

CITY OF MONTCLAIR

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

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

June 21, 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](http://www.ci.montclair.ca.us) and can be accessed the day following the meeting after 10:00 a.m.*

Page No.

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

**II. INVOCATION**

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

**III. PLEDGE OF ALLEGIANCE**

**IV. ROLL CALL**

**V. PRESENTATIONS**

A. Introduction of New Employee

B. State of the Utility Presentation by Southern California Edison Regional Manager Lydia Roman

**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. First Reading – Consider Adoption of Ordinance No. 10-913 Amending Chapters 7.24, 10.02, and 11.02 and Replacing Chapter 11.60 of the Montclair Municipal Code Related to Water Efficient Landscaping and Conservation [CC]

**VIII. CONSENT CALENDAR**

A. Approval of Minutes

1. Minutes of Regular Joint Council/Agency/MHC Meeting of June 7, 2010

B. Administrative Reports

- |   |    |
|---|----|
| 1. Consider Receiving and Filing of Treasurer's Report [CC]   | 38 |
| 2. Consider Approval of Warrant Register and Payroll Documentation [CC]   | 39 |
| 3. Consider Receiving and Filing of Treasurer's Report [RDA]  | 40 |
| 4. Consider Approval of Warrant Register [RDA]  | 41 |
| 5. Consider Receiving and Filing of Treasurer's Report [MHC]  | 42 |
| 6. Consider Approval of Warrant Register [MHC]  | 43 |
| 7. Consider Adoption of a Policy for Waiving Building Permit Fees on Certain City Projects [CC]                                   | 44 |
| 8. Consider Status Report on Emergency Contracting Procedures Related to the Damaged Floor in the Community Center Gymnasium [CC] |    |
| Consider Declaring a Termination to the Emergency Action Authorized Under Resolution No. 10-2831 [CC]                             | 46 |
| 9. Consider Status Report on Emergency Contracting Procedures Related to the Block Wall Construction at Alma Hofman Park [CC]     |    |
| Consider Declaring a Termination to the Emergency Action Authorized Under Resolution No. 10-2839 [CC]                             | 47 |

C. Agreements

- |  |    |
|--|----|
| 1. Consider Redevelopment Agency Board of Directors' Approval of Agreement Nos. 10-62 and 10-63, Rehabilitation Grant Agreements by and between the City of Montclair Redevelopment Agency and Exterior Housing Improvement Program Participants [RDA] | 50 |
| 2. Consider Approval of Agreement No. 10-64 with Nutrition Ink to Provide Nutrition-Education Services for the City's Senior Citizen Nutrition Program [CC]  | 55 |
| 3. Consider Approval of Agreement No. 10-65 with Catering Systems, Inc., to Provide Meals for the City's Senior Citizen Nutrition Program [CC]   | 59 |
| 4. Consider Approval of Agreement No. 10-66 Adopting the City of Montclair's 12 Percent Annual Anticipated Disadvantaged Business Enterprise Participation Level [CC]  | 81 |

D. Resolutions

1. Consider Redevelopment Agency Board of Directors' Adoption of Resolution No. 10-01, a Resolution of the City of Montclair Redevelopment Agency Authorizing the Expenditure of Agency Funds for Graffiti Abatement for Fiscal Year 2010-11 [RDA]

Consider City Council's Approval of Agreement Nos. 10-57, 10-58, 10-59, and 10-60 Approving Respective Promissory Note Nos. 10-01, 10-02, 10-03, and 10-04 Between the City of Montclair and the City of Montclair Redevelopment Agency [CC]

Consider Redevelopment Agency Board of Directors' Approval of Agreement Nos. 10-57, 10-58, 10-59, and 10-60 Approving Respective Promissory Note Nos. 10-01, 10-02, 10-03, and 10-04 Between the City of Montclair Redevelopment Agency and the City of Montclair [RDA]

Consider Redevelopment Agency Board of Directors' Adoption of Resolution No. 10-02, a Resolution of the City of Montclair Redevelopment Agency Adopting the Fiscal Year 2010-11 Budget for the City of Montclair Redevelopment Agency [RDA]

Consider Redevelopment Agency Board of Directors' Approval of Agreement No. 10-61 Approving Promissory Note No. 10-01 Between the City of Montclair Redevelopment Agency and the Montclair Housing Corporation [RDA]

Consider Montclair Housing Corporation Board of Directors' Approval of Agreement No. 10-61 Approving Promissory Note No. 10-01 Between the Montclair Housing Corporation and the City of Montclair Redevelopment Agency [MHC]

Consider Montclair Housing Corporation Board of Directors' Adoption of Resolution No. 10-01, a Resolution of the Montclair Housing Corporation Adopting the Fiscal Year 2010-11 Budget for the Montclair Housing Corporation [MHC]

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2. Consider Adoption of Resolution No. 10-2844 Authorizing Approval of the Change in Population in the City of Montclair During 2009 for the Purpose of Calculating the Gann Spending Limit for Fiscal Year 2010-11 [CC]

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3. Consider Adoption of Resolution No. 10-2845 Authorizing Approval of the Percentage Change in California Per Capita Personal Income During Fiscal Year 2008-09 as the Final Fiscal Year 2008-09 Change in the Cost-of-Living Factor for Use in Calculating the Gann Spending Limit for Fiscal Year 2009-10 and Provisional Adoption of the Percentage Change in California Per Capita Personal Income During Calendar Year 2009 as the Change in the Cost-of-Living Factor for Fiscal Year 2009-10 for Use in Calculating the Gann Spending Limit for Fiscal Year 2010-11 [CC]

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- 4. Consider Adoption of Resolution No. 10-2846 Establishing an Appropriations Limit for Fiscal Year 2010-11 Pursuant to Article 13-B of the California Constitution and to Section 7910 of the Government Code [CC] 105
- 5. Consider Adoption of Resolution No. 10-2848 Adopting the City of Montclair Fiscal Year 2010-11 Annual Budget [CC] 109
- 6. Consider Adoption of Resolution No. 10-2849 Calling and Giving Notice of the Holding of a General Municipal Election to be Held on Tuesday, November 2, 2010, for the Election of Certain Officers as Required by the Provisions of the Laws of the State of California Related to General Law Cities [CC]  
  
Consider Adoption of Resolution No. 10-2850 Adopting Regulations for Candidates for Elective Office Pertaining to Candidates' Statements Submitted to the Voters at an Election to be Held on Tuesday, November 2, 2010 [CC]  
  
Consider Adoption of Resolution No. 10-2851 Requesting the Board of Supervisors of the County of San Bernardino to Consolidate a General Municipal Election to be Held on Tuesday, November 2, 2010, with the Statewide General Election to be Held on the Date Pursuant to Section 10403 of the California Elections Code [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

- 1. Announcement of Planning Commissioner Reappointments

D. Council/Agency Board

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

- 1. Minutes of the Personnel Committee Meeting of June 7, 2010

**XII. 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).*

**XIII. CLOSED SESSION ANNOUNCEMENTS**

**XIV. ADJOURNMENT OF CITY COUNCIL**

*The next regularly scheduled City Council, Redevelopment Agency, and Montclair Housing Corporation meetings will be held on Tuesday, July 6, 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 5:00 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 17, 2010.*

## AGENDA REPORT

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**SUBJECT:** CONSIDER ADOPTION OF ORDINANCE  
NO. 10-913 AMENDING CHAPTERS 7.24,  
10.02, AND 11.02 AND REPLACING  
CHAPTER 11.60 OF THE MONTCLAIR  
MUNICIPAL CODE RELATED TO WATER-  
EFFICIENT LANDSCAPING AND CONSER-  
VATION

**DATE:** June 21, 2010  
**SECTION:** PUBLIC HEARINGS  
**ITEM NO.:** A  
**FILE I.D.:** ENV400  
**DEPT.:** COMMUNITY DEV.

FIRST READING

**BUSINESS**

**PLAN:** N/A

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**REASON FOR CONSIDERATION:** 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 Department of Water Resources (DWR) to update the State's Model Water-Efficient Landscape Ordinance (MWELo) in 2009 to take effect in 2010.

All local land use agencies are required to adopt the 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 by the date, the MWELo would automatically become effective in January 2010 by statute.

**Adoption of proposed Ordinance No. 10-913 would comply with the State's mandate and also allow the City to impose an Ordinance that is better tailored to local conditions and needs.**

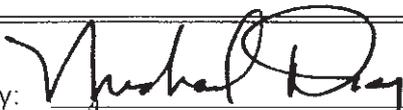
**PROJECT PROPOSAL:** The proposed Water-Efficient Landscaping and Conservation Ordinance (No. 10-913) is intended to comply with the requirements of AB 1881. In preparing the subject Ordinance, City staff participated in a joint effort with the Inland Empire Utilities Agency (IEUA), representatives 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 and was used in the preparation of the proposed Ordinance for the City.

The intent of the proposed Ordinance is to protect water supplies through the implementation of a comprehensive approach to the design, installation, and maintenance of landscapes, which will result 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 in the law. Instead,

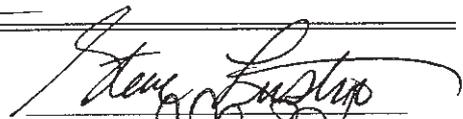
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Prepared by:



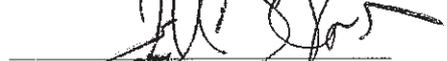
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Approved by:



Proofed by:



Presented by:



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staff is recommending that Chapter 11.60 of the Montclair Municipal Code be replaced in its entirety with the proposed Water-Efficient Landscaping and Conservation Ordinance. When approved, the new Ordinance would supersede the City's existing water-efficient landscape requirements contained therein. A copy of the proposed Ordinance is included in the Council packets.

### **New or Modified Requirements**

The proposed Montclair Water-Efficient Landscaping and Conservation Ordinance (No. 10-913) will contain new requirements that are based on the requirements of the MWELC including the following:

- **Landscape Architect** – A duly licensed landscape architect would be required to prepare landscaping plans for a project.
- **Water Budget** – Each project subject to the Ordinance would be required to develop a water budget to tailor water usage to the proposed plant materials and evapotranspiration (ET) factors to reduce the use of artificially applied water. The reduction in applied water allowance would likely influence design and plant selection, and would limit the amount of turf used.
- **Soil Testing** – Pre-installation and post-installation soil testing by a laboratory would be required to determine suitability of soil to support plant materials.
- **Hydrozones** – New landscapes would need to be divided into hydrozones, with plants requiring similar water usage grouped into appropriate hydrozones. The DWR model ordinance requires use of a state-recognized publication listing plants and their water usage known as the Water Use Classification of Landscape Species (WUCOLS), published by the University of California Davis, DWR, and the Bureau of Reclamation. Rather than incorporate the entire plant list, the proposed Ordinance incorporates the WUCOLS document by reference.
- **Turf Limits** – Turf will be limited to a maximum of 50 percent of total front and/or street side landscape areas. Lawns will need to be smaller and more purposefully placed. This requirement would not apply to "special landscape areas," such as active parks and playfields.
- **Synthetic Turf** – The proposed Ordinance allows the use of synthetic turf subject to specific criteria and limitations.
- **Weather Based Irrigation Systems & Schedules** – Irrigation controllers will be required to incorporate weather-based, soil moisture-based, or other self-adjusting technology. Sensors (*e.g.*, rain, freeze, wind, etc.) are required to suspend irrigation during unfavorable weather conditions.
- **Sprinkler Setbacks** – No sprinklers or other overhead irrigation will be allowed within 24 inches of hardscape or nonpervious pavements. Allowable irrigation within the setback from nonpermeable surfaces may include drip, drip line, or other low-flow technology.
- **Certification** – Post-installation certification will be required, which includes a water audit of the installed irrigation system, an irrigation schedule for both establishment and ongoing maintenance, and the results of the post-installation soil analysis.

### Applicability of Proposed Ordinance No. 10-913

The new standards contained in the proposed Ordinance would apply to all new residential, multifamily, commercial, mixed-use, industrial, and public institutional projects when discretionary approvals or permits (*e.g.*, a Precise Plan of Design, Conditional Use Permit, tentative parcel, or tract maps) from the City are required. Types of projects requiring discretionary City review and approval include residential subdivisions, construction of new commercial and industrial buildings, and major building additions or modifications that include landscaping improvements. The following table summarizes the applicability of the proposed Ordinance to new projects within the City.

Applicability of Proposed Ordinance No. 10-913	
Project Type*	Threshold
Single-family residence (with landscaping installed by developer or homeowner)	New Landscape Area of 5,000 square feet or greater (cumulative)
Residential subdivisions (including maps)	New or affected Landscape Area of 2,500 square feet or greater (cumulative)
Multifamily developments	
Commercial (new or expanded)	
Industrial (new or expanded)	
Public Agency (new or expanded)	
*Discretionary approvals and permits from the City include PPD, CUP, and building permits.	

The proposed Ordinance does not affect existing landscapes. Existing landscapes installed before the effective date of this Ordinance would be exempt provided they are maintained in good condition or that any new landscape improvements do not exceed the applicable threshold levels for compliance. Similarly, there is nothing that would require replacement of any landscaping or irrigation system that would remain undisturbed by construction activities (*e.g.*, during an interior remodeling project). Voluntary upgrades of existing landscaping to meet the "General Requirements for all Properties" as listed in Chapter 11.60 of the Montclair Municipal Code are strongly encouraged.

**BACKGROUND:** The following is a synopsis of the legislative history leading to the proposed Ordinance:

- In 1990, the Water Conservation in Landscaping Act required the State Department of Water Resources (DWR) to adopt a model local water-efficient landscape ordinance based on the recommendations of an advisory task force. The Act required the model ordinance to contain at least nine provisions for promoting water conservation in landscape design, construction, and maintenance. Cemeteries received special exemptions. After review by the Joint Legislative Budget Committee, DWR had until January 1, 1992, to adopt the model ordinance.
- In 1993, Assembly Bill 325, known as the Water Conservation in Landscaping Act, was passed requiring the DWR to adopt a model water-efficient landscape ordinance to reduce irrigation water waste. Local land use agencies were required to adopt the model ordinance, adopt provisions that were at least as effective in conserving water as the model ordinance, or apply for an exemption. The City of Montclair's current landscape water-conservation requirements, found in Chapter 11.60 of the Montclair Municipal Code, were adopted to be in compliance with state law.

- In 2004, passage of AB 2717 required formation of a task force (California Urban Water Conservation Council) comprised of public and private agencies to evaluate and recommend proposals for improving the efficiency of water use in new and existing urban landscapes in California. The task force adopted 43 recommendations including a recommendation for DWR to update the model water-efficient landscape ordinance originally adopted by the State in 1993.
- In 2006, AB 1881 was approved by the State Legislature in 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. AB 1881 required the Department of Water Resources (DWR) to update the State Model Water-Efficient Landscape Ordinance. The updated model ordinance contained several new landscape and irrigation design requirements aimed at reducing water consumption and waste in landscape irrigation. Once again, local land use agencies were required to adopt a water-efficient landscape ordinance that meets or exceeds the requirements defined by DWR.
- In early 2008, DWR released a draft Model Landscape Ordinance for public review and comment. The draft model ordinance was not well received as many agencies found it difficult to interpret and administer. Local agencies provided feedback to DWR, some of which was incorporated into a revised model ordinance.
- On September 10, 2009, the final approved State Model Water-Efficient Landscape Ordinance was issued by DWR.
- Since 2009, Planning Division staff has worked on the new Water-Efficient and Landscaping Conservation Ordinance using the model ordinance developed with the IEUA.
- On April 26, 2010, the Planning Commission reviewed the proposed Ordinance and vote unanimously to recommend it for the City Council's consideration (Planning Commission Resolution No. 10-1723).

**ANALYSIS:** Adoption of the proposed Water-Efficient Landscaping and Conservation Ordinance is necessary to comply with recent legislation requiring more stringent standards for landscape irrigation. The proposed Ordinance responds to the State's mandate to adopt requirements that are at least as effective as the State's MWEL. Moreover, staff believes the proposed Ordinance is easier to interpret and administer than the state's model ordinance and is better suited to meet the needs of the City of Montclair.

The new requirements contained in the proposed ordinance will require that more attention be paid to the issue of water usage for landscaping, the incorporation of new irrigation methods and technology, and its maintenance and management. Staff believes that in the long run, a more efficient landscape plan will be of major economic benefit to the property owner, particularly as it translates into lower water bills. While the vast majority of projects to which the new Ordinance would apply are new construction projects, owners of existing properties are encouraged to voluntarily incorporate water-saving techniques into their landscaping and irrigation practices whenever feasible.

Landscaping will now be given a higher priority in the design-review process than before to guarantee compliance with the new Ordinance and be an integral part of the overall design for the project rather than an afterthought. Compliance with the new more stringent standards would not likely be too onerous for most projects. Most projects subject to the Ordinance will already have professionals involved (*i.e.*, architect and/or engineer) in preparing plans, so obtaining the services of a licensed landscape architect would not be unusual.

Staff believes the most likely observable difference resulting from this Ordinance will be a reduction in the amount of turf areas being installed. While turf is not prohibited, it is typically the one plant material that requires the most water. The requirement to prepare a water budget will require that lawn area be smaller and more purposefully placed. As mentioned above, this requirement would not apply to "special landscape areas," such as active parks and playfields, as these areas have a direct recreational purpose.

### **Landscape Design**

In terms of design and aesthetics, the proposed Ordinance incorporates and builds upon the landscape design objectives of the existing Ordinance with the goal of achieving more attractive landscape designs to improve the appearance of a property. Sections 11.60.150 and 11.60.160 of the Ordinance contain design guidelines that landscape architects and homeowners are to use in preparing landscape plans for their properties. Creativity is highly encouraged in the preparation of landscape schemes so long as the designs are attractive, easy to maintain, and promote water conservation.

Having the input of licensed architects involved in the design process from the beginning will help to reach this goal. Reducing irrigation water consumption does not mean that landscape quality and design need to be compromised.

### **Synthetic Turf**

Over the past couple of years, a few residents have contacted staff about the ability to use synthetic turf at their properties. Since the Municipal Code does not address synthetic turf, staff advised residents not to install it until the new Ordinance was in place and standards were developed for its use. Nevertheless, in the face of recent drought conditions, a small number of synthetic turf installations have occurred throughout the City. Most of the known installations have occurred at single-family properties and some are well done while others are not so attractive. The installation of synthetic turf at the Monte Vista Water District's well site at the northwest corner of Benson Avenue and San Bernardino Street is a good example where synthetic turf has been used in conjunction with live trees and shrubs.

Staff believes the ability to utilize synthetic turf as an element could be appropriate in certain contexts. Synthetic turf is defined in the new Ordinance as an artificial product manufactured from synthetic materials that effectively simulates the appearance and color 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 would be prohibited. Moreover, Section 11.60.130 of the proposed Ordinance provides new standards for the use of synthetic turf to ensure the material is appropriately selected, placed, installed, and maintained. The proposed standards are similar to those adopted by other jurisdictions in the area. Given the relatively high cost of synthetic turf, it is not likely that there will be a rush to install it.

## Monitoring and Enforcement

AB 1881 contains provisions that statutorily require local agencies to monitor landscape water use and ensure compliance with the Water-Efficient Landscaping and Conservation Ordinance. The Planning Division would be responsible for ensuring that landscape plans comply with Ordinance requirements during the development review and plan check process. During construction and prior to occupancy, planners would conduct field inspections to verify if improvements have been completed in accordance with approved plans.

Landscape architects and installers would be required to certify via signed affidavits that their designs comply with the requirements of the proposed Ordinance and that installation is per approved plans. By requiring licensed professionals to sign against their license, a high level of compliance is expected to avoid any disciplinary actions through their respective license governing boards.

Post-construction enforcement would be the responsibility of the Monte Vista Water District (MVWD), which will monitor irrigation water use through monthly billing cycles by comparing a site's actual water use against its approved irrigation water budget. Where a property exceeds its established water budget, MVWD staff will take steps to notify the property owner that corrective action is needed. Lastly, the proposed Ordinance contains language that requires landscaping to be properly maintained at all times.

**PUBLIC NOTICE AND COMMENTS:** A notice of public review was advertised in the INLAND VALLEY DAILY BULLETIN newspaper on April 16, 2010, for the Planning Commission's review of the proposed Ordinance. Additionally, representatives from the Monte Vista Water District and the Chino Basin Water Conservation District were invited to attend the meeting regarding the proposed Ordinance. No members from the general public attended or spoke for or against the proposed Ordinance.

Public notice for the City Council's review of the proposed Ordinance was advertised in the INLAND VALLEY DAILY BULLETIN on June 11, 2010. At the time this report was prepared, no comments or inquiries had been received by staff regarding this item.

**ENVIRONMENTAL DETERMINATION:** The Director has concluded that the proposed Water-Efficient Landscaping and Conservation Ordinance (No. 10-913) 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 proposed Ordinance would 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.

**FISCAL IMPACT:** There would be no direct fiscal impact on the City's General Fund at this time should the City Council adopt the proposed Ordinance. The City already reviews landscape plans for compliance with existing water-efficient landscape requirements via the development review process. The City also currently inspects projects prior to occupancy for compliance with various standards and codes.

New staff efforts would be limited to providing information to applicants, reviewing a checklist and possibly sending more complicated landscape plans out for detailed review. An additional fee may be required for landscape documentation processing to be paid by the applicant for any outside consultant reviews and additional staff time required for large projects.

**RECOMMENDATION:** Planning Commission and staff recommend the City Council find the proposed Ordinance, known as the Montclair Water-Efficient Landscaping and Conservation Ordinance (No. 10-913), meets or exceeds the intent of the state Model Water Efficiency Landscape Ordinance (MWELo). Accordingly, the Planning Commission and staff recommend the City Council take the following actions:

1. Certify that the Council has reviewed and considered the environmental assessment based upon the findings of exemption and that there would be no significant impact on the environment as a result of the proposed Montclair Water Efficient and Landscaping Conservation Ordinance (No. 10-913).
  - (a) Adopt the proposed finding that there will be a DeMinimis impact on fish and wildlife.
  - (b) Direct staff to file a Notice of Determination (NOD) and the applicant to pay appropriate fees within five (5) days of this action.
2. Adopt the first reading of Ordinance No. 10-913 amending Chapters 7.24, 10.02, and 11.02 and replacing Chapter 11.60 of the Montclair Municipal Code related to water-efficient landscaping and conservation.

**ORDINANCE NO. 10-913**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AMENDING CHAPTERS 7.24, 10.02 AND 11.02, AND 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.** Section 7.24.020.A.17 of Title 7 ("Public Peace, Morals and Welfare") of the Montclair Municipal Code is hereby repealed and deleted in its entirety.

**Section II.** The definitions of "Hardscape" and "Landscaped area" contained in Chapter 10.02 ("Definitions") of Title 10 ("Buildings and Construction") of the Montclair Municipal Code are hereby repealed and deleted in their entirety.

**Section III.** 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 evapotranspiration 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:

$$(325,851 \text{ gallons}/43,560 \text{ SF})/12 \text{ inches} = 0.62$$

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 invade economically, environmentally or ecologically. 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.

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

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

**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.**

Effective September 1, 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.
- 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. 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:

$$\text{MAWA} = (\text{ETo}) (0.7) (\text{LA}) (0.62)$$

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.

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.

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 forms 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 VI. 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 VII. Effective Date.**

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

**Section VIII. 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 RECEIVING AND FILING OF  
TREASURER'S REPORT

**DATE:** June 21, 2010

**SECTION:** ADMIN. REPORTS

**ITEM NO.:** 1

**BUSINESS  
PLAN:** N/A

**FILE I.D.:** FIN520

**DEPT.:** ADMIN. SVCS.

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

**BACKGROUND:** Included in your agenda is a copy of the Treasurer's Report for the period ending May 31, 2010.

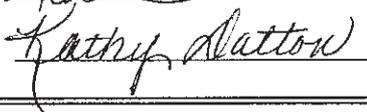
**FISCAL IMPACT:** Routine—report of City's cash and investments.

**RECOMMENDATION:** Staff recommends the City Council receive and file the Treasurer's Report for the month ending May 31, 2010.

Prepared by:



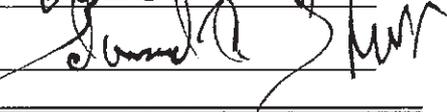
Proofed by:



Reviewed and  
Approved by:



Presented by:



## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION	<b>DATE:</b> June 21, 2010
	<b>SECTION:</b> ADMIN. REPORTS
	<b>ITEM NO.:</b> 2
<b>BUSINESS PLAN:</b> N/A	<b>FILE I.D.:</b> FIN540
	<b>DEPT.:</b> ADMIN. SVCS.

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**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 21, 2010, and Payroll Documentation dated April 25, 2010; finds them to be in order; and recommends their approval.

**FISCAL IMPACT:** The Warrant Register dated June 21, 2010, totals \$1,171,975.41. The Payroll Documentation dated April 25, 2010, totals \$594,306.21, with \$444,660.28 being the total cash disbursement.

**RECOMMENDATION:** Staff recommends the City Council approve the above referenced Warrant Register and Payroll Documentation as presented.

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Prepared by: <i>Donna M. Jackson</i>	Reviewed and	
	Approved by:	<i>[Signature]</i>
Proofed by: <i>[Signature]</i>	Presented by:	<i>[Signature]</i>

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## AGENDA REPORT

**SUBJECT:** CONSIDER RECEIVING AND FILING OF  
TREASURER'S REPORT

**DATE:** June 21, 2010

**SECTION:** ADMIN. REPORTS

**ITEM NO.:** 3

**FILE I.D.:** FIN510

**BUSINESS**

**PLAN:** N/A

**DEPT.:** REDEVELOPMENT

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

**BACKGROUND:** Included in your agenda is a copy of the Treasurer's Report for the period ending May 31, 2010.

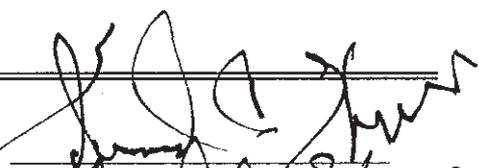
**FISCAL IMPACT:** Routine—report of the Agency's cash and investments.

**RECOMMENDATION:** Staff recommends the Agency Board of Directors receive and file the Treasurer's Report for the month ending May 31, 2010.

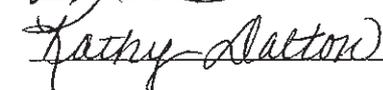
Prepared by:



Reviewed and  
Approved by:



Proofed by:



Presented by:



## AGENDA REPORT

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<b>SUBJECT:</b>	CONSIDER APPROVAL OF WARRANT REGISTER	<b>DATE:</b>	June 21, 2010
		<b>SECTION:</b>	ADMIN. REPORTS
		<b>ITEM NO.:</b>	4
<b>BUSINESS PLAN:</b>	N/A	<b>FILE I.D.:</b>	FIN530
		<b>DEPT.:</b>	REDEVELOPMENT

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

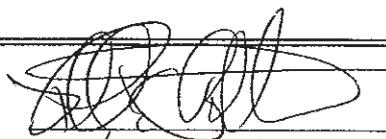
**BACKGROUND:** Vice Chairman Dutrey has examined the Warrant Register dated 05/01/10 - 05/31/10 in the amounts of \$25,072.08 for Project I; \$328.73 for Project II; \$908,039.19 for Project III; \$271,548.06 for Project IV; \$1,566,775.15 for Project V; and \$0.00 for Mission Boulevard Joint Redevelopment Project and finds it to be in order.

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

**RECOMMENDATION:** Vice Chairman Dutrey recommends approval of the Warrant Register for the period ending May 31, 2010.

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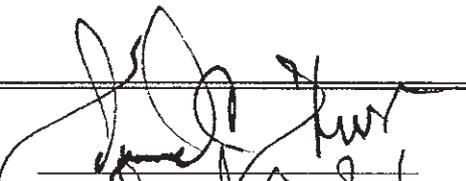
Prepared by:



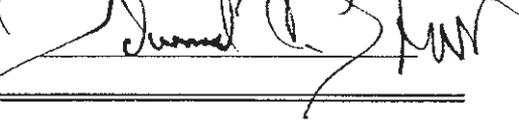
Proofed by:

Kathy Dalton

Reviewed and  
Approved by:



Presented by:



## AGENDA REPORT

**SUBJECT:** CONSIDER RECEIVING AND FILING OF  
TREASURER'S REPORT

**DATE:** June 21, 2010

**SECTION:** ADMIN. REPORTS

**ITEM NO.:** 5

**BUSINESS  
PLAN:** N/A

**FILE I.D.:** FIN525

**DEPT.:** MHC

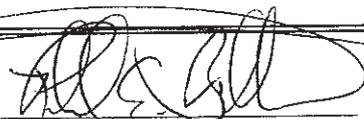
**REASON FOR CONSIDERATION:** State law requires the Montclair Housing Corporation Board of Directors to receive and file the Treasurer's Report.

**BACKGROUND:** Included in your agenda is a copy of the Treasurer's Report for the period ending May 31, 2010.

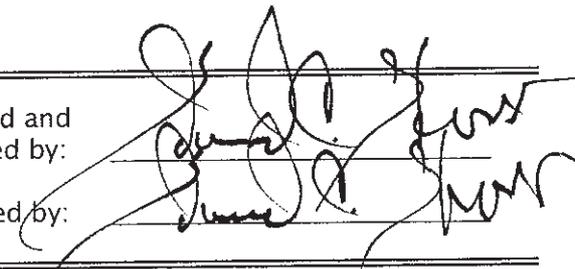
**FISCAL IMPACT:** Routine—report of the Montclair Housing Corporation's cash and investments.

**RECOMMENDATION:** Staff recommends the Montclair Housing Corporation Board of Directors receive and file the Treasurer's Report for the month ending May 31, 2010.

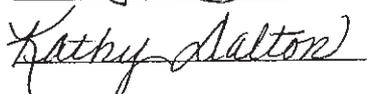
Prepared by:



Reviewed and  
Approved by:



Proofed by:



Presented by:

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER APPROVAL OF WARRANT REGISTER	<b>DATE:</b> June 21, 2010
	<b>SECTION:</b> ADMIN. REPORTS
	<b>ITEM NO.:</b> 6
<b>BUSINESS PLAN:</b> N/A	<b>FILE I.D.:</b> FIN545
	<b>DEPT.:</b> MHC

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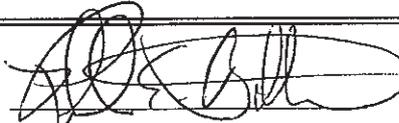
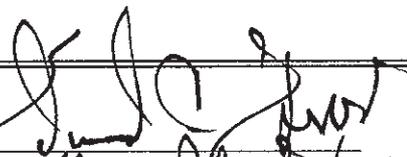
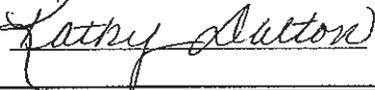
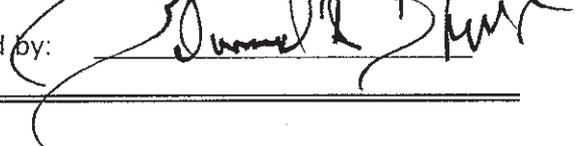
**REASON FOR CONSIDERATION:** State law requires the Montclair Housing Corporation Board of Directors to receive and file the Warrant Register.

**BACKGROUND:** Vice Chairman Dutrey has examined the Warrant Register dated 05/01/10 - 05/31/10 in the amount of \$14,369.51 for the Montclair Housing Corporation and finds it to be in order.

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

**RECOMMENDATION:** Vice Chairman Dutrey recommends approval of the Warrant Register for the period ending May 31, 2010.

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

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## AGENDA REPORT

**SUBJECT:** CONSIDER ADOPTION OF A POLICY FOR  
WAIVING BUILDING PERMIT FEES ON  
CERTAIN CITY PROJECTS

**DATE:** June 21, 2010  
**SECTION:** ADMIN. REPORTS  
**ITEM NO.:** 7

**BUSINESS  
PLAN:** N/A

**FILE I.D.:** FLP150  
**DEPT.:** PUBLIC WORKS

**REASON FOR CONSIDERATION:** Most development projects within the City require building permits issued by the Building Division of Community Development Department. The permitting process applies to City-initiated projects as well. Permit fees are charged for these permits. The fees may be waived by either the City Council or the City Manager on a case-by-case basis. The City Council is requested to consider adoption of a policy that would automatically exempt certain types of projects from permit fees.

**BACKGROUND:** Building permits are issued by the Building Division of the Community Development Department for such things as residential/commercial construction, grading, electrical, mechanical, plumbing, and block walls. The fee associated with the permit is intended to cover the cost for the time required of the Building Inspector and other City staff. When a building permit is obtained by a developer, the fee charged for the permit represents a source of revenue to the General Fund.

Building permits are sometimes necessary for City projects as well, projects in which the City is actually the developer. Examples of such permits include new electrical services for a signal, City-maintained lighting system, or landscape irrigation controller; new buildings; and building rehabilitations. City bid documents typically require the contractors performing these types of projects to obtain and pay for building permits. Contractors, as part of their bids, may mark up the anticipated permit fee (overhead and profit). Thus, the cost of the permit increases the cost of the job and decreases the funds available for that project or other projects. An alternative currently used by staff requires the contractor to obtain the permit, but the cost of the permit is handled internally, either by the City transferring funds from a City account or by the City Manager waiving the fee altogether.

At the May 20, 2010 Public Works Committee meeting, staff proposed that permit fees be waived on City projects. The Committee concurred with staff's recommendation, with a comment that the fee waiver would be applicable to City projects only and would not be applicable to projects undertaken by the Redevelopment Agency. After further discussions among City departments, staff now recommends the following policy be adopted by the City Council:

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Prepared by: <u><i>M. STAATS</i></u>	Reviewed and Approved by: <u><i>M. STAATS</i></u>
Proofed by: <u><i>all my</i></u>	Presented by: <u><i>[Signature]</i></u>

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## POLICY FOR WAIVING BUILDING PERMIT FEES ON CERTAIN CITY PROJECTS

Building permit fees for City projects shall be waived by the City except as follows:

- Fees shall not be waived for projects being constructed by the Redevelopment Agency or Montclair Housing Corporation.
- Fees shall not be waived for City projects funded by grants when grant funding may be used to pay for permits.

Waiving the permit fee would have no impact on providing inspection services. Only the fee would be waived, not the actual permit or inspection.

**FISCAL IMPACT:** Adoption of the proposed Policy for Waiving Building Permit Fees on Certain City Projects would have a minimal, though positive, fiscal impact.

**RECOMMENDATION:** Staff recommends the City Council adopt the policy herein for waiving building permit fees on certain City projects.

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER STATUS REPORT ON EMERGENCY CONTRACTING PROCEDURES RELATED TO THE DAMAGED FLOOR IN THE COMMUNITY CENTER GYMNASIUM	<b>DATE:</b> June 21, 2010
	<b>SECTION:</b> ADMIN REPORTS
	<b>ITEM NO.:</b> 8
CONSIDER DECLARING A TERMINATION TO THE EMERGENCY ACTION AUTHORIZED UNDER RESOLUTION NO. 10-2831	<b>FILE I.D.:</b> CVC060
	<b>DEPT.:</b> PUBLIC WORKS

### BUSINESS

**PLAN:** N/A

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**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 is required to 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 portion 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 in the eastern portion of the gymnasium.

Resolution No. 10-2831 made 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 any necessary repairs. It also delegated authority to the Acting City Manager to order the work done. Implicit in that delegation was the authority to sign contracts.

Subsequent to the adoption of Resolution No. 10-2831, the City's insurance adjuster inspected the floor and determined that the cause of the damage was water intrusion related to 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 gymnasium floor. The City's contractor was directed to undertake repair work as quickly as possible to minimize down time for the gymnasium. However, if the repair work had not commenced by May 30, the City needed the ability to contract for the repair work immediately. It was staff's intent to have the floor fully restored by June 30, 2010.

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

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The City's contractor for the Senior Center project has acknowledged responsibility for the damage and necessary repairs to the gymnasium floor and has directed its Senior Center flooring subcontractor to initiate the repairs. This work began two weeks ago and is expected to be completed by the end of the month.

**FISCAL IMPACT:** The repairs for the gymnasium floor are being addressed by the City's Senior Center contractor; therefore, no City repair contracts are required. There is, however, revenue being lost to the City resulting from programs being canceled or moved elsewhere. The projected revenue loss through the end of June is in excess of \$9,000.

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

1. Receive and file status report on emergency contracting procedures related to the damaged floor in the Community Center gymnasium.
2. Declare a termination to the emergency action authorized under Resolution No. 10-2831.

## AGENDA REPORT

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**SUBJECT:** CONSIDER STATUS REPORT ON EMERGENCY CONTRACTING PROCEDURES RELATED TO THE BLOCK WALL CONSTRUCTION AT ALMA HOFMAN PARK

CONSIDER DECLARING A TERMINATION TO THE EMERGENCY ACTION AUTHORIZED UNDER RESOLUTION NO. 10-2839

**DATE:** June 21, 2010

**SECTION:** ADMIN. REPORTS

**ITEM NO.:** 9

**FILE I.D.:** PRK200

**DEPT.:** PUBLIC WORKS

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**BUSINESS**

**PLAN:** N/A

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**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 submitted a change order request to San Bernardino County for \$11,624 that included the following items of work:

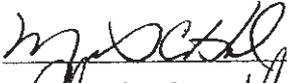
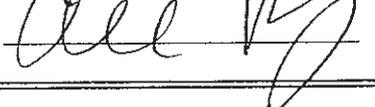
- Demolish, remove, and dispose of existing block wall and footing
- Construct new block wall footing and wall approximately 45 feet long
- Patch/replace/repair small portion of concrete curb adjacent to building
- Attach chain link fence wall extension at maintenance building
- Paint new block wall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

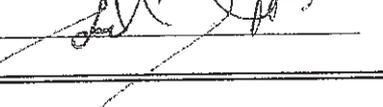
San Bernardino County asked the City to share in the cost of this unexpected work and to pay \$10,000 of the requested change order. In order to meet the proposed July 2, 2010, opening date for the splash pad, and in order to avoid delay claims from the County's contractor, there was not sufficient time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

All work associated with the construction of the new wall has now been completed.

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Prepared by:   
Proofed by: 

Reviewed and Approved by:   
Presented by: 

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

**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. Declare a termination to the emergency action authorized under Resolution No. 10-2839.

## AGENDA REPORT

**SUBJECT:** CONSIDER REDEVELOPMENT AGENCY BOARD OF DIRECTORS' APPROVAL OF AGREEMENT NOS. 10-62 AND 10-63, REHABILITATION GRANT AGREEMENTS BY AND BETWEEN THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY AND EXTERIOR HOUSING IMPROVEMENT PROGRAM PARTICIPANTS

**DATE:** June 21, 2010  
**SECTION:** AGREEMENTS  
**ITEM NO.:** 1  
**FILE I.D.:** RDA720  
**DEPT.:** REDEVELOPMENT

**BUSINESS PLAN:** N/A

**REASON FOR CONSIDERATION:** The Redevelopment Agency Board of Directors is requested to consider approval of Rehabilitation Grant Agreement Nos. 10-62 and 10-63 by and between the City of Montclair Redevelopment Agency and three new participants in the Exterior Housing Improvement Program (EHIP). Information on the proposed EHIP participants is contained on Exhibit A to the agenda report.

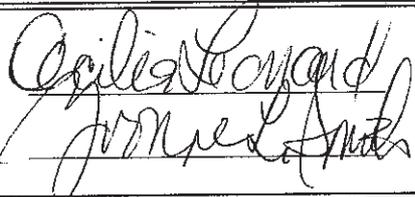
Copies of Proposed Agreement Nos. 10-62 and 10-63 are included in the agenda packet for the Redevelopment Agency Board's review and consideration.

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

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

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

Prepared by:



Reviewed and Approved by:



Proofed by:

Presented by:



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

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

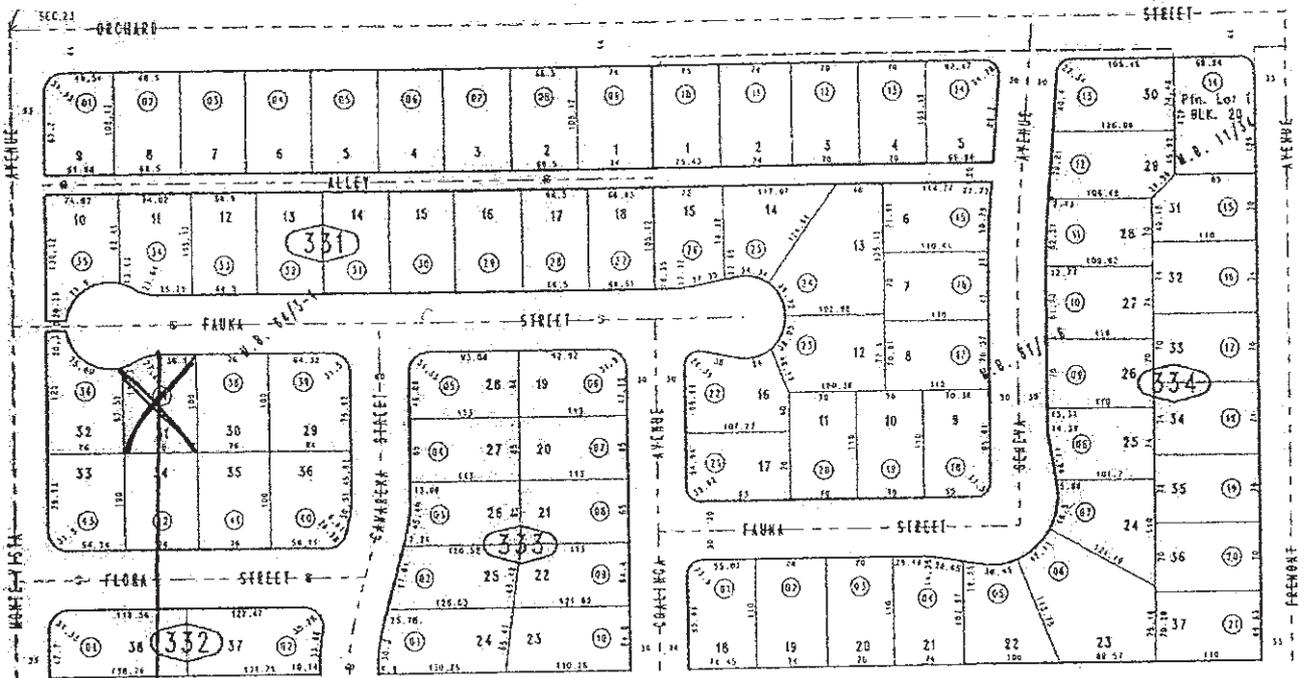
**RECOMMENDATION:** Agency staff recommends the Redevelopment Agency Board of Directors approve Agreement Nos. 10-62 and 10-63, Rehabilitation Grant Agreements by and between the City of Montclair Redevelopment Agency and Exterior Housing Improvement Program participants.

## EXHIBIT A

Agreement Nos. 10-62 and 10-63

<i>Agreement Number</i>	<i>Applicant Name and Address</i>	<i>Option of Grant</i>
10-62	Ricardo and Floridalma Hurtarte 4921 Fauna Street	\$7,000 Exhibit B
10-63	Wilda Bewley 5449 El Morado Street	\$7,000 Exhibit C

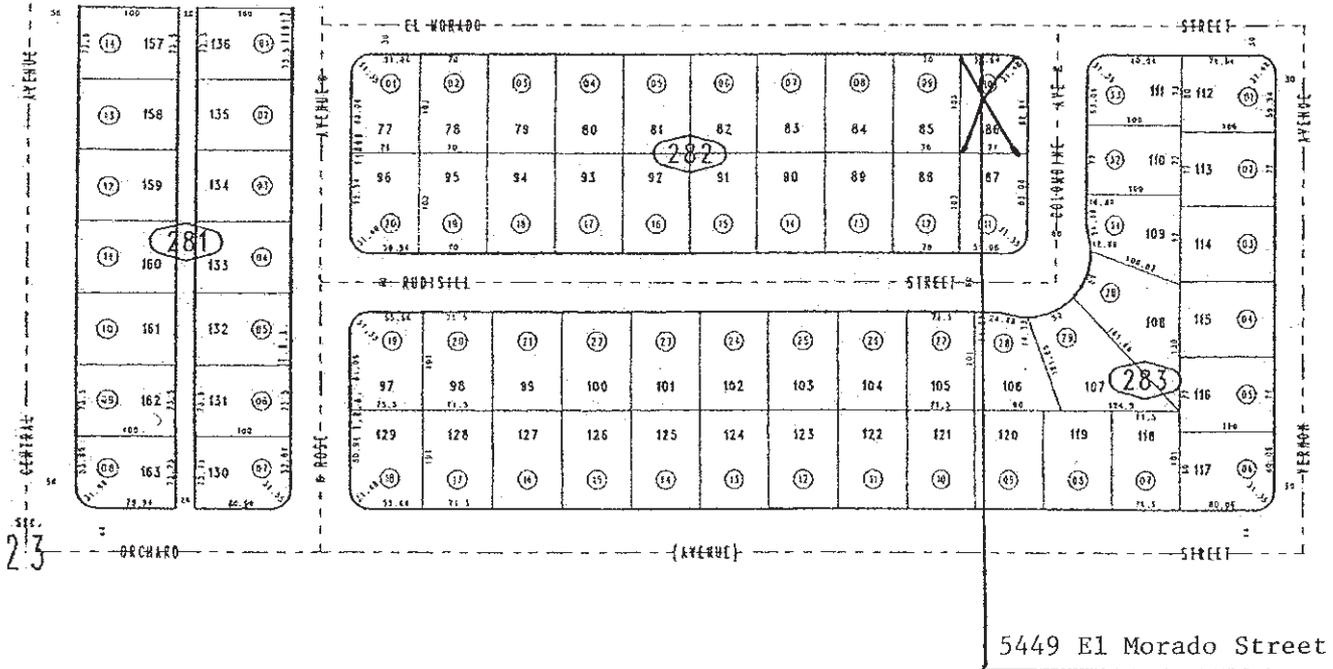
Exhibit B



4921 Fauna Street



Exhibit C



## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER APPROVAL OF AGREEMENT NO. 10-64 WITH NUTRITION INK TO PROVIDE NUTRITION-EDUCATION SERVICES FOR THE CITY'S SENIOR CITIZEN NUTRITION PROGRAM	<b>DATE:</b> June 21, 2010 <b>SECTION:</b> AGREEMENTS <b>ITEM NO.:</b> 2 <b>FILE I.D.:</b> HSV105 <b>DEPT.:</b> COMMUNITY DEV.
<b>BUSINESS PLAN:</b> N/A	

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**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 10-64 with Nutrition Ink to provide nutrition-education services for the City's Senior Citizen Nutrition Program.

**BACKGROUND:** At its meeting of May 3, 2010, the City Council approved Agreement No. 10-43 with the San Bernardino County Department of Aging and Adult Services to provide a Senior Citizen Nutrition Program for participants aged 60 and over. Agreement No. 10-43 requires that the City of Montclair provide nutrition-education services to program participants. Agreement No. 10-64 proposes that Nutrition Ink would perform the following services on a quarterly basis:

- ✓ Plan, organize, and conduct orientation and in-service educational training programs for staff and volunteers to be used in conducting nutrition-education classes for Senior Citizen Nutrition Program participants
- ✓ Monitor the nutrition site
- ✓ Evaluate and monitor food preparation and, if needed, make recommendations for improvements
- ✓ Recommend and monitor standards for sanitation, safety, and security of the food service

In addition, Nutrition Ink would review and analyze menus monthly or as needed and develop, maintain, and use pertinent record systems in relation to the needs of the program. The term of Agreement No. 10-64 is July 1, 2010, through June 30, 2011.

**FISCAL IMPACT:** The annual fee of \$2,500 would be paid with funds that have already been allocated in Agreement No. 10-43.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 10-64 with Nutrition Ink to provide nutrition-education services for the City's Senior Citizen Nutrition Program.

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Prepared by: M. Richter

Reviewed and Approved by:

Proofed by: Christine Smiderly

Presented by:

## NUTRITION INK AGREEMENT

### 1. OBJECTIVE:

To provide consultation to City of Montclair Senior Citizen's Program (Agency/Contractor) regarding nutrition provider requirements as outlined in Title 22, Division 1.8 of the California Department of Aging Regulations.

### 2. TERMS OF AGREEMENT:

This is to certify that City of Montclair Senior Citizen's Program has engaged the services of *NUTRITION INK* (Sub-Contractor) for its Nutrition consultation to one (1) site.

This service is effective July 1, 2010 through June 30, 2011

### 3. RESPONSIBILITIES OF SUB-CONTRACTOR:

- A. Performs Site Monitoring quarterly.
- B. Evaluates and monitors food preparation, making recommendations for a conformance level that will provide nutritionally adequate, acceptable quality food - quarterly.
- C. Plans, organizes and conducts orientation and in-service educational programs for Staff and volunteers quarterly and develops in conjunction with Contractor, the staff training plan and annual schedule. Contractor will send this schedule to the County by September 30, 2010.
- D. Recommends and monitors standards for sanitation, safety and security in food service quarterly.
- E. Reviews and analyzes menus monthly or as needed, unless provided and signed by RD at approved caterer.
- F. Develops, maintains and uses pertinent record systems related to the needs of the organization.
- G. Develops, uses and evaluates educational materials related to services provided quarterly along with an annual schedule.
- H. Maintains effective verbal and written communications and public relations inter- and intra-departmentally.

### 4. RESPONSIBILITIES OF AGENCY/CONTRACTOR

- A. Identify person designated as supervisor or designee.
- B. Provide a general orientation for the dietitian to the Agency including its staff, policies, recording systems.
- C. Provide suitable space, equipment and materials.
- D. Make records available.
- E. Sends Monthly Menu 2-3 weeks prior to the start of the following month for review and analysis.
- F. Agrees not to hire or contract with a Nutrition Ink Dietitian for a period of one year from termination of this contract unless facility pays RD's annual salary as buyout fee.

5. COPIES of subcontracts, licenses and insurance memoranda and/or letters of understanding shall be on file with the Contractor. Contractor shall be responsible to ensure all subcontractors meet the insurance requirements and for monitoring the insurance requirements in accordance with Article III, Section N.

6. The Sub-Contractor shall indemnify, defend and save harmless the Contractor and the County, its officers, agents and employees from any and all claims and losses accruing to or resulting from any contractors, subcontractors, material men, laborers, and any other person, firm, or corporation furnishing or supplying work services, materials or supplies in connection with any activities performed for which funds from this Contract were used and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the subcontractor in the performance of this Contract.

7. The Sub-Contractor shall complete all reporting and expenditure documents requested by Contractor. These reporting and expenditure documents shall be sent to the Contractor in a timely manner and at intervals as determined by Contractor.

8. Sub-Contractor shall maintain all records and books pertaining to the delivery of services under this

Contract and demonstrate accountability for Contract performance. Said records shall be kept and maintained at 3164 W. Ramsey St., Banning, Ca. 92220.

9. Sub-Contractor shall notify Contractor in writing of any change in mailing address, telephone or fax numbers and/or physical location within ten (10) days of the change.

- (1). Indemnification - The Sub-Contractor agrees to indemnify, defend and hold harmless the Contractor and County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising from Sub-Contractor's acts, errors or omissions and for any costs or expenses incurred by the Contractor on account of any claim therefore, except where such indemnification is prohibited by law.
- (2). Insurance - Without in any way affecting the indemnity herein provided and in addition thereto, the Sub-Contractor shall secure and maintain throughout the term of the Contract the following types of insurance with minimum limits as shown:
  - a. Sub-Contractor will maintain Worker's Compensation - in amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits, covering all persons providing services on behalf of the Sub-Contractor and all risks to such persons under this Contract.
  - b. Professional Liability - Professional liability insurance shall have limits of at least \$1,000,000 per claim or occurrence.
- (3). Proof of coverage - Sub-Contractor shall immediately furnish certificates of the required insurance policies to contractor evidencing the insurance coverage, above required prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (3) days prior written notice to Contractor, and Sub-Contractor shall maintain such insurance from the time Sub-Contractor commences performance of services hereunder until the termination of the Contract. Within sixty (60) days of the commencement of this Contract, the Sub-Contractor shall furnish copies of the policies.

10. HIPAA Law:

The Sub-Contractor recognizes and acknowledges that, by virtue of entering into this Agreement and providing services to Institution, hereunder, Sub-Contractor will have access to certain information of Institution that is confidential and constitutes valuable, special and unique property of Institution. Sub-Contractor agrees that they will at no time, either during or subsequent to the term of this Agreement, disclose to others, use, copy or permit to be copied, without Institution's express written consent, except pursuant to their duties hereunder, any confidential or proprietary information of Institution, including, but not limited to, information which concerns Institution's participants, cost, prices and treatment methods at any time used, developed or made by Institution, and which is not otherwise available to the public. Sub-Contractor shall not disclose to any third party, except where permitted or required by law or where such disclosure is expressly approved by Institution in writing, any participant or medical record information regarding Institution's participants, and Sub-Contractor shall comply will all federal and state laws and regulations, and all rules, regulations, and policies of Institution, regarding the confidentiality of such information. In addition, if necessary, Sub-Contractor agrees to assist in judicial proceedings any effort to obtain access to such records or information except such access as is expressly permitted by the aforementioned federal regulations.

11. Elderly Abuse. In accordance with W & I 15630 (a) all employees of the sub-contractor are mandated reporters of elder and dependent adult abuse. Mandated reporters are required to report all instances of physical abuse of elderly and dependent adults and may report other types of abuse.

12. Sub-Contractor Service Costs:

Nutrition Education and materials plus yearly plan .....	\$700
Site Monitoring quarterly.....	\$900
Staff Training quarterly.....	\$700
Mileage.....	\$200
Total.....	\$2500

(951) 849-5150 (951) 849-4799 Fax	Federal Tax I.D. Number 20-4651795
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**SUBCONTRACTOR**

**NUTRITION INK**

By:

\_\_\_\_\_  
Merijane Malouin, R.D.

DATED: \_\_\_\_\_

**CITY**

**CITY OF MONTCLAIR**

By:

\_\_\_\_\_  
Paul M. Eaton  
Mayor

DATED: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Donna M. Jackson  
City Clerk

DATED: \_\_\_\_\_

## AGENDA REPORT

<b>SUBJECT:</b> CONSIDER APPROVAL OF AGREEMENT NO. 10-65 WITH CATERING SYSTEMS, INC., TO PROVIDE MEALS FOR THE CITY'S SENIOR CITIZEN NUTRITION PROGRAM	<b>DATE:</b> June 21, 2010 <b>SECTION:</b> AGREEMENTS <b>ITEM NO.:</b> 3 <b>FILE I.D.:</b> HSV105 <b>DEPT.:</b> COMMUNITY DEV.
<b>BUSINESS PLAN:</b> N/A	

**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 10-65 with Catering Systems, Inc., to provide meals for the City's Senior Citizen Nutrition Program for a term of one year beginning July 1, 2010.

**BACKGROUND:** The City of Montclair is currently contracting with the San Bernardino County Department of Aging and Adult Services (DAAS) to operate a Senior Citizen Nutrition Program at the Montclair Community Center. The Human Services Division is managing and operating the nutrition program with grant funds awarded by DAAS.

The Human Services Division would like to continue subcontracting with Catering Systems, Inc., for nutrition program meal service. The company has been providing meals for the program since December 1999. Program participants and staff have been pleased with the catering service's performance. Catering Systems, Inc., continues to provide an enhanced menu at a reasonable cost.

Should the Council approve Agreement No. 10-65, Catering Systems, Inc., would continue to deliver prepared meals every weekday. Catering Systems, Inc., would charge the City \$3.70 per meal, which is an increase of \$.10 per meal. The cost increase is based on an escalation in both food and supply costs. Catering Systems, Inc., is one of the few companies qualified to provide nutritious meals funded under the Older Americans Act that delivers to San Bernardino County programs.

The following chart shows the suggested donation for meals in surrounding cities. The cities of Claremont and Pomona receive subsidies from their cities' General Funds and the Los Angeles County Area Agency on Aging.

<i>City</i>	<i>Donation</i>	<i>Provider</i>
Pomona	\$1.75	Ritz Gardens Catering
Claremont	\$2.00	Morrison's
Chino	\$2.50	Oldtimers Foundation
Rancho Cucamonga	\$3.00	Oldtimers Foundation
Ontario	\$2.50	Oldtimers Foundation
Upland	\$2.50	Oldtimers Foundation

Prepared by: <u>M. Richter</u>	Reviewed and Approved by:	<u>Steve Luster</u>
Proofed by: <u>Christine Smidely</u>	Presented by:	<u>[Signature]</u>

Montclair's current suggested donation is \$1.75 per meal, which is one of the lowest in the surrounding communities. Funding for the meal cost would be paid through participant donations and funding from Agreement No. 10-43 with the San Bernardino County Department of Aging and Adult Services that was approved by the City Council on May 3, 2010.

The term of Agreement No. 10-65 is July 1, 2010, through June 30, 2011.

**FISCAL IMPACT:** There would be no cost to the General Fund to provide the estimated 17,000 meals that would be served during Fiscal Year 2010-11.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 10-65 with Catering Systems, Inc., to provide meals for the City's Senior Citizen Nutrition Program.

## FOOD SERVICE AGREEMENT

**THIS AGREEMENT**, executed in Montclair, California, is made by and between the City of Montclair, a California Municipal Corporation, hereinafter referred to as the "Contractor," and Catering Systems, Inc., hereinafter referred to as the "Subcontractor."

**WHEREAS**, the Contractor and the County of San Bernardino Department of Aging and Adult Services, hereinafter referred to as "County," have entered into an Agreement which authorizes the Contractor to provide certain services, said City Agreement being No. 10-65 dated June 21, 2010; and

**WHEREAS**, the aforesaid Agreement provides that the Contractor may subcontract for certain professional services subject to prior County approval; and

**WHEREAS**, the Contractor desires to engage the Subcontractor to provide professional services as detailed elsewhere in this Agreement; and

**WHEREAS**, the Subcontractor desires to perform and provide such services.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises contained herein, the Contractor and the Subcontractor agree as follows:

### AGREEMENT

#### Section 1. Statement of Work and Schedule

The Subcontractor shall perform and provide the services set forth in the Food Service Specifications, which is attached hereto as "Attachment 1" and by this reference incorporated herein. The rights and obligations of the parties to this Agreement shall be subject to and governed by said Food Service Specifications as well as by the general provisions herein.

#### Section 2. Representatives of the Parties and Service of Notice

The representatives of the respective parties who are authorized to administer this Agreement and to whom formal notices, demands, and communications shall be given are as follows:

- A. The representative of the Contractor shall be, unless otherwise stated in the Agreement:

Marcia Richter, Assistant Director of Human Services  
City of Montclair  
5111 Benito Street  
Montclair, California 91763  
(909) 625-9453

B. The representative of the Subcontractor shall be:

Lordwin Dsouza  
Catering Systems, Inc.  
2512 East Fender Avenue, Suite E  
Fullerton, California 92831  
(714) 278-9294

### **Section 3. Compensation to the Subcontractor**

The Contractor shall pay to the Subcontractor an amount not to exceed \$3.70 per meal for approximately 68 meals per day for complete and satisfactory performance of the terms of this Agreement. The Subcontractor shall be paid for providing services set forth in this Agreement. Payment shall be made on a bimonthly basis.

### **Section 4. Time of Performance**

The term of this Agreement shall commence July 1, 2010, and terminate June 30, 2011, provided that said term is subject to the provisions of Section 14, "Indemnity, Liability, and Insurance Requirements," and Section 18, "Termination," and the availability of Federal funds through the County.

There are 251 serving days during Fiscal Year 2010-11 including the following holidays and special occasions:

Independence Day - July 5, 2010  
Labor Day - September 6, 2010  
Veterans Day - November 12, 2010  
Thanksgiving (two days) - November 25 and 26, 2010  
Christmas Eve and Day - December 23 and 24, 2010  
New Year's Eve and Day - December 30, and 31, 2010  
Martin Luther King's Birthday - January 17, 2011  
Presidents Day - February 21, 2011  
Memorial Day - May 30, 2011

### **Section 5. Notices, Demands, and Communications**

A. Formal notices, demands, and communications to be given hereunder by either party shall be made in writing and may be effected by personal delivery or by registered or certified mail, return receipt requested, and shall be deemed effective as the date of mailing.

B. Such notices, demands, or communications shall be addressed as set forth below:

i. For the Contractor:

Marcia Richter, Assistant Director of Human Services  
City of Montclair  
5111 Benito Street  
Montclair, California 91763  
(909) 625-9453

2. For the Subcontractor:

Lordwin Dsouza  
Catering Systems, Inc.  
2512 East Fender Avenue, Suite E  
Fullerton, California 92831  
(310) 619-1218

- C. If the name of the person designated to receive the notices, demands, or communications or the address of such person is changed, written notice shall be given, in accord with this Section, within five (5) working days of said change.

**Section 6. Audit Records and Bonding**

- A. The Subcontractor shall maintain financial records and reports related to funds received under this Agreement.
- B. The Subcontractor shall maintain books, records, documents, and other accounting procedures and practices, which reflect all costs of any nature, including cost of raw food and labor costs, expended in the performance of this Agreement.
- C. These records shall be subject to audit or inspection by duly authorized County, State, or Federal personnel.
- D. The Subcontractor shall maintain all books, records, and other documents relative to this Agreement for three (3) years after final payment or audit by the United States Department of Health and Human Services, the California Department of Aging, and County for five years if no audit occurred.
- E. The Subcontractor shall provide to the Contractor, on an annual fiscal year basis, a statement that all persons handling funds received or disbursed by this Agreement are covered by Fidelity Insurance.
- F. The Subcontractor shall provide, on an annual basis, an official copy of the Certified Public Accountant audit, which shall be conducted following generally accepted audit practices, to determine that there has been a proper accounting for and use of contract funds. All records of the Subcontractor bearing upon food purchases, storage, and food preparation directly related to said program under this Agreement shall be made available to the Contractor upon request.
- G. The Subcontractor shall furnish reports as required by the Contractor, County, California Department of Aging, and the U.S. Administration on Aging.
- H. Subcontractors shall use standardized recipes which meet Hazard Analysis requirements and which shall be available to Contractor and County.
- I. The Subcontractor shall supply raw food and labor costs to the Contractor as needed.
- J. The Subcontractor shall permit periodic monitoring of contracted activities by Contractor, Centralized Dietary Services, County, State, or Federal personnel.

**Section 7. Amendments to Agreement**

Any changes in the terms of this Agreement, including changes in the scope of services to be performed by the Subcontractor and any increase or decrease in amount of compensation which are agreed to by the Contractor and the Subcontractor, shall be incorporated into this Agreement by a written amendment properly executed by both parties. Prior written approval shall be received from County.

**Section 8. Permit and Licenses**

The Subcontractor shall hold valid permits, license, certificates, and other documents as are required by the State, County, City, or other governmental or regulatory bodies to legally engage in and perform the services to be provided under this Agreement, such as public health license, Orange County Inspection Reports, annual Fire Inspection Certificates, and other documents attached for County's approval. The Subcontractor shall notify the Contractor immediately of any suspension, termination, lapses, nonrenewals, or restrictions of required licenses, certificates, or other documents that may be cause for termination of this Agreement.

**Section 9. Conflict of Interest**

- A. The Subcontractor, during the period to be covered by this Agreement, shall have no interest, direct or indirect, with respect to the Contractor that could create a conflict of interest.
- B. No member, officer, or employee of the Contractor and no official, officer, or employee of the County who exercises any responsibilities or functions with respect to the Contractor during his tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.
- C. The Subcontractor warrants that no person has been employed to solicit or secure this Agreement upon any agreement for a commission, percentage, brokerage, or contingent fee. Breach of this warranty shall give the Contractor the right to terminate this contract or, at the discretion of the Contractor, to deduct from the Subcontractor's fees the amount of such commission, percentage, brokerage, or contingent fees.

**Section 10. Independent Contractor Status of the Subcontractor**

The parties agree that the performance of the Subcontractor's services hereunder shall be in the capacity of an Independent Contractor and that no employees of the Subcontractor have been, are, or shall be employees of the Contractor or County by virtue of this Agreement, and the Subcontractor shall so inform each employee organization and each employee who is hired or retained under this Agreement.

**Section 11. Assignment or Transfer of Interest**

The Subcontractor shall not assign or transfer any interest in this Agreement, except that claims for moneys due or to become due from the Contractor under this Agreement may be assigned to a bank, trust company, or other financial institution.

## **Section 12. Applicable Sections of Agreement between County and the Contractor**

The Contractor and the Subcontractor agree that all conditions set forth in the Agreement between the County and the Contractor, as applicable in the performance of this Agreement, are hereby included herein by reference as though set forth herein in full. Referenced sections are available at the Contractor and County for review during normal business hours.

## **Section 13. Discrimination Prohibited**

- A. The Subcontractor shall not discriminate against any employee or person served on account of race, color, sex, religious background, ancestry, national origin, or disability in its performance of this contract and hereby agrees to comply with all Federal, State, and County laws or regulations pertaining hereto including the Americans With Disabilities Act and applicable Civil Rights Acts.
- B. It is expressly understood that upon receipt of evidence of such discrimination, the Contractor shall have the right to terminate said contract.
- C. Affirmative Action: A written affirmative action plan, embodying both (1) goals and timetables of minority manpower utilization; and (2) specific affirmative action steps directed at increasing minority utilization by means of applying good faith efforts to carry out such steps, is to be included.

## **Section 14. Indemnity, Liability, and Insurance Requirements**

- A. The Subcontractor agrees to defend, indemnify, and hold harmless the Contractor and the County, their officers, employees, and assigns, against any and all claims arising from acts, omissions, or negligence of the Subcontractor, its officers, or employees in the performance of this Agreement. The Subcontractor shall defend any suit against the Contractor and County alleging personal injury, sickness, or disease arising out of meals served at the project sites (or home delivered) provided food is served one hour after delivery (or eaten immediately after home delivery).
- B. The Contractor shall promptly notify the Subcontractor in writing of any claims against the Contractor or Subcontractor and, in the event of a suit being filed, the Contractor shall promptly forward to the Subcontractor all papers in connection therewith. The Contractor shall not incur any expenses or make any settlement without the Subcontractor's consent. However, if Subcontractor refuses or neglects to defend any such suit, the Contractor may defend, adjust, or settle any such claim, and the cost of such defense, adjustment, or settlement, including reasonable attorney's fees, shall be charged to the Subcontractor.
- C. The Subcontractor shall furnish proof in the form of a hand-signed certificate of insurance that he/she carries insurance in the minimum amounts listed below prior to commencement of performance under this Agreement. Such coverage shall be maintained currently effective until receipt of final payment under the terms of this Agreement.

1. Comprehensive General \$1,000,000 combined Single Liability  
[including (CSL) minimum Product Liability]
  2. Professional Liability \$1,000,000 per occurrence
- D. Comprehensive Auto Liability (owned and nonowned)
1. Bodily Injury \$ 100,000 each person  
\$ 300,000 each accident  
\$ 300,000 aggregate products
  2. Property Damage \$ 50,000 each accident  
\$ 250,000 aggregate operations  
\$ 250,000 aggregate protection  
\$ 250,000 aggregate products  
\$ 250,000 aggregate contractual
- E. Worker's Compensation. The statutory limit shall be in accordance with Sections 3700 and 3800 of the Labor Code of the State of California.
- F. Additional Insured. The City of Montclair and County of San Bernardino shall be named as additional insured on all policies or certificates.
- G. Cancellation Notice. A 30-day Notice of Cancellation shall be mailed to the Contractor and County, 686 East Mill Street, San Bernardino, California 92415.
- H. In the event any new or additional meal locations are started, the insurance carrier shall name all new or additional sites as insured under the policy.
- I. Failure on the part of the Subcontractor to procure or maintain required insurance shall constitute a material breach of Agreement and Contractor may immediately terminate or suspend this Agreement.

#### **Section 15. Compliance with Statutes and Regulations**

- A. In the performance of this Agreement, the Subcontractor shall obey all laws of the United States, the State of California, and the ordinances, regulations, policies, codes, and provisions of County.
- B. The Subcontractor shall conform to the nutrition requirements under Title III-C of the Older Americans Act of 1965, as amended, including providing the minimum Title III-C requirement per person of one third of the Recommended Daily Dietary Allowance (RDA).
- C. The Subcontractor shall comply with the California Uniform Retail Food Facilities Law (CURFFL). The Hazard Analysis (HACCP) requirements and San Bernardino County Department of Aging and Adult Services Policy and Procedures for Senior Nutrition Sites.

## **Section 16. Federal, State and Local Taxes**

Federal, State, and local taxes shall be the responsibility of the Subcontractor as an independent contractor and not as a Contractor employee.

## **Section 17. Renewal Options**

This Agreement is for one year only. It is optional on the part of the Contractor to renew the Agreement if desired. However, all agreements must be put out to bid during the County RFP period. Contractors must publicly bid on subsequent project year food contract. Bids will be awarded based on cost, capacity to provide service, proven competency and quality of product, proximity of meal locations, or other justifiable reasons.

## **Section 18. Termination**

The Contractor may terminate this Agreement at any time within the period of its duration upon not less than thirty (30) days' written notice by the Contractor to the Subcontractor or immediately for cause. The Subcontractor may terminate this contract upon not less than thirty (30) days' written notice to the Contractor. Notice shall be provided as in Section 5 herein.

In addition, the contract may be terminated because of lack of funds, repeated citations by County, and failure to make corrective actions required by County. In the event funds to finance this contract, or part of this contract, become unavailable, the obligations of each party hereunder may be terminated upon no less than ten days' written notice to the other party. Said notice shall be delivered by certified mail, telegram, or in person. County shall be the final authority as to the availability of Federal or State funds. Waivers of breach of any provision of the contract shall not be construed to be a modification of the terms of the contract.

## **Section 19. Negotiation of Disputes**

Any disputes of law or fact between the Contractor and the Subcontractor shall be settled between the parties concerned in such a manner that they will not delay or adversely affect the performance of the Contractor. Should any questions remain unresolved, the dispute would be submitted to the Director of the Area Agency on Aging or his designee to render a decision. Said decision will be binding upon the Contractor and the Subcontractor.

## **Section 20. Prior Approval of Subcontracts**

The Subcontractor shall not enter into any subcontracts, for all or part of the services contemplated under this Agreement, without obtaining prior written approval of the Contractor and the Area Agency on Aging, which shall then be made a part of the original Agreement. No subcontracts shall be approved which would incur an obligation higher than the original agreed-upon price.

## **Section 21. Fair Labor Standards Compliance**

Subcontractor agrees to indemnify, defend, and hold harmless the County of San Bernardino and the Contractor, its agents, officers, and employees from any and all

liability including, but not limited to, wages, overtime pay, liquidated damages, penalties, court costs, and attorney's fees arising under any wage and hour law including, but not limited to, the Federal Fair Labor Standards Act for services performed by the Subcontractor's employees for which the Contractor or the County of San Bernardino may be found jointly or solely liable.

## **Section 22. Citizenship Laws**

Subcontractor and Contractor warrant their full compliance with all laws regarding employment of aliens and others and that all their employees performing services hereunder meet the citizenship or alien status requirements contained in Federal Immigration Reform and Control Act of 1986. Subcontractor and Contractor shall obtain from all covered employees services hereunder all verification and other documentation of employment eligibility status required by Federal statutes and regulations as they currently exist and as they may be hereafter amended. Subcontractor and Contractor shall retain such documentation for all covered employees for the period prescribed by law. Subcontractor and Contractor shall indemnify, defend, and hold harmless the County, its officers, and employees from employer sanctions and any other liability which may be assessed against Subcontractor and Contractor of County or both in connection with any alleged violation of Federal statutes or regulations pertaining to the eligibility for employment of persons performing services under this contract.

## **Section 23. Subcontractor Staffing Requirements**

To assure that meals are prepared in a safe, sanitary environment in compliance with the California Health and Safety Code, the San Bernardino County Department of Aging and Adult Services Policies and Procedures, and Contracts Management Manual, the Subcontractor shall comply with the following requirements:

The Subcontractor shall hire a part-time Registered Dietitian (minimum 20 hours a week) who possesses a Bachelor's degree and/or Master's degree in Nutrition/Dietetics with an institutional food service management emphasis from an accredited college or university for supervision of the food services operation within the catering company and/or central kitchen.

**Or**

The Subcontractor shall hire a qualified Food Service Manager who possesses a Bachelor of Science degree in Food and Nutrition with emphasis on food service management or restaurant management from an accredited college or university, plus two (2) years' professional experience as a food service supervisor; no less than six (6) years of experience in the food service industry at a supervising level can be substituted for the four-year degree requirements. The Subcontractor must submit to the Contractor the registration identification number and expiration date of Registered Dietitian along with complete verifiable résumés of the Registered Dietitian or Food Service Manager for County's approval.

The County may, at its sole discretion, waive this requirement or, for repeated deficiencies of noncompliance, require the Subcontractor to fill both positions and/or to expand the required positions to full-time positions.

**Section 24. Date of Execution**

The parties hereto agree that the first party to execute this Agreement shall enter the date executed in the blank provided herein on both duplicate originals, which date shall be the date this Agreement is made provided, however, the term shall be for the period set forth in Section 4 herein.

**Section 25. Complete Agreement**

This Agreement, Appendices, if applicable, and Attachment 1 contain the full and complete Agreement between the two parties. No verbal agreement or conversation with any officer or employee of either party shall affect or modify any of the terms and conditions of this Agreement.

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

**Subcontractor:**

**CATERING SYSTEMS, INC.**

\_\_\_\_\_  
Lordwin Dsouza

\_\_\_\_\_  
Date

\_\_\_\_\_

\_\_\_\_\_  
Date

**City:**

**CITY OF MONTCLAIR**

\_\_\_\_\_  
Paul M. Eaton  
Mayor

\_\_\_\_\_  
Date

**ATTEST:**

\_\_\_\_\_  
Donna M. Jackson  
City Clerk

\_\_\_\_\_  
Date

## ADDENDUM

### OTHER REQUIREMENTS (Contractor's Option)

"Penalties for discrimination in employment - Any contractor who shall be found in violation of the nondiscrimination provisions of the State of California Fair Employment Practice Act or similar provisions of federal law or executive order in the performance of any contract with the City, thereby shall be found in material breach of such contract and thereupon the City shall have power to cancel or suspend the contract, in whole or in part, or to deduct from the amount payable to such contractor the sum of \$25 for each person for each calendar day during which such person was discriminated against, as damages for said breach of contract, both. Only a finding of the State of California Fair Employment Practices Commission or the equivalent federal agency or officer shall constitute evidence of a violation of contract under this section."

"Penalties for violation of affirmative action provisions - Any contractor who shall be found in violation of the agreement to pursue an affirmative course of action, or in violation of any provision of the affirmative action guidelines pertaining to the contract, shall be found in material breach of such contract and thereupon the City shall have power to cancel or suspend the contract, in whole or in part, or to deduct from the amount payable to such contractor the sum of \$250 for each calendar day during which the contractor is found to have been in noncompliance, damages for said breach of contract, or both."

**FOOD SERVICE SPECIFICATIONS  
BETWEEN THE CITY OF MONTCLAIR  
AND CATERING SYSTEMS INC.**

**STATEMENT OF WORK AND SCHEDULE**

During the time of performance as set forth herein, the Subcontractor shall furnish all food, labor, and equipment necessary to prepare and deliver individual meals and/or bulk food for persons 60 years of age and older in compliance with the Title III Congregate and Home-Delivered Nutrition standards as described in Federal, State, and County regulatory statutes and the California Health and Safety Codes, more specifically, the California Uniform Retail Food Facilities Law (CURFFL) as amended January 1, 1996, the Older Americans Act (OAA), Amendment of 1992, and the San Bernardino County Department of Aging and Adult Services (County).

To assure that meals are prepared in a safe, sanitary environment, in compliance with the California Health and Safety Code, the DAAS Policies and Procedures and Contracts Management Manual, the Subcontractor shall comply with the following requirements:

The Subcontractor shall hire a part-time Registered Dietitian (minimum 20 hours a week) who possesses a Bachelor's degree and/or Master's Degree in Nutrition/Dietetic with an institutional food service management emphasis from an accredited college or university, for supervision of the food services operation within the catering company and/or central kitchen.

The Subcontractor shall hire a qualified Food Service Manager who possess a BS degree in Food and Nutrition with emphasis on food service management or restaurant management from an accredited college or university, plus two (2) years professional experience as a food service supervisor; no less than six (6) years of experience in the food service industry at a supervising level can be substituted for the 4 year degree requirements.

The Subcontractor must submit, to the Contractor, the registration identification number and expiration date of the Registered Dietitian along with complete verifiable resumes of the Registered Dietitian or Food Service Manager for the County's DAAS approval.

The County may, at its sole discretion, waive this requirement or for repeated deficiencies of non-compliance, require the Subcontractor to fill both positions, and/or to expand the required positions to full time positions.

A. Number of Meals

The maximum requirement is estimated at 68 meals per day, Monday through Friday.

	<i>Total Annual Meals</i>	<i>Catered Cost of Meal</i>
Monday through Friday	68	\$3.70
Saturday	N/A	
Sunday	N/A	
Box lunches	N/A	
Breakfast	N/A	
Frozen meals	N/A	
Other food items	N/A	
<b>Total Annual Meals</b>	<b>17,000</b>	<b>\$62,900.00</b>

B. Delivery

1. The meals shall be delivered as follows:

<i>Meal Location</i>	<i>Approx. Number of Meals</i>	<i>Time Food Preparation Completed</i>	<i>Time Food Leaves Kitchen</i>	<i>Time Food Arrives at Site</i>
Montclair Community Center 5111 Benito Street Montclair, California	68	10:00 a.m.	10:30 a.m.	11:00 a.m.

2. The Contractor reserves the right to add or delete meal sites or designate alternate meal locations, as appropriate, subject to approval by County.
3. The Contractor may change the days and time of delivery and service by giving the Subcontractor seven (7) days notice.
4. The Contractor may change the number of meals to be delivered to any of the meal locations by notifying the Subcontractor by 10:00 a.m. the day prior to delivery.
5. The Subcontractor shall deliver the meals no more than 60 minutes prior to or 30 minutes after the agreed upon serving time.
6. Box lunch delivery time may be as early as 9:00 a.m. as long as appropriate holding facilities are available for perishable food items and

meals are transported under appropriate packing, heating and cooling temperature requirements.

7. The Contractor reserves the right to require Subcontractor to deliver food on all holidays that food service is needed.
8. The contractor shall serve foods for congregate meals; within two (2) hours after food preparation has been completed.

C. Delivery Service Specifications

1. Meals are to be delivered in (bulk/individual) prepackaged servings.
2. The Subcontractor shall supply the following food service items.

<i>Item</i>	<i>Specifications</i>
Rectangular disposable plates	Five compartment
Disposable bowls	Eight-ounce soup bowls
Disposable flatware	Bulk or pre-packaged, good quality
Napkins	Good quality
Table coverings	Paper placemats
Disposable cups	Eight-ounce cups for bulk milk
Other	Straws, plastic gloves, boxes, or bags as needed for box lunches

3. The Subcontractor shall provide all serving trays and utensils, warming, refrigerating and freezing equipment, where necessary, for the maintenance of proper temperatures as specified herein, and shall provide servicing of the equipment and/or replacement (depending on needs of Project).
4. All food must be packaged and transported under conditions that will ensure temperature control to prevent bacterial contamination, spillage, and/or infestation. All hot foods should be packaged individually or in bulk containers to ensure a minimum delivery temperature of 145° F. All cold foods must be packaged to ensure a maximum delivery temperature of 40° F. All foods intended to be delivered frozen shall be packaged to maintain a hard frozen state until such food reaches point of delivery.

Temperature of bulk and home-delivered meals must be taken daily at the end of production/packaging and on delivery at the nutrition site by the Subcontractor and Contractor. Hot and cold foods must be placed immediately into insulated hot and cold transport equipment upon completion of packing.

Daily written documentation of temperature logging/monitoring must be kept by Subcontractor and will be subject to audit by the centralized dietary services and the County nutritionist.

The sites shall be assumed correct on shortages unless the caterer proves them wrong. All calls regarding shortages and food replacement will be communicated by the Contractors office.

5. Meals must be delivered in refrigerated trucks and/or approved for bulk-insulated containers for hot pack and cold pack. Delivery standards shall comply with applicable local health department regulations.
6. Food and supplies must be packed and handled in a sanitary manner to assure absence of contamination and spillage.
7. The program may require replacement of any cold food that is received on site at above 45 F and any hot food that falls below 140 F.
8. Food shortages and/or spoiled foods that are reported to the caterer by agree time of delivery must be replaced or the enclosed deduction schedule will be utilized.
9. Packing of food for delivery to the sites will be negotiated as mutually acceptable to the Contractor and Subcontractor. Sites may differ on packaging of some items due to available site equipment and time/distance.
10. The Subcontractor shall be responsible for cleaning and care of equipment returned to his facility each day.
11. The Subcontractor shall place food in areas designated by meal location managers.
12. Food shall be transported no longer than 60 minutes after packaging.
13. Food shall be kept in heat retaining equipment no longer than **60 minutes** prior to serving.
14. Each delivery shall be accompanied by a delivery slip, in triplicate, designating number of meals and supplies delivered. Project Director or designated person will sign receipt, if in order, and one copy shall be left with the Project Director.
15. Instructions shall be attached to each food product delivered indicating name of meal location, number of servings, size of servings, and size of utensil to be used in serving.
16. Cake, cornbread, and casserole dishes, i.e. meatloaf, lasagna, tuna noodle casserole shall be pre-scored by the Subcontractor for the appropriate number of servings.
17. All Subcontractor delivery equipment shall be removed from the meal location by the next service day. Contractor is not responsible after this time.

18. The Subcontractor shall provide a back-up delivery system in the event of vehicle breakdown.
19. Electrical items required to be provided herein shall have the UNDER-RITERS LABORATORY approval and meet all current OSHA and COSHA laws and regulations. Subcontractor shall provide Contractor with a current copy of the health certificate and any corrected deficiencies with bid. To ensure that all regulations are followed, the Subcontractor must have a qualified food service manager or part-time registered dietitian (20 hours per week) or staff who will assure that meals are prepared in a safe and sanitary condition throughout the meal service operation.
20. Authorized representatives of the Contractor, County, centralized dietary services, State, and Federal shall have the right to inspect food preparation, storage, and packaging sites during the term of the contract.

#### D. Meal Standards

1. A Chemical analysis of any food delivered by the Subcontractor may be requested by the Contractor or County at any time. The Subcontractor agrees to cooperate in having the analysis done. If the analysis discloses that the food does not comply with required meal specifications, the Subcontractor shall be liable for the cost of this analysis and meals served to seniors out of compliance.
2. The Subcontractor shall be liable for meals that do not meet the nutritional standards and requirements, are spoiled or unwholesome at time of delivery, are incomplete or insufficient in number ordered, or are delivered after the time specified by the Contractor. In the event the Subcontractor fails to deliver complete meals, other foods, or supplies as agreed upon, the Contractor may provide a substitute meal with emergency meals of supplies purchased from other places and charge the cost of the purchased meal to the Subcontractor. The replacement cost shall not exceed 100 percent of the contract catered meal cost.
3. If any portion of a meal other than the entree is delivered in an unacceptable condition, such as incorrect temperature (potentially hazardous)\* less than contracted portion, spoiled or too late, the Subcontractor shall be liable for the cost of that portion. If the entree is unacceptable, the Subcontractor shall be liable for the cost of the entire meal. In order to ensure conformance to the above, the delivery driver shall remain at the site until the food is checked by the location manager. All shortages shall be noted on delivery slip for proper crediting.

#### E. Menus

1. All menus shall comply with Title III-C meal pattern requirements.
2. A **three-month** cycle menu shall be used that is written once yearly.

3. The Contractor has the responsibility for menu writing with input from the Project Council and Subcontractor. The menu shall be approved by the centralized dietary services dietitian.
4. The Contractor is responsible for typing and duplicating the menu.
5. All menus must be signed by the Project Director, Project Council Chairman or designee, the centralized dietary services dietitian, and certified by the County nutritionist prior to the start of the menu cycle.
6. The Project Director or centralized dietary services dietitian shall submit all menu substitutions by the Subcontractor at least 2 days prior to the serving date. The subcontractor may, however, in an emergency make menu substitutions on verbal approval of the Project Director or centralized dietary services dietitian, with a written notice to follow for documentation.
7. Provisions shall be made by the Subcontractor to provide in-service training regarding food sanitation and safety for their food service staff. Documentation of such training shall be submitted to the Contractor. County may require the Contractor, based upon major finding of non-compliance items in food and safety, to provide additional food service training.

\*See definition of Potentially Hazardous Food, DAAS Contract Management for Service Providers.

**F. Meal Pattern Specifications**

1. All food must be of the highest quality standard and conform to USDA requirements. It must be prepared in a manner to preserve optimum flavor and appearance while retaining nutrients and food value. Special consideration should be given to tenderness of meat because of the age of our participants. The Subcontractor is responsible for assuring its high quality before it is sent to the meal sites.

**Title III – Meal Pattern:**

Meat or meat alternatives	Three-ounce edible portion of whole meats (exclusive of bone, fat gristle, etc.). Specification for all processed preformed meat must be approved by the County nutritionist before adding to menu. Two-and one-half-ounce edible portion of meat/meat alternate in casserole dishes.
Vegetable/fruits	Two-and-one-half cup servings each (exclusive of dessert).

Juice*	One-half cup Vitamin C fortification required to satisfy Vitamin C requirement. If concentrated juice is used, the juice does not meet the vegetable/fruit requirement.
Starch or alternate	One slice bread or one-half cup serving cooked starch, such as rice, pasta, etc. Selections made from whole grains are preferred.
Fortified margarine or butter	One teaspoon.
Dessert*	One-and-one-half cup or fresh fruit equivalent.
Milk or milk product	Eight-fluid-ounce serving or calcium equivalent. Nonfat or low-fat dairy products desired.

- (a) In the preparation of all meals, the Subcontractor shall use a minimum of simple sugars. Each meal shall not exceed 1100 milligrams of sodium and shall be low in fat (standard is no more than 30 percent or less of total calories)
- (b) Special diets, specifically low sodium, low fat, and sugar free shall be provided as specified (optional).
- (c) One hundred percent milk shall be available in a variety of types, including nonfat and low fat.
- (d) Subcontractor shall provide all condiments that are normally served with specific menus including, but not limited to, salt; pepper; salad dressing; tartar sauce; mustard; catsup; cream; sugar; and garnishes, such as lemon slices and parsley (as agreed upon).
- (e) Ground beef may be used no more often than twice a week and must be in solid form such as meat loaf or Salisbury steak for one of the servings. The fat content cannot exceed 15 percent.
- (f) Textured vegetable protein may be used at no greater amount than 30 percent of the total protein.
- (g) Meat alternates (dried beans, peas, lentils, nuts, nut butters) shall not be served more often than one time per week.
- (h) Desserts, such as fruits or high-nutrient density desserts shall be served throughout the week in one-half (1/2) cup portions. High-calorie desserts, such as plain gelatin desserts, cakes, pies, cookies, and similar foods, shall also be included but are to be limited to once per week. Milk-based dessert may be served once per week. A dessert consisting of 50 percent fruit (fruited Jell-O, etc.) may be served once a week.

- (i) Different fruits will be served at least two days per week for dessert. Whole fresh fruit in season shall be served at least once during each week. Canned fruit will be water packed or packed in its own juice.

2. Minimum grades for all foods shall be as follows:

- (a) Beef: USDA Grade A choice
- (b) Pork: USDA Number 1 (as defined in S R.A., No. 171, U.S. Standards and Grades of Pork Carcasses)
- (c) Lamb: USDA choice
- (d) Poultry: USDA Grade A to be used for all fresh or frozen poultry products. Necks, backs, and wings alone shall not be used prior approval of the Project Director or project designee. Reconstructed roll products are not acceptable (optional).
- (e) Variety meats: Grade No. 1 from USDA Government-inspected plants.
- (f) Dairy products: Following is to be used as minimum specifications for all graded dairy products:
  - (1) Eggs, fresh USDA or State Graded A
  - (2) Cheese, USDA Grade A nonprocessed cheese
  - (3) Milk, low fat, shall be available
- (g) Fish and seafood must be fresh or frozen and be a nationally distributed brand packed under continuous inspection of the U.S. Department of Interior.
- (h) Canned fruits and juices: USDA Grade A (Fancy) and Grade B (Choice) are to be used for all graded fruits and fruit juices. Grade C (Standard) may be used for pie and cobbler products only.
- (i) Fresh fruits: USDA Fancy to USDA No. 1 to be used for all graded fresh fruits as a minimum standard.
- (j) Fresh vegetables: USDA Fancy and No. 1 to be used for all graded fresh vegetables as a minimum standard.
- (k) Frozen fruits and vegetables: USDA Grade A is to be used for all graded frozen fruits and vegetables as a minimum standard.

### 3. Meal Component/Nutrient Analysis

- (a) A meal component /nutrient analysis of the entire menu cycle conducted and/or approved by a Registered Dietitian shall be completed in compliance with OAA, Section 339, and California Regulations, Title 22, Division 1.8, Chapter 4, Article 5, Section 7638.5.

#### Computerized Nutrient Analysis Requirements:

Although not required, use of computerized nutrient analysis is strongly recommended and will help ensure and verify the nutritional adequacy of meals. The goal of assessing nutrient intakes of groups is to determine the prevalence of inadequate or excessive nutrient intakes within a particular group of individuals. While meal patterns serve as a basic framework for menu planning, providers are encouraged to use computerized nutrient analysis because it provides specific information on nutrients the menu may **not** be providing. The information that a menu is not supplying all of the desired nutrients will guide the development of future menus. As required menu elements are expanded, it is more difficult to meet all of the requirements on a daily basis. Nutrition programs for the elderly should focus on:

- Vitamin A
- Vitamin C
- Protein
- Fat
- Sodium
- Fiber

Not all nutrient guidelines will be met with each meal. However, areas that do not meet the requirements should be the focus of future menu revisions and nutrition education.

The following nutrients should be included in the analysis when the computerized nutrient analysis method is used: calories; protein; carbohydrates; total fat; saturated fat; total fiber; Vitamins A, C, D, E, K, thiamin, riboflavin, niacin, B6, folate, B12; calcium, chromium, copper, iron, magnesium, sodium, and zinc. In addition to meeting one third of the Dietary Reference Intakes, the menus should also follow the Dietary Guidelines for Americans.

- (b) Menu cycle shall be analyzed on a regular basis and documentation maintained for County review.

#### **G. Supplies Specification Procedures**

The Subcontractor shall provide disposable table service based upon the supplies specification included. These supplies shall be ordered and delivered weekly at each site. A minimum of one week's supply on hand at all times. The Contractor shall supply order forms and monitor supply usage.

The Subcontractor shall furnish, as part of supplies, the cleaning and other miscellaneous supplies (see Supplies Specification Sheet). These supplies will be ordered as needed. The Contractor shall supply order forms and monitor supply usage. (This is subject to negotiation.)

#### **EVALUATION OF SUBCONTRACTOR**

The Contractor and centralized dietary services dietitian shall evaluate the Subcontractor's performance to determine if the Agreement is in compliance in meeting requirements. All evaluations must be sent to the County nutritionist.

#### **RECEIPTS AND INVOICES PROCEDURES**

- A. The Subcontractor shall issue daily delivery receipts to each site.
- B. After the close of each week, the Subcontractor will furnish to the program an invoice of meals ordered by the program, the previous week. The Contractor will pay such invoices for the prior week within 30 days after receipt of same invoice or as agreed between the Contractor and Subcontractor.

#### **DEDUCTION PROCEDURE**

- A. The Subcontractor shall deliver meals that meet Title III-C menu regulations. If the Subcontractor fails to deliver all menu items or appropriate substitute items and/or the program rejects food, the Subcontractor shall be reimbursed as outlined in Section 4, "Meal Standards."

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER APPROVAL OF AGREEMENT NO. 10-66 ADOPTING THE CITY OF MONTCLAIR'S 12 PERCENT ANNUAL ANTICIPATED DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION LEVEL	<b>DATE:</b> June 21, 2010 <b>SECTION:</b> AGREEMENTS <b>ITEM NO.:</b> 4 <b>FILE I.D.:</b> PUB112
<b>BUSINESS PLAN:</b> N/A	<b>DEPT.:</b> PUBLIC WORKS

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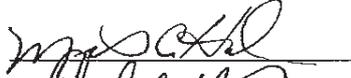
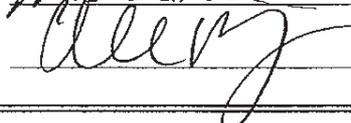
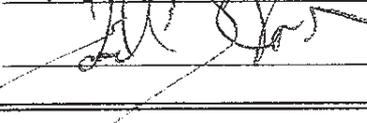
**REASON FOR CONSIDERATION:** Projects using federal funds require compliance with federal regulations that are not necessarily required on projects using local funding only. One of these regulations addresses Disadvantaged Business Enterprises (DBE). Agreement No. 10-66 adopts the City's 12 percent Annual Anticipated Disadvantaged Business Enterprise Participation Level (AADPL).

**BACKGROUND:** On May 1, 2006, the California Department of Transportation (Caltrans) directed local agencies to implement a wholly Race-Neutral DBE Program in accordance with new race-neutral DBE policy directives. The directives were issued as a result of a decision from the Ninth Circuit Court of Appeals and guidelines promulgated by the Federal Highway Administration (FHWA) in response to that decision. The decision mandated that evidence of discrimination in the transportation contracting industry must be documented in order to implement a Race-Conscious DBE Program. After careful analysis, Caltrans and FHWA concluded that Caltrans, at that time, lacked sufficient evidence to satisfy the strict scrutiny and newly established evidentiary standards established by the Ninth Circuit Court to request a waiver from the U. S. Department of Transportation (USDOT) to continue its use of race-conscious measures (including establishing contract-specific numeric goals to affirmatively drive DBE participation and requiring bidders/proposers to demonstrate responsiveness to such as a condition of award) in meeting the state's Overall DBE Goal.

In correspondence received from Caltrans Local Assistance Office on March 4, 2009, the City of Montclair was required to adopt the Disadvantaged Business Enterprise Program Implementation Agreement changing our program from a Race-Neutral program to a Race-Conscious program. Caltrans conducted a Disparity Study; in its findings, Caltrans identified four groups to be underutilized DBE Groups: African American, Asian Pacific American, Women, and Native American businesses. Caltrans requested a waiver as required by 49 CFR §26.15, with the USDOT Federal Highway Administration (FHWA) operating administration to resume implementing its Race-Conscious DBE Program with a limited application to the four identified underutilized DBE groups.

The first step of the Race-Conscious AADPL Methodology included establishing a Base Figure utilizing quantifiable evidence to determine the relative availability of DBEs within

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

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specified industries identified as a part of the City's DOT-assisted contracting projects anticipated to be awarded by the City within Federal Fiscal Year 2010/11. The City utilized the California Unified Certification Program (CUCP) Directory of Certified DBE Firms and the U.S. Census Bureau: County Business Patterns, NAICS database to complete this step.

Upon establishing the Base Figure, the City surveyed and assessed other known relevant evidence to determine what additional adjustments, if any, were needed to narrowly tailor the Base Figure to the City's market area. Factors considered in the adjustment of the Base Figure included the historical and current capacity of DBEs measured by actual attainments on similar projects and the City's Bidders List collected on procurements with similar scopes as this year's contracting program.

The City's AADPL is required to be updated annually to maintain relevancy to local market conditions and factors impacting DBE availability as directed by Caltrans.

**FISCAL IMPACT:** The City Council's approval and adoption of the Race-Conscious AADPL for Federal Fiscal Year 2010/11 is required to ensure compliance with Caltrans' federal funding requirements, provisions, and financial responsibilities. Failure to do so will directly jeopardize the City's federal financial assistance.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 10-66 adopting the City of Montclair's 12 percent Annual Anticipated Disadvantaged Business Enterprise Participation Level.

**Exhibit 9-B Local Agency DBE Annual Submittal Form**

TO: CALTRANS DISTRICT 08  
District Local Assistance Engineer – Mr. Sean Yeung

The amount of the Annual Anticipated DBE Participation Level (AADPL) and methodology are presented herein, in accordance with Title 49 of the Code of Federal Regulations (CFR), Part 26, and the State of California, Department of Transportation Disadvantaged Business Enterprise (DBE) Program Plan.

The City of Montclair submits our AADPL information. We have established an AADPL of 12% (6% Race Neutral; 6% Race Conscious) for the Federal Fiscal Year 2010 /11, beginning on October 1, 2010 and ending on September 30, 2011.

Methodology

Refer to the attached AADPL Methodology Enclosure.

Disadvantaged Business Enterprise Liaison Officer (DBELO)

Mr. Michael Hudson, City Engineer  
5111 Benito Street, Montclair, CA 91763  
Phone: (909) 625-9441  
Fax: (909) 621-1584  
E-mail: [mhudson@ci.montclair.ca.us](mailto:mhudson@ci.montclair.ca.us)

Planned Race-Neutral Measures

The City of Montclair plans to implement the following race-neutral measures to comply with 49 CFR Part 26.51 and Section V of the California Department of Transportation Race-Conscious DBE Program Implementation Agreement for Local Agencies.

- Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing); ***Planned Race-Neutral Measures:*** *The City will, through its website refer the DBE and Small Business Contracting Community to the SBA Bonding Assistance Program, via the Caltrans California Construction Contracting Program (CCCP) and its technical counselors.*
- Carrying out information and communication programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists of bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate); ***Planned Race-Neutral Measures:*** *The City will solicit DBEs and Small Businesses within the City's defined market area utilizing any or all of the following means: Issue solicitation flyers/letters to promote upcoming bid opportunities through, email blasts, postcards, website posting, fax blasts, etc.*
- Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses; ***Planned Race-Neutral Measures:*** *The City will actively promote the Caltrans sponsored California Construction Contracting Program (CCCP) to its market place contractors, consultants and vendors through the City's website by directing them to [www.buildcalifornia.org](http://www.buildcalifornia.org)*
- Ensuring distribution of your DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; ***Planned Race-Neutral Measures:*** *The City will advise its*

Contracting Community of the availability of the California Unified Certification Program (CUCP) database (directory of Certified DBEs) website at [www.dot.ca.gov/ucp/GetLicenseForm.do](http://www.dot.ca.gov/ucp/GetLicenseForm.do)

- Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media. **Planned Race-Neutral Measures:** The City will advise the DBE and Small Business community to participate and attend Caltrans' sponsored free courses specifically offered through the CCCP, specifically the "Navigating the Caltrans Procurement Website course" to assess bid opportunities as this course includes tips on accessing local agencies websites as well.

Prompt Pay

Federal regulation (49 CFR 26.29) requires one of three methods be used in federal-aid contracts to ensure prompt and full payment of any retainage, kept by the prime contractor or subcontractor, to a subcontractor. (Attached is a listing of the three methods. On the attachment, please designate which prompt payment provision the local agency will use.)

49 CFR Part 26.29(d) requires providing appropriate means to enforce prompt payment. These means may include appropriate penalties for failure to comply with the terms and conditions of the contract. The means may also provide that any delay or postponement of payment among the parties may take place only for good cause, with the local agency's prior written approval. Please briefly describe the monitoring and enforcement mechanisms in place to ensure that all subcontractors, including DBEs, are promptly paid.

Prompt Payment Mechanism

The City's Public Works Inspector meets with the contractor's representative on the fourth Thursday of each month to verify quantities or percentage of lump sum work items completed to that date. The City's Project Manager prepares a progress payment form and verifies that all certified payrolls for the general contractor and subcontractors are current. Upon verification, the progress payment request is submitted to the City Engineer for approval, and then to the City's Finance Division for the issuance of a check. Payment is generally made within 30 days of the meeting between the City's Public Works Inspector and the contractor's representative. If a subcontractor or material supplier is not being paid by the general contractor, it is up to that company to notify the City that it has not been paid.

\_\_\_\_\_  
(Signature )

\_\_\_\_\_  
Date

Paul M. Eaton, Mayor  
(Print Name and Title)  
ADMINISTERING AGENCY  
(Authorized Governing Body Representative)

909-625-9401  
Phone Number

\_\_\_\_\_  
(Signature of Caltrans District Local Assistance Engineer [DLAE])

\_\_\_\_\_  
Date

Distribution: (1) Original - DLAE  
(2) Signed copy by the DLAE - Local Agency

DBE Annual Submittal Form (04/01/08)

(Attachment)

**Prompt Payment of Withheld Funds to Subcontractors**

Federal regulation (49 CFR 26.29) requires one of the following three methods be used in federal-aid contracts to ensure prompt and full payment of any retainage kept by the prime contractor or subcontractor to a subcontractor.

Please check the box of the method chosen by the local agency to ensure prompt and full payment of any retainage.

- Method 1:** No retainage will be held by the agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
- Method 2:** No retainage will be held by the agency from progress payments due the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
- Method 3:** The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

## AGENDA REPORT

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**SUBJECT:** CONSIDER REDEVELOPMENT AGENCY BOARD OF DIRECTORS' ADOPTION OF RESOLUTION NO. 10-01, A RESOLUTION OF THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY AUTHORIZING THE EXPENDITURE OF AGENCY FUNDS FOR GRAFFITI ABATEMENT FOR FISCAL YEAR 2010-11

**DATE:** June 21, 2010

**SECTION:** RESOLUTIONS

**ITEM NO.:** 1

**FILE I.D.:** FIN220

**DEPT.:** RDA/MHC

CONSIDER CITY COUNCIL'S APPROVAL OF AGREEMENT NOS. 10-57, 10-58, 10-59, AND 10-60 APPROVING RESPECTIVE PROMISSORY NOTE NOS. 10-01, 10-02, 10-03, AND 10-04 BETWEEN THE CITY OF MONTCLAIR AND THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY

CONSIDER REDEVELOPMENT AGENCY BOARD OF DIRECTORS' APPROVAL OF AGREEMENT NOS. 10-57, 10-58, 10-59, AND 10-60 APPROVING RESPECTIVE PROMISSORY NOTE NOS. 10-01, 10-02, 10-03, AND 10-04 BETWEEN THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY AND THE CITY OF MONTCLAIR

CONSIDER REDEVELOPMENT AGENCY BOARD OF DIRECTORS' ADOPTION OF RESOLUTION NO. 10-02, A RESOLUTION OF THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY ADOPTING THE FISCAL YEAR 2010-11 BUDGET FOR THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY

CONSIDER REDEVELOPMENT AGENCY BOARD OF DIRECTORS' APPROVAL OF AGREEMENT NO. 10-61 APPROVING PROMISSORY NOTE NO. 10-01 BETWEEN THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY AND THE MONTCLAIR HOUSING CORPORATION

CONSIDER MONTCLAIR HOUSING CORPORATION BOARD OF DIRECTORS' APPROVAL OF AGREEMENT NO. 10-61 APPROVING PROMISSORY NOTE NO. 10-01 BETWEEN THE MONTCLAIR HOUSING CORPORATION AND THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY

CONSIDER MONTCLAIR HOUSING CORPORATION BOARD OF DIRECTORS' ADOPTION OF RESOLUTION NO. 10-01, A RESOLUTION OF THE MONTCLAIR HOUSING CORPORATION ADOPTING THE FISCAL YEAR 2010-11 BUDGET FOR THE MONTCLAIR HOUSING CORPORATION

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### BUSINESS

**PLAN:** N/A

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Prepared by:

*M. STAATS*

Reviewed and  
Approved by:

*M. STAATS*

Proofed by:

*Yvonne L. Smith*

Presented by:

*[Signature]*

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**REASON FOR CONSIDERATION:** The series of items presented for consideration by the City Council, Redevelopment Agency Board of Directors, and the Montclair Housing Corporation Board of Directors involve actions necessary to adopt and implement the Redevelopment Agency and Montclair Housing Corporation Budgets for Fiscal Year 2010-11. Pursuant to Section 33606 of the California Health and Safety Code, a redevelopment agency must adopt an annual budget containing specific information by fund.

The Fiscal Year 2010-11 Redevelopment Agency Budget proposes to reimburse the City for expenses related to graffiti abatement within redevelopment project areas. Prior to the reimbursement for this expense, the Redevelopment Agency Board of Directors is requested to consider adoption of Resolution No. 10-01 authorizing the reimbursement for Fiscal Year 2010-11.

**BACKGROUND:** The Fiscal Year 2010-11 Preliminary Budgets for the Redevelopment Agency and Montclair Housing Corporation were submitted to the respective Board of Directors on June 7, 2010.

Health and Safety Code Section 33420.3 authorizes redevelopment agencies to finance the removal of graffiti from public or private property within redevelopment project area boundaries. In order to utilize this statute, a redevelopment agency must adopt findings that removal of graffiti within redevelopment project areas will assist in the elimination of blight within each designated redevelopment project area. Therefore, the Redevelopment Agency Board of Directors is requested to adopt Resolution No. 10-01 authorizing the expenditure of funds for graffiti abatement.

As the Redevelopment Agency Board of Directors, City Council Members, and Montclair Housing Corporation Board Members know, the Redevelopment Agency borrows funds from the City for operating expenses and repays the borrowed funds to the City annually with accrued interest. The City Council is requested to approve Agreement Nos. 10-57, 10-58, 10-59, and 10-60, which are Redevelopment Agency Promissory Note Nos. 10-01, 10-02, 10-03, and 10-04, respectively. The Redevelopment Agency Board of Directors is then requested to approve Agreement Nos. 10-57, 10-58, 10-59, and 10-60. These Agreements compose the Promissory Notes for the Fiscal Year 2010-11 Operating Budget.

The Redevelopment Agency Board of Directors is requested to approve Resolution No. 10-02 adopting the Fiscal Year 2010-11 Budget for the City of Montclair Redevelopment Agency.

The Redevelopment Agency Board of Directors is requested to approve Agreement No. 10-61. Agreement No. 10-61 is Promissory Note 10-01 issued by the Montclair Housing Corporation. Pursuant to the terms of Promissory Notes 10-01, the Redevelopment Agency would loan the Montclair Housing Corporation \$300,000 from the Housing Fund for various improvements to multifamily units and single-family homes owned by the Redevelopment Agency and leased to the Montclair Housing Corporation. The Montclair Housing Corporation is requested to approve Agreement No. 10-61 approving the terms of Promissory Note 10-01.

The Montclair Housing Corporation Board of Directors is requested to approve the Annual Budget for the Montclair Housing Corporation. The expenses related to the Montclair Housing Corporation involve operation and maintenance of 30 properties. The properties

that the Montclair Housing Corporation is responsible for include 16 single-family homes and 76 multifamily units.

**FISCAL IMPACT:** It is estimated that the Fiscal Year 2010-11 Redevelopment Agency Budget would provide for a decrease in total balance of \$33,066,341 during Fiscal Year 2010-11.

**RECOMMENDATION:** Staff recommends that the City Council, Redevelopment Agency Board of Directors, and Montclair Housing Corporation Board of Directors take the following actions related to the Fiscal Year 2010-11 Redevelopment Agency Annual Budget and Montclair Housing Corporation Annual Budget:

1. Redevelopment Agency Board of Directors' adoption of Resolution No. 10-01, a Resolution of the City of Montclair Redevelopment Agency authorizing the expenditure of Agency funds for graffiti abatement.
2. City Council's approval of Agreement Nos. 10-57, 10-58, 10-59, and 10-60 approving respective Promissory Note Nos. 10-01, 10-02, 10-03, and 10-04 between the City of Montclair and the City of Montclair Redevelopment Agency.
3. Redevelopment Agency Board of Directors' approval of Agreement Nos. 10-57, 10-58, 10-59, and 10-60 approving respective Promissory Note Nos. 10-01, 10-02, 10-03, and 10-04 between the City of Montclair Redevelopment Agency and the City of Montclair.
4. Redevelopment Agency Board of Directors' adoption of Resolution No. 10-02, a Resolution of the City of Montclair Redevelopment Agency adopting the Fiscal Year 2010-11 Budget for the City of Montclair Redevelopment Agency.
5. Redevelopment Agency Board of Directors' approval of Agreement No. 10-61 approving Promissory Note No. 10-01 between the City of Montclair Redevelopment Agency and the Montclair Housing Corporation.
6. Montclair Housing Corporation Board of Directors' approval of Agreement No. 10-61 approving Promissory Note No. 10-01 between the Montclair Housing Corporation and the City of Montclair Redevelopment Agency.
7. Montclair Housing Corporation Board of Directors' adoption of Resolution No. 10-01, a Resolution of the Montclair Housing Corporation adopting the Fiscal Year 2010-11 Budget for the Montclair Housing Corporation.

**RESOLUTION NO. 10-01**

**A RESOLUTION OF THE CITY OF MONTCLAIR  
REDEVELOPMENT AGENCY AUTHORIZING THE  
EXPENDITURE OF AGENCY FUNDS FOR GRAFFITI  
ABATEMENT FOR FISCAL YEAR 2010-11**

**WHEREAS**, the City of Montclair Redevelopment Agency (the "Agency") is a duly constituted redevelopment agency under the laws of the State of California and pursuant to such laws is responsible for redevelopment of the redevelopment project areas (the "Redevelopment Project Areas") within the City of Montclair (the "City"); and

**WHEREAS**, the City has established a graffiti abatement program which has been funded, in part, by Community Development Block Grant ("CDBG") funds for the purposes of the elimination and removal of graffiti within the City; and

**WHEREAS**, the California Community Redevelopment Law was amended by the Legislature in 1994 to provide that a redevelopment agency may take any actions that the redevelopment agency determines are necessary to remove graffiti from public or private property within a redevelopment project area upon making a finding that, because of the magnitude and severity of the graffiti within the redevelopment project area, the action is necessary to effectuate the purposes of the redevelopment plan and that the action will assist with the elimination of blight as defined in Health and Safety Code Section 33031; and

**WHEREAS**, the expenditure of Agency funds for the funding of the City's graffiti abatement program, in an amount directly attributable to the cost of graffiti abatement completed within the Redevelopment Project Areas, is in the best interests of the Agency and the City and the health, safety, and welfare of its residents and in accord with the public purposes and provisions of applicable State and local law requirements.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Directors of the City of Montclair Redevelopment Agency finds and determines as follows:

**Section 1.** That the magnitude and severity of graffiti within the Redevelopment Project Areas necessitates the expenditure of funds for the removal of graffiti in order to effectuate the purposes of the Redevelopment Plans and to eliminate blight within the Redevelopment Project Areas.

**Section 2.** The Agency approves the expenditure of Agency funds for the purposes of funding the City's graffiti abatement program for Fiscal Year 2010-11 in an amount that is directly attributable to the cost of the graffiti abatement that is completed within the Redevelopment Project Areas.

**APPROVED AND ADOPTED** this XX day of XX, 2010.

**ATTEST:**

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Secretary

I, Donna M. Jackson, Secretary of the City of Montclair Redevelopment Agency, DO HEREBY CERTIFY that Resolution No. 10-01 was duly adopted by the Redevelopment Agency Board of Directors at a regular meeting thereof, 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

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Donna M. Jackson  
Secretary

**AGREEMENT NO. 10-57**

**CITY OF MONTCLAIR REDEVELOPMENT AGENCY**

**PROMISSORY NOTE 10-01**

July 1, 2010

City of Montclair Redevelopment Project Area No. I, after this date, hereby agrees to pay the City of Montclair the sum not to exceed Thirty Three Thousand Dollars (\$33,000), with interest thereupon at a rate of twelve percent (12%) per annum (or the maximum rate of interest which a redevelopment agency is permitted by law to pay) from initiation and thereafter until paid.

The obligation of the City of Montclair Redevelopment Agency for Project Area No. I herein is and shall constitute an indebtedness of said Project Area for the purpose of carrying out the redevelopment project for Redevelopment Project Area No. I, which shall be payable out of property taxes (tax increment) levied in said Project Area No. I and allocated to the Agency under Subdivision (b) of Section 33670 of the State of California Health and Safety Code and out of such other funds of the Project Area as may be available therefor.

**IN WITNESS WHEREOF**, this Note has been executed this 1st day of July, 2010.

**CITY OF MONTCLAIR  
REDEVELOPMENT AGENCY**

By: \_\_\_\_\_  
Paul M. Eaton, Chairman

**ATTEST:**

\_\_\_\_\_  
Donna M. Jackson, Secretary

**AGREEMENT NO. 10-58**

**CITY OF MONTCLAIR REDEVELOPMENT AGENCY**

**PROMISSORY NOTE 10-02**

July 1, 2010

City of Montclair Redevelopment Project Area No. III, after this date, hereby agrees to pay the City of Montclair the sum not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000), with interest thereupon at a rate of twelve percent (12%) per annum (or the maximum rate of interest which a redevelopment agency is permitted by law to pay) from initiation and thereafter until paid.

The obligation of the City of Montclair Redevelopment Agency for Project Area No. III herein is and shall constitute an indebtedness of said Project Area for the purpose of carrying out the redevelopment project for Redevelopment Project Area No. III, which shall be payable out of property taxes (tax increment) levied in said Project Area No. III and allocated to the Agency under Subdivision (b) of Section 33670 of the State of California Health and Safety Code and out of such other funds of the Project Area as may be available therefor.

**IN WITNESS WHEREOF**, this Note has been executed this 1st day of July, 2010.

**CITY OF MONTCLAIR  
REDEVELOPMENT AGENCY**

By: \_\_\_\_\_  
Paul M. Eaton, Chairman

**ATTEST:**

\_\_\_\_\_  
Donna M. Jackson, Secretary

**AGREEMENT NO. 10-59**

**CITY OF MONTCLAIR REDEVELOPMENT AGENCY**

**PROMISSORY NOTE 10-03**

July 1, 2010

City of Montclair Redevelopment Project Area No. IV, after this date, hereby agrees to pay the City of Montclair the sum not to exceed Six Hundred Fifty Thousand Dollars (\$650,000), with interest thereupon at a rate of twelve percent (12%) per annum (or the maximum rate of interest which a redevelopment agency is permitted by law to pay) from initiation and thereafter until paid.

The obligation of the City of Montclair Redevelopment Agency for Project Area No. IV herein is and shall constitute an indebtedness of said Project Area for the purpose of carrying out the redevelopment project for Redevelopment Project Area No. IV, which shall be payable out of property taxes (tax increment) levied in said Project Area No. IV and allocated to the Agency under Subdivision (b) of Section 33670 of the State of California Health and Safety Code and out of such other funds of the Project Area as may be available therefor.

**IN WITNESS WHEREOF**, this Note has been executed this 1st day of July, 2010.

**CITY OF MONTCLAIR  
REDEVELOPMENT AGENCY**

By: \_\_\_\_\_  
Paul M. Eaton, Chairman

**ATTEST:**

\_\_\_\_\_  
Donna M. Jackson, Secretary

**AGREEMENT NO. 10-60**

**CITY OF MONTCLAIR REDEVELOPMENT AGENCY**

**PROMISSORY NOTE 10-04**

July 1, 2010

City of Montclair Redevelopment Project Area No. V, after this date, hereby agrees to pay the City of Montclair the sum not to exceed Four Hundred Thousand Dollars (\$400,000), with interest thereupon at a rate of twelve percent (12%) per annum (or the maximum rate of interest which a redevelopment agency is permitted by law to pay) from initiation and thereafter until paid.

The obligation of the City of Montclair Redevelopment Agency for Project Area No. V herein is and shall constitute an indebtedness of said Project Area for the purpose of carrying out the redevelopment project for Redevelopment Project Area No. V, which shall be payable out of property taxes (tax increment) levied in said Project Area No. V and allocated to the Agency under Subdivision (b) of Section 33670 of the State of California Health and Safety Code and out of such other funds of the Project Area as may be available therefor.

**IN WITNESS WHEREOF**, this Note has been executed this 1st day of July, 2010.

**CITY OF MONTCLAIR  
REDEVELOPMENT AGENCY**

By: \_\_\_\_\_  
Paul M. Eaton, Chairman

**ATTEST:**

\_\_\_\_\_  
Donna M. Jackson, Secretary

**RESOLUTION NO. 10-02**

**A RESOLUTION OF THE CITY OF  
MONTCLAIR REDEVELOPMENT AGENCY  
ADOPTING THE FISCAL YEAR 2010-11  
BUDGET FOR THE CITY OF MONTCLAIR  
REDEVELOPMENT AGENCY**

**WHEREAS**, the Executive Director has submitted to the Board of Directors of the City of Montclair Redevelopment Agency the Preliminary Budget for Fiscal Year 2010-11 including all proposed expenditures, estimated revenues, and estimated fund balances; and

**WHEREAS**, a copy of the Preliminary Budget is on file in the Agency Secretary's office for inspection by the public; and

**WHEREAS**, the Agency Board of Directors has duly reviewed the Preliminary budget at an adjourned joint meeting open to the public held on June 15, 2010.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Directors of the City of Montclair Redevelopment Agency hereby adopts the Preliminary Budget as the Annual Budget for Fiscal Year 2010 - 11.

**BE IT FURTHER RESOLVED** that funds are automatically reappropriated into the Fiscal Year 2011-12 Budget for all outstanding purchase orders and unexecuted contracts as of June 30, 2011, for which a valid appropriation exists.

**BE IT FURTHER RESOLVED** that funds are automatically reappropriated into the Fiscal Year 2011-12 Budget for all capital improvement projects included in the adopted Budget which have not been completed as of June 30, 2011.

**APPROVED AND ADOPTED** this XX day of XX, 2010.

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Chairman

**ATTEST:**

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Secretary

I, Donna M. Jackson, Secretary of the City of Montclair Redevelopment Agency, DO HEREBY CERTIFY that Resolution No. 10-02 was duly adopted by the Redevelopment Agency Board of Directors at a regular meeting thereof, 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

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Donna M. Jackson  
Secretary

**AGREEMENT NO. 10-61**

**MONTCLAIR HOUSING CORPORATION**

**PROMISSORY NOTE 10-01**

July 1, 2010

Montclair Housing Corporation, after this date, hereby agrees to pay the City of Montclair Redevelopment Agency the sum not to exceed Three Hundred Thousand Dollars (\$300,000), with interest thereupon at a rate of five percent (5%) per annum from initiation and thereafter until paid.

The obligation of the Montclair Housing Corporation herein is and shall constitute an indebtedness of the Montclair Housing Corporation for the purpose of carrying out the housing rehabilitation of the Redevelopment Agency-owned properties.

**IN WITNESS WHEREOF**, this Note has been executed this 1st day of July, 2010.

**CITY OF MONTCLAIR  
REDEVELOPMENT AGENCY**

By: \_\_\_\_\_  
Paul M. Eaton, Chairman

**ATTEST:**

\_\_\_\_\_  
Donna M. Jackson, Secretary

**RESOLUTION NO. 10-01**

**A RESOLUTION OF THE MONTCLAIR HOUSING CORPORATION ADOPTING THE FISCAL YEAR 2010-11 BUDGET FOR THE MONTCLAIR HOUSING CORPORATION**

**WHEREAS**, the President has submitted to the Board of Directors of the City of Montclair Housing Corporation the Preliminary Budget for Fiscal Year 2010-11 including all proposed expenditures, estimated revenues, and estimated fund balances; and

**WHEREAS**, a copy of the Preliminary Budget is on file in the Montclair Housing Corporation Secretary's office for inspection by the public; and

**WHEREAS**, the Montclair Housing Corporation has duly reviewed the Preliminary Budget at an adjourned joint meeting open to the public held on June 15, 2010.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Directors of the Montclair Housing Corporation hereby adopts the Preliminary Budget as the Annual Budget for Fiscal Year 2010-11.

**BE IT FURTHER RESOLVED** that funds are automatically reappropriated into the Fiscal Year 2011-12 Budget for all outstanding purchase orders and unexecuted contracts as of June 30, 2011, for which a valid appropriation exists.

**BE IT FURTHER RESOLVED** that funds are automatically reappropriated into the Fiscal Year 2011-12 Budget for all capital improvement projects included in the adopted Budget that have not been completed as of June 30, 2011.

**APPROVED AND ADOPTED** this XX day of XX, 2010.

\_\_\_\_\_  
Chairman

**ATTEST:**

\_\_\_\_\_  
Secretary

I, Donna M. Jackson, Secretary of the Montclair Housing Corporation, DO HEREBY CERTIFY that Resolution No. 10-01 was duly adopted by the Montclair Housing Corporation Board of Directors at a regular meeting thereof, 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  
Secretary

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER ADOPTION OF RESOLUTION NO. 10-2844 AUTHORIZING APPROVAL OF THE CHANGE IN POPULATION IN THE CITY OF MONTCLAIR DURING 2009 FOR THE PURPOSE OF CALCULATING THE GANN SPENDING LIMIT FOR FISCAL YEAR 2010-11	<b>DATE:</b> June 21, 2010
	<b>SECTION:</b> RESOLUTIONS
	<b>ITEM NO.:</b> 2
<b>BUSINESS PLAN:</b> N/A	<b>FILE I.D.:</b> FIN225
	<b>DEPT.:</b> ADMIN. SVCS.

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**REASON FOR CONSIDERATION:** Government Code Section 7901 requires cities to annually adopt resolutions selecting a change-in-population factor for purposes of calculating the Gann Spending Limit. The City Council is requested to consider adoption of Resolution No. 10-2844 for this purpose.

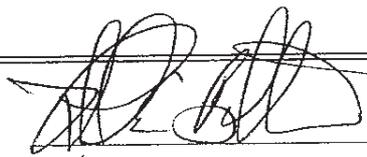
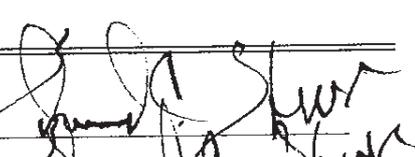
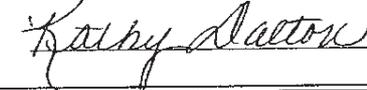
**BACKGROUND:** The passage of Proposition 111 in June 1990 requires cities to annually select a change-in-population factor for the purpose of calculating the Gann Spending Limit. For this purpose, Government Code Section 7901 permits cities to select either the change in population within their jurisdictions or within the county in which they are located. This selection must be done by a recorded vote of the governing body of each city.

The change in population in the City of Montclair during 2009 was 1.71 percent compared to a 0.85 percent change for San Bernardino County. Because it is in the City's best interest to establish the highest possible Gann Spending Limit, staff suggests the City Council choose the percentage change in population in the City of Montclair during 2009 as the change-in-population factor to be used in calculating the limit.

**FISCAL IMPACT:** Authorizing approval of the change in population in the City of Montclair during 2009 for the purpose of calculating the Gann Spending Limit for Fiscal Year 2010-11 would create no fiscal impact for the City.

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 10-2844 authorizing approval of the change in population in the City of Montclair during 2009 for the purpose of calculating the Gann Spending Limit for Fiscal Year 2010-11.

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

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**RESOLUTION NO. 10-2844**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AUTHORIZING APPROVAL OF THE CHANGE IN POPULATION IN THE CITY OF MONTCLAIR DURING 2009 FOR THE PURPOSE OF CALCULATING THE GANN SPENDING LIMIT FOR FISCAL YEAR 2010-11**

**WHEREAS**, California Government Code Section 7901 requires a city to calculate its Gann Spending Limit by choosing either the change in population within its jurisdiction or the change in population within the county in which it is located ; and

**WHEREAS**, the selection of the change in population must be accomplished by a recorded vote of the governing body; and

**WHEREAS**, the change in population in the City of Montclair during 2009 was 1.71 percent compared to a 0.85 percent change in population in San Bernardino County; and

**WHEREAS**, it is in the City's best interest to establish the highest possible Gann Spending Limit.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair hereby approves the change in population in the City of Montclair during 2009 as its change in population factor to be used in calculating the Gann Spending Limit for Fiscal Year 2010-11.

**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. 10-2844 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

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER ADOPTION OF RESOLUTION NO. 10-2845 AUTHORIZING APPROVAL OF THE PERCENTAGE CHANGE IN CALIFORNIA PER CAPITA PERSONAL INCOME DURING FISCAL YEAR 2008-09 AS THE FINAL FISCAL YEAR 2008-09 CHANGE IN THE COST-OF-LIVING FACTOR FOR USE IN CALCULATING THE GANN SPENDING LIMIT FOR FISCAL YEAR 2009-10 AND PROVISIONAL ADOPTION OF THE PERCENTAGE CHANGE IN CALIFORNIA PER CAPITA PERSONAL INCOME DURING CALENDAR YEAR 2009 AS THE CHANGE IN THE COST-OF-LIVING FACTOR FOR FISCAL YEAR 2009-10 FOR USE IN CALCULATING THE GANN SPENDING LIMIT FOR FISCAL YEAR 2010-11	<b>DATE:</b> June 21, 2010 <b>SECTION:</b> RESOLUTIONS <b>ITEM NO.:</b> 3 <b>FILE I.D.:</b> FIN225 <b>DEPT.:</b> ADMIN. SVCS.
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**BUSINESS PLAN:** N/A

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**REASON FOR CONSIDERATION:** Article 13-B of the California Constitution requires cities to annually adopt a resolution selecting a change in the cost-of-living factor for purposes of calculating the Gann Spending Limit. The City Council is requested to consider adoption of Resolution No. 10-2845 for this purpose.

**BACKGROUND:** Upon the passage of Proposition 111 in June 1990, Article 13-B of the California Constitution was amended requiring cities to select one of the following as the change in the cost-of-living factor to be used in calculating the Gann Spending Limit.

1. The percentage change in California per capita personal income from the preceding year
2. The percentage change in the local assessment roll attributable to nonresidential new construction

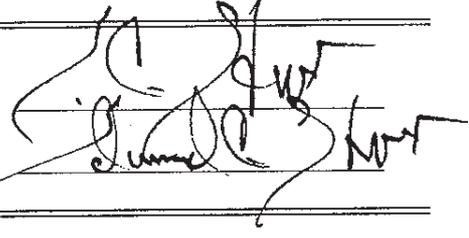
*Gann Spending Limit - Fiscal Year 2009-10.* The Gann Spending Limit for Fiscal Year 2009-10 was adopted last June on a provisional basis. This action was taken because San Bernardino County was unable to provide staff with the information necessary to calculate the limit based upon the change in the local assessment roll attributable to nonresidential new construction. Therefore, the limit was based upon the percentage change in California per capita personal income which was .62 percent. During May 2010, San Bernardino County informed staff that the percentage change in nonresidential new construction within Montclair during Fiscal Year 2008-09 was -25.2683 percent. Since it is to the City's advantage to set as high a spending limit as possible, staff suggests the

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Prepared by:



Reviewed and Approved by:



Proofed by:

Kathy Dalton

Presented by:

Council adopt the percentage change in California per capita personal income during Fiscal Year 2008-09 as the final Fiscal Year 2008-09 change in the cost-of-living factor to be used in calculating the Gann Spending Limit for 2009-10.

*Gann Spending Limit – Fiscal Year 2010-11.* The County will not be able to provide current assessment roll information until well into next fiscal year; and because the limit must be adopted prior to June 30, 2010, staff suggests the Council provisionally adopt the percentage change in California per capita personal income during Calendar Year 2009 as the change in the cost-of-living factor for Fiscal Year 2009-10, which will be used in calculating the Gann Spending Limit for Fiscal Year 2010-11.

The Council's adoption of the change in the cost-of-living factors suggested above would result in a Gann Spending Limit for Fiscal Year 2010-11 of \$275,174,414. Proposed Resolution No. 10-2846 adopting the limit will be considered by the Council in the next agenda item.

**FISCAL IMPACT:** The Council's adoption of Resolution No. 10-2845 would create no fiscal impact for the City.

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 10-2845 authorizing approval of the percentage change in California per capita personal income during Fiscal Year 2008-09 as the final Fiscal Year 2008-09 change in the cost-of-living factor for use in calculating the Gann Spending Limit for Fiscal Year 2009-10 and provisional adoption of the percentage change in California per capita personal income during Calendar Year 2009 as the change in the cost-of-living factor for Fiscal Year 2009-10 for use in calculating the Gann Spending Limit for Fiscal Year 2010-11.

**RESOLUTION NO. 10-2845**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AUTHORIZING APPROVAL OF THE PERCENTAGE CHANGE IN CALIFORNIA PER CAPITA PERSONAL INCOME DURING FISCAL YEAR 2008-09 AS THE FINAL FISCAL YEAR 2008-09 CHANGE IN THE COST-OF-LIVING FACTOR FOR USE IN CALCULATING THE GANN SPENDING LIMIT FOR FISCAL YEAR 2009-10 AND PROVISIONAL ADOPTION OF THE PERCENTAGE CHANGE IN CALIFORNIA PER CAPITA PERSONAL INCOME DURING CALENDAR YEAR 2009 AS THE CHANGE IN THE COST-OF-LIVING FACTOR FOR FISCAL YEAR 2009-10 FOR USE IN CALCULATING THE GANN SPENDING LIMIT FOR FISCAL YEAR 2010-11**

**WHEREAS**, Article 13-B of the California Constitution requires a city to calculate its Gann Spending Limit by choosing a change in cost-of-living factor based on either (1) the percentage change in California per capita personal income from the preceding year; or (2) the percentage change in the local assessment roll from the preceding year for the jurisdiction attributable to the addition of nonresidential new construction; and

**WHEREAS**, the selection of the change in cost-of-living factor must be accomplished annually by a recorded vote of the governing body; and

**WHEREAS**, the change in the cost-of-living factor used as a basis for calculating the existing Gann Spending Limit was adopted by the City Council on a provisional basis; and

**WHEREAS**, the City believes that selecting the final change in the Fiscal Year 2008-09 cost-of-living factor based upon the percentage change in California per capita income during Fiscal Year 2008-09 will result in a Gann Spending Limit more favorable to the City; and

**WHEREAS**, the County of San Bernardino is currently unable to provide the City with information necessary to determine the change in the local assessment roll attributable to the addition of nonresidential new construction for Fiscal Year 2009-10; and

**WHEREAS**, the Gann Spending Limit is subject to audit and in accordance with Article 13-B of the California Constitution must be established prior to the beginning of the fiscal year.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair hereby approves the percentage change in California per capita income during Fiscal Year 2008-09 as the final Fiscal Year 2008-09 change in the cost-of-living factor used in calculating the Gann Spending Limit for Fiscal Year 2009-10 and provisionally adopts the percentage change in California per capita personal income during Calendar Year 2009 as the change in the cost-of-living factor for Fiscal Year 2009-10 for use in calculating the Gann Spending Limit for Fiscal Year 2010-11.

APPROVED AND ADOPTED this XX day of XX, 2010.

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Mayor

ATTEST:

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City Clerk

I, Donna M. Jackson, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 10-2845 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

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Donna M. Jackson  
City Clerk

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER ADOPTION OF RESOLUTION NO. 10-2846 ESTABLISHING AN APPROPRIATIONS LIMIT FOR FISCAL YEAR 2010-11 PURSUANT TO ARTICLE 13-B OF THE CALIFORNIA CONSTITUTION AND TO SECTION 7910 OF THE GOVERNMENT CODE	<b>DATE:</b> June 21, 2010 <b>SECTION:</b> RESOLUTIONS <b>ITEM NO.:</b> 4 <b>FILE I.D.:</b> FIN225 <b>DEPT.:</b> ADMIN. SVCS.
<b>BUSINESS PLAN:</b> N/A	

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**REASON FOR CONSIDERATION:** The City Council is requested to consider adoption of Resolution No. 10-2846 establishing an appropriations limit for Fiscal Year 2010-11.

**BACKGROUND:** Government Code Section 7910 requires a city council to establish, by resolution, the city's appropriations limit (Gann Spending Limit) for the following fiscal year pursuant to Article 13-B of the California Constitution. The limit, which restricts the amount of taxes that can be spent during the year, is based upon the limit for the preceding year as adjusted for changes in population and in the cost of living.

The passage of Proposition 111 in June 1990 requires each city to choose either the percentage change in population within its jurisdiction as its change-in-population factor or the percentage change in population within the county in which it is located. Cities must also now select either the percentage change in California's per capita personal income or the percentage change in the local assessment roll attributable to nonresidential new construction as its change in cost-of-living factor.

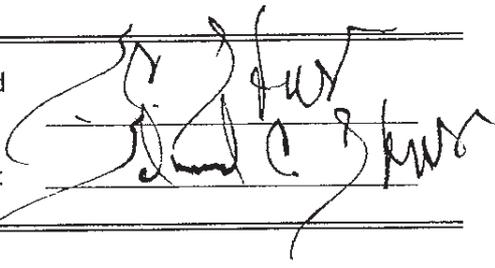
Earlier this evening, the City Council adopted Resolution No. 10-2844 approving the change in population in the City of Montclair during 2009 as the change-in-population factor to be used in calculating the Fiscal Year 2010-11 appropriations limit. The Council also adopted Resolution No. 10-2845 establishing the change in California per capita personal income during Fiscal Year 2008-09 as the final change in the cost-of-living factor for Fiscal Year 2008-09 for use in calculating the final appropriations limit for Fiscal Year 2009-10. Concurrently, the Council provisionally selected the change in California per capita personal income during 2009 as the change in cost-of-living factor for Fiscal Year 2009-10 for use in calculating the appropriations limit for Fiscal Year 2010-11. The Council was requested to consider selecting the change in California per capita personal income because the appropriations limit must be adopted prior to the beginning of the fiscal year, and information necessary for selecting the change in the local assessment roll attributable to nonresidential new construction for Fiscal Year 2009-10 is currently unavailable.

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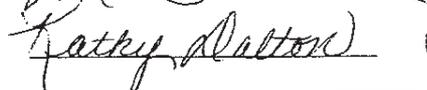
Prepared by:



Reviewed and  
Approved by:



Proofed by:



Presented by:

The change in population within San Bernardino County during 2009 was 0.85 percent. The change in Montclair nonresidential new construction during Fiscal Year 2008-09 was -25.2683 percent. The change in California per capita personal income during 2009 was -2.54 percent. Based on these adjustment factors, the City's appropriations limit for Fiscal Year 2010-11 is \$275,174,414, as established by Resolution No. 10-2846.

**FISCAL IMPACT:** The Council's adoption of Resolution No. 10-2846 would authorize the City to spend all tax revenues received up to \$275,174,414.

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 10-2846 establishing an appropriations limit for Fiscal Year 2010-11 pursuant to Article 13-B of the California Constitution and to Section 7910 of the Government Code.

**RESOLUTION NO. 10-2846**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MONTCLAIR ESTABLISHING  
AN APPROPRIATIONS LIMIT FOR FISCAL  
YEAR 2010-11 PURSUANT TO ARTICLE 13-B  
OF THE CALIFORNIA CONSTITUTION AND  
TO SECTION 7910 OF THE GOVERNMENT  
CODE**

**WHEREAS**, Article 13-B of the California Constitution limits the appropriations budget of a local government, which is financed by taxes to the appropriations limit (Gann Spending Limit) of the prior fiscal year as adjusted by the change in population and the change in cost-of-living; and

**WHEREAS**, Government Code Section 7910 requires that the governing body of each local jurisdiction shall, by resolution, annually establish its appropriations limit for the following fiscal year pursuant to Article 13-B of the California Constitution; and

**WHEREAS**, at a meeting held on June 21, 2010, City Council selected the change in cost-of-living and change in population factors to be used in determining the appropriations limit for Fiscal Year 2010-11; and

**WHEREAS**, the City of Montclair has determined that said appropriations limit for Fiscal Year 2010-11 is \$275,174,414, and documentation supporting calculation of the limit is available to the public as required by Government Code Section 7910.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair hereby establishes an appropriations limit in the amount of \$275,174,414 for Fiscal Year 2010-11 pursuant to Article 13-B of the Constitution of the State of California and Government Code Section 7910.

**BE IT FURTHER RESOLVED** that said appropriations limit herein established may be changed as deemed necessary by resolution of the City Council.

**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. 10-2846 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

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Donna M. Jackson  
City Clerk

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER ADOPTION OF RESOLUTION NO. 10-2848 ADOPTING THE CITY OF MONTCLAIR FISCAL YEAR 2010-11 ANNUAL BUDGET	<b>DATE:</b> June 21, 2010 <b>SECTION:</b> RESOLUTIONS <b>ITEM NO.:</b> 5 <b>FILE I.D.:</b> FIN240 <b>DEPT.:</b> CITY MGR.
<b>BUSINESS PLAN:</b> N/A	

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**REASON FOR CONSIDERATION:** Pursuant to state law, the governing body of a local government agency is required to annually adopt an Operating Budget. The City Council is requested to consider adoption of Resolution No. 10-2848 to formally adopt the City of Montclair Fiscal Year 2010-11 Annual Budget.

**BACKGROUND:** The City Council reviewed the Fiscal Year 2010-11 Preliminary Budget on June 15, 2010, at an adjourned joint meeting.

In addition to providing a formal means to adopt the Annual Budget, Resolution No. 10-2848 includes the following fiscal-control provisions:

- The automatic reappropriation of funds into the Fiscal Year 2011-12 Budget to finance outstanding encumbrances as of June 30, 2011.
- The automatic reappropriation of funds into the Fiscal Year 2011-12 Budget to finance capital improvement projects and grants that were not completed during Fiscal Year 2010-11.

The Council's adoption of Resolution No. 10-2848 would provide for a total Estimated Revenue Budget, including transfers-in, of \$33,832,573, and a total Appropriations Budget, including transfers-out, of \$34,091,305.

**FISCAL IMPACT:** It is estimated the Fiscal Year 2010-11 Preliminary Budget would provide for a decrease in total unreserved fund balances/retained earnings of \$2,626,263 during Fiscal Year 2010-11.

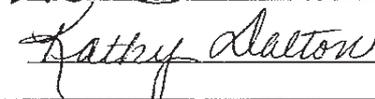
**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 10-2848 adopting the City of Montclair Fiscal Year 2010-11 Annual Budget.

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Prepared by:

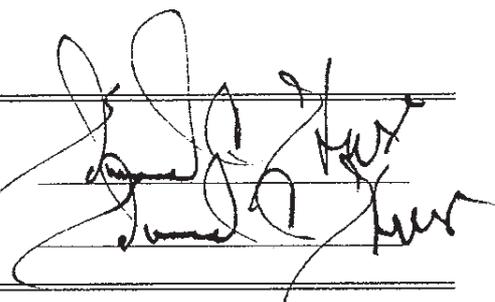


Proofed by:



Reviewed and  
Approved by:

Presented by:



**RESOLUTION NO. 10-2848**

**A RESOLUTION OF THE CITY  
COUNCIL OF THE CITY OF  
MONTCLAIR ADOPTING THE  
FISCAL YEAR 2010-11 BUDGET**

**WHEREAS**, the City Manager has submitted to the City Council of the City of Montclair the proposed budget for Fiscal Year 2010-11 including all proposed expenditures, estimated revenues, and estimated fund balances; and

**WHEREAS**, a copy of the proposed budget is on file in the City Clerk's office for inspection by the public; and

**WHEREAS**, the City Council has duly reviewed the proposed budget at a meeting open to the public on June 21, 2010.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair hereby adopts the proposed budget as the Annual Budget for Fiscal Year 2010-11.

**BE IT FURTHER RESOLVED** that funds are automatically reappropriated into Fiscal Year 2011-12 for all outstanding purchase orders and unexecuted contracts as of June 30, 2011, for which a valid appropriation exists.

**BE IT FURTHER RESOLVED** that funds are automatically reappropriated into Fiscal Year 2011-12 for all capital improvement projects included in the adopted budget that have not been completed as of June 30, 2011.

**BE IT FURTHER RESOLVED** that funds are automatically reappropriated into Fiscal Year 2011-12 for all grants included in the adopted budget that have not been completed as of June 30, 2011.

**BE IT FURTHER RESOLVED** that department heads and their designees are authorized to transfer funds between object codes within the Services and Supplies Budget provided the funding source remains the same.

**BE IT FURTHER RESOLVED** that except for personnel cost-of-living adjustments, which are governed by approved Memorandums of Understanding and Agreements, all expenditures from the Contingency Account must be expressly authorized by the City Council.

**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. 10-2848 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

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Donna M. Jackson  
City Clerk

## AGENDA REPORT

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**SUBJECT:** CONSIDER ADOPTION OF RESOLUTION NO. 10-2849 CALLING AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 2, 2010, FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATED TO GENERAL LAW CITIES

**DATE:** June 21, 2010

**SECTION:** RESOLUTIONS

**ITEM NO.:** 6

**FILE I.D.:** CCK140

**DEPT.:** ADMIN. SVCS.

CONSIDER ADOPTION OF RESOLUTION NO. 10-2850 ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE PERTAINING TO CANDIDATES' STATEMENTS SUBMITTED TO THE VOTERS AT AN ELECTION TO BE HELD ON TUESDAY, NOVEMBER 2, 2010

CONSIDER ADOPTION OF RESOLUTION NO. 10-2851 REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BERNARDINO TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 2, 2010, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE DATE PURSUANT TO SECTION 10403 OF THE CALIFORNIA ELECTIONS CODE

### BUSINESS

**PLAN:** N/A

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**REASON FOR CONSIDERATION:** Provisions of the laws related to general law cities in the State of California require the governing body to call and give notice of General Municipal Elections and to adopt regulations for Candidate's Statements. In addition, pursuant to the requirements of Section 10403 of the California Elections Code, it is also necessary for the governing body to request the County Board of Supervisors to consolidate a General Municipal Election with the Statewide General Election and to authorize payment to the County for services rendered related to consolidation of the election.

**BACKGROUND:** Resolution No. 10-2849 formally calls for the General Municipal Election to be held on Tuesday, November 2, 2010, for the election of a Mayor and two Members of the City Council. The Mayor's seat now held by Paul M. Eaton and the City Council seats now held by Leonard Paulitz and William Ruh are the seats to be filled at this election.

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Prepared by: Donna M. Jackson

Reviewed and  
Approved by: [Signature]

Proofed by: [Signature]

Presented by: [Signature]

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RESOLUTION NO. 10-2849

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 2, 2010, FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATED TO GENERAL LAW CITIES

WHEREAS, under the provisions of the laws related to General Law cities in the State of California, a General Municipal Election shall be held on Tuesday, November 2, 2010, for the election of Municipal Officers.

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

**Section 1.** That pursuant to the requirements of the laws of the State of California related to General Law cities, there is called and ordered to be held in the City of Montclair, California, on Tuesday, November 2, 2010, a General Municipal Election for the purpose of electing a Mayor for the full term of four years and two Members of the City Council for full terms of four years each.

**Section 2.** That the ballots to be used at the election shall be in form and content as required by law.

**Section 3.** That the City Clerk is authorized, instructed, and directed to procure and furnish any and all official ballots; notices; printed matter; and all supplies, equipment, and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

**Section 4.** That the polls for the election shall be open at 7:00 a.m. of the day of the election and shall remain open continuously from that time until 8:00 p.m. of the same day when the polls shall be closed, except as provided in Section 14401 of the Elections Code of the State of California.

**Section 5.** That in all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

**Section 6.** That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed, and directed to give further or additional notice of the election in time, form, and manner as required by law.

**Section 7.** That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

APPROVED AND ADOPTED this XX day of XX, 2010.

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Mayor

ATTEST:

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City Clerk

I, Donna M. Jackson, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 10-2849 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

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Donna M. Jackson  
City Clerk

**RESOLUTION NO. 10-2850**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MONTCLAIR, CALIFORNIA,  
ADOPTING REGULATIONS FOR CANDIDATES  
FOR ELECTIVE OFFICE PERTAINING TO  
CANDIDATES' STATEMENTS SUBMITTED TO  
THE VOTERS AT AN ELECTION TO BE HELD  
ON TUESDAY, NOVEMBER 2, 2010**

**WHEREAS**, Section 13307 of the Elections Code of the State of California provides that the governing body of any local agency adopt regulations pertaining to materials prepared by any candidate for a municipal election, including cost of the Candidate's Statement.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair, California, does hereby declare, determine, and order as follows:

**Section 1. GENERAL PROVISIONS.** That pursuant to Section 13307 of the Elections Code of the State of California, each candidate for elective office to be voted for at an Election to be held in the City of Montclair on Tuesday, November 2, 2010, may prepare a Candidate's Statement on an appropriate form provided by the City Clerk. The Statement may include the name, age, and occupation of the candidate and a brief description of no more than 200 words of the candidate's education and qualifications expressed by the candidate himself or herself. The Statement shall not include party affiliation of the candidate, nor membership or activity in partisan political organizations. The Statement shall be filed in the Office of the City Clerk at the time the candidate's Nomination Papers are filed. The Statement may be withdrawn, but not changed, during the period for filing nomination papers and until 5:00 p.m. of the next working day after the close of the nomination period.

**Section 2. FOREIGN LANGUAGE POLICY.**

A. Pursuant to State law, the Candidate's Statement must be translated and printed in Spanish at the candidate's request.

B. Pursuant to the Voting Rights Act, the City is required to translate Candidates' Statements into Spanish.

C. The City Clerk shall have all Candidates' Statements translated into Spanish.

**Section 3. PAYMENT.**

A. The candidate shall be required to pay for the cost of printing the Candidate's Statement in English.

B. The candidate shall be required to pay for the cost of translating the Candidate's Statement into Spanish pursuant to State and/or Federal law.

C. The candidate shall be required to pay for the cost of printing the Candidate's Statement in Spanish.

D. The San Bernardino County Registrar of Voters' office has estimated the total cost of printing, handling, translating, and mailing of Candidates' Statements filed pursuant to the Election Code to be \$474 per City of Montclair candidate, including costs incurred as a result of complying with the Voting Rights Act