
4555 Mane Street	Residential	$197.23	$50.00	$247.23
4990 Bandera Street	Residential	$123.39	$50.00	$173.39
10236 Kimberly Avenue	Residential	$198.85	$50.00	$248.85
4234 Fauna Street	Residential	$197.85	$50.00	$247.85
10458 Benson Avenue	Residential	$318.09	$50.00	$368.09
5422 Orchard Street	Residential	$198.11	$50.00	$248.11
4705 Evart Street	Residential	$186.38	$50.00	$236.38
10287 Fremont Avenue	Residential	$201.80	$50.00	$251.80
4534 Bodega Court	Residential	$239.90	$50.00	$289.90
4592 Canoga Street	Multifamily	$653.89	$50.00	$703.89
5272 Saddleback Street	Residential	$277.63	$50.00	$327.63
9617 Central Avenue	Commercial	$433.27	$50.00	$483.27
4748 Fauna Street	Residential	$198.11	$50.00	$248.11
4919 Manzanita Street	Residential	$198.73	$50.00	$248.73
4224 Appaloosa Way	Residential	$197.85	$50.00	$247.85
10112 Santa Anita Avenue	Residential	$178.04	$50.00	$228.04
4535 Mane Street	Residential	$207.91	$50.00	$257.91
10195 Bel Air Avenue	Residential	$222.98	$50.00	$272.98
4747 Flora Street	Residential	$318.09	$50.00	$368.09
4855 Mane Street	Residential	$412.34	$50.00	$462.34
10259 Camulos Avenue	Residential	$197.85	$50.00	$247.85
4502 Donner Court	Residential	$278.04	$50.00	$328.04
11195 Whitewater Avenue	Residential	$273.81	$50.00	$323.81
11178 Whitewater Avenue	Residential	$197.85	$50.00	$247.85
11272 Ada Avenue	Residential	$168.04	$50.00	$218.04
11178 Carrillo Avenue	Residential	$278.04	$50.00	$328.04
4780 Kingsley Street	Residential	$197.84	$50.00	$247.84
4975 Canoga Street	Residential	$197.85	$50.00	$247.85
10225 Lehigh Avenue	Residential	$197.85	$50.00	$247.85
5158 Clair Street	Residential	$103.70	$50.00	$153.70
10213 Camulos Avenue	Residential	$176.40	$50.00	$226.40
11169 Carrillo Avenue	Residential	$197.85	$50.00	$247.85
4538 Yosemite Drive	Residential	$203.75	$50.00	$253.75
10311 Kimberly Avenue	Residential	$110.65	$50.00	$160.65
5014-16 Bandera Street	Multifamily	$391.25	$50.00	$441.25
11073 Monte Vista Avenue	Residential	$129.10	$50.00	$179.10
4230 Via Amore	Residential	$205.95	$50.00	$255.95
5239 Monte Verde Street	Residential	$308.36	$50.00	$358.36
4207 Via Abby	Residential	$278.04	$50.00	$328.04
4830 Canoga Street	Multifamily	$646.77	$50.00	$696.77
4830 Canoga Street	Multifamily	$646.77	$50.00	$696.77
10865 Pipeline Avenue #B	Residential	$235.94	$50.00	$285.94
5223 Howard Street	Residential	$300.01	$50.00	$350.01
10238 Monte Vista Avenue	Residential	$188.87	$50.00	$238.87
10244 Oak Glen Avenue	Residential	$318.09	$50.00	$368.09
8912 Felipe Avenue	Residential	$198.11	$50.00	$248.11

Service Address	Type	Delinquency	Lien Fee	Total Lien Amount
4780 Howard Street	Residential	$197.85	$50.00	$247.85
11020 San Pasqual Avenue	Residential	$197.85	$50.00	$247.85
10468 Calico Court	Residential	$291.36	$50.00	$341.36
4501 Donner Court	Residential	$198.11	$50.00	$248.11
4337 Appaloosa Way	Residential	$197.95	$50.00	$247.95
4909 Kingsley Street	Residential	$197.18	$50.00	$247.18
4596 Mane Street	Residential	$197.85	$50.00	$247.85
10995 San Miguel Way	Residential	$134.68	$50.00	$184.68
10835 Pipeline Avenue	Residential	$169.91	$50.00	$219.91
10845 Pipeline Avenue	Residential	$122.38	$50.00	$172.38
10885 Pipeline Avenue	Residential	$122.38	$50.00	$172.38
4912 Carlton Street	Residential	$128.95	$50.00	$178.95
4980 Howard Street	Residential	$136.08	$50.00	$186.08
5022 Evart Street	Residential	$184.34	$50.00	$234.34
4320 Appaloosa Way	Residential	$274.20	$50.00	$324.20
10255 Camarena Avenue	Residential	$193.22	$50.00	$243.22
5003 Kingsley Street	Residential	$195.64	$50.00	$245.64
4631 Kingsley Street	Multifamily	$579.00	$50.00	$629.00
5007 Holt Boulevard	Residential	$163.91	$50.00	$213.91
10557 Morgan Circle	Residential	$198.11	$50.00	$248.11
10472 Yosemite Drive	Residential	$197.84	$50.00	$247.84
11159 Essex Avenue	Residential	$198.24	$50.00	$248.24
5013 Howard Street	Residential	$269.40	$50.00	$319.40
10149 Galena Avenue	Residential	$205.12	$50.00	$255.12
10171 Canary Court	Residential	$197.85	$50.00	$247.85
10468 Yosemite Drive	Residential	$176.40	$50.00	$226.40
4703 Fauna Street	Residential	$148.10	$50.00	$198.10
4525 Yosemite Drive	Residential	$118.12	$50.00	$168.12
5185 Flora Street	Residential	$203.23	$50.00	$253.23
10642 Oak Glen Avenue	Residential	$197.24	$50.00	$247.24
11206 Poulsen Avenue	Residential	$256.17	$50.00	$306.17
4570 Howard Street	Residential	$211.35	$50.00	$261.35
11221 Greycliff Avenue	Residential	$213.26	$50.00	$263.26
4701 Canoga Street	Multifamily	$782.51	$50.00	$832.51
5160 San Clemente Way	Residential	$206.98	$50.00	$256.98
11003 Monte Vista Avenue	Residential	$121.54	$50.00	$171.54
4226 Via Amore	Residential	$201.51	$50.00	$251.51
5415 Orchard Street	Residential	$176.40	$50.00	$226.40
10139 Vernon Avenue	Residential	$407.59	$50.00	$457.59
4674 Evart Street	Residential	$197.81	$50.00	$247.81
10196 Bolton Avenue	Residential	$318.09	$50.00	$368.09
11053 Wesley Avenue	Residential	$298.33	$50.00	$348.33
10178 Santa Anita Avenue	Senior	$155.61	$50.00	$205.61
4802 Mane Street	Residential	$250.90	$50.00	$300.90
11163 Ada Avenue	Residential	$176.40	$50.00	$226.40
5554 Shirley Lane	Residential	$112.04	$50.00	$162.04
10263 Bel Air Avenue	Residential	$278.04	$50.00	$328.04
5081 Bandera Street	Residential	$218.48	$50.00	$268.48
11094 San Pasqual Avenue	Residential	$228.05	$50.00	$278.05
4791 Rawhide Street	Residential	$176.40	$50.00	$226.40
		$49,313.72	**$10,000.00**	**$59,313.72**

MINUTES OF THE REGULAR MEETING OF THE MONTCLAIR PUBLIC WORKS COMMITTEE HELD ON THURSDAY, APRIL 15, 2010, AT 2:00 P.M. IN THE CITY HALL CONFERENCE ROOM, 5111 BENITO STREET, MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

Mayor/Committee Member Eaton called the meeting to order at 2:00 p.m., noting Council Member Raft is substituting for Council Member/Committee Chair Paulitz.

II. ROLL CALL

Present: Chairman Paulitz; Committee Member Eaton; Director of Redevelopment/Public Works Staats; Director of Community Development Lustro; City Engineer Hudson; Facilities and Grounds Superintendent McGehee; Police Chief Jones

Absent: Public Works Superintendent Mendez; Ontario-Montclair School District Representative Huyck

III. APPROVAL OF MINUTES

A. Minutes of Regular Public Works Committee Meeting of February 18, 2010

It was the consensus of the Public Works Committee to approve the minutes of the Public Works Committee meeting of February 18, 2010.

IV. PUBLIC COMMENT - None

V. TRAFFIC SAFETY/CIRCULATION ISSUES

A. Ontario-Montclair School District Issues - None

B. Traffic Safety - None

VI. POLICE DEPARTMENT UPDATES - None

VII. DEVELOPMENT PROJECT UPDATES

Director of Community Development Lustro reported the following:

Staff received an application for recreational vehicle storage in conjunction with the mini storage on Mission Boulevard and Ada Avenue. The

owners would like to use the front portion of the site for outdoor RV storage. The site would be fully secured.

Staff is continuing to work on a Municipal Code amendment for the Landscape Water Conservation Ordinance. Staff will submit a draft Ordinance to the Planning Commission at its next scheduled meeting. After the draft Ordinance is reviewed by the Planning Commission, it will be submitted to City Council for approval.

For years, there has been a limitation on the size of accessory structures in all R-1 zones. Accessory structures must be a maximum of 400 square feet. In the south end of the City (estate lots), accessory structures have exceeded 400 square feet and have been allowed to be built by staff, which is essentially a violation of the Code. Staff is working on a Code amendment so staff could have more flexibility and allow larger accessory structures for larger properties.

A consultant was hired to assist staff in reviewing and revising the Housing Element of the General Plan. The revision is about 150 pages long with all the new legislation and state laws the City has to comply with.

VIII. MAINTENANCE ACTIVITY UPDATES

As part of the Senior Center contract, the interior of the library was painted and recarpeted. The construction started on March 19 and was completed on April 5. There was an issue with some asbestos under the tile, which was under the existing carpet. A specialty carpet was ordered to be placed over the existing carpet to ensure the contractor would not have to disturb the asbestos, creating a need for its removal.

IX. CAPITAL PROJECT UPDATES

City Engineer Hudson reported the status of the following capital improvement projects:

A. Mission Boulevard Improvement Project

Phase 7 construction (around Pipeline Avenue) is nearing completion. The street will be paved the first of next week. Staff did run into a significant problem. Part of the project was to install some catch basins and connector pipes in order to improve drainage along Mission Boulevard. Staff found that the existing storm drain installed approximately twelve years ago over a 1,000-foot stretch had developed some significant voids in the backfill, and it would only be a matter of time before the voids would cause the pavement to settle. Rather than wait for the pavement to settle, staff authorized the contractor to remove the backfill over the top of the pipe, recompact the bedding around the pipe, and put the backfill back in. The cost for this work was an unanticipated $75,000 change order. When the Notice of Completion goes to

Council, there will be a request to increase the construction contingency beyond the 10 percent that was authorized. It was better to take care of the problem while the street was opened up rather than wait for the pavement to settle.

Phase 8 of Mission Boulevard (from Central Avenue to the Benson Avenue) is now out to bid. Phase 9 will be the last segment of improvements that needs to be completed on Mission Boulevard. Phase 9 will start at Pipeline Avenue and end at the County Line. The design is complete, and staff is not considering advertising the project for another two or three months. The project would be advertised before the end of the calendar year, and construction should be complete before the end of the upcoming fiscal year.

B. Ramona Avenue Grade Separation Project

The paving will begin on April 29. The contractor is going to pave both sides of the bridge and the cap course on Camulos Avenue and Dale Street and resurface State Street. Staff is still on target for having the ribbon cutting ceremony on Thursday, May 20, 2010.

C. Monte Vista Avenue Grade Separation Project

City Engineer Hudson had a meeting with San Bernardino Associated Governments (SANBAG). SANBAG staff was able to come up with some additional funding to complete the right-of-way acquisition. The City did not receive the full $1 million that it requested but did receive $625,000. Acting City Manager Starr has requested the $375,000 balance from the California Department of Transportation.

D. Youth/Senior Center Facilities

The Contractor is showing a completion date for the Senior Center of August 31, 2010. Staff is not certain the contractor will meet the deadline; since every week, the contractor falls a few days behind. There is a possibility that the project may not be completed until September or October 2010.

E. Montera Elementary School Soccer Field

The soccer fieldwork has been completed; but after it was completed, there were some complaints from the residents regarding soccer balls going over the fence into residents' yards on the north side. This was not a problem the project created; it was a problem that began when the school was originally built. The school has asked the City to put up a 30-foot-high screen along the fence line to keep balls from flying into residents' yards. It is not covered in the contract, but staff is going to do it as a change order to the contract. The item has already been reviewed and

approved by the City Council. The moneys for this construction will come from the Park Development Fund. Staff is going through the approval process with the Division of the State Architect now. The first concept was previously approved by the State Architect, but the contractor believes there is a better way to install the fence. The contractor submitted its own design to the State Architect. Staff is now waiting for the contractor's drawings to be approved.

F. Fremont Avenue Improvement Project

The first phase of the project has been completed along the east side of the street north of Phillips Street. The second phase is going to include improvements on Howard Street just west of Fremont Avenue and along the west side of Fremont Avenue south of Howard Street. The project financing is provided by Stimulus Funds from San Bernardino Associated Governments. The kickoff meeting with the designer regarding phase 2 is scheduled for next week.

G. Demolition of 4113 Kingsley Street

The house on the corner of Pradera Avenue and Kingsley Street has been demolished. It is to become housing for special needs individuals. The Redevelopment Agency and National Community Renaissance of California (National CORE) have executed an Exclusive Agreement to Negotiate regarding this project.

Intersection Improvement Project - Phase II

Heavy bus use in the City has caused rutting in numerous intersections. Staff has been working on improvements to these intersections in phases. In Phase I staff completed the intersection of Holt Boulevard and Central Avenue along with a few other intersections. Phase II will address the intersections of Palo Verde Street/Central Avenue, Monte Vista Avenue/Arrow Highway and Holt Boulevard/Ramona Avenue. The pavement that was placed in Phase I of the Project is holding up very well.

X. ADJOURNMENT

At 3:00 p.m., Chairman Paulitz adjourned the Public Works Committee.

Submitted for Public Works Committee approval,

Alicia Johnson
Transcribing Secretary

MINUTES OF THE MEETING OF THE MONTCLAIR PERSONNEL COMMITTEE HELD ON MONDAY, MAY 17, 2010, AT 8:47 P.M. IN THE CITY ADMINISTRATIVE OFFICES, 5111 BENITO STREET, MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

Mayor Eaton called the meeting to order at 8:47 p.m.

II. ROLL CALL

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

III. APPROVAL OF MINUTES

A. Minutes of the Regular Personnel Committee Meeting of May 3, 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 May 3, 2010.

IV. PUBLIC COMMENT – None

V. CLOSED SESSION

At 8:48 p.m., the Personnel Committee went into Closed Session regarding personnel matters related to appointments, resignations/ terminations, and evaluations of employee performance.

At 9:05 p.m., the Personnel Committee returned from Closed Session. Mayor Eaton stated that no announcements would be made at this time.

VI. ADJOURNMENT

At 9:05 p.m., Mayor Eaton adjourned the Personnel Committee.

Submitted for Personnel Committee approval,

Edward C. Starr
Acting City Manager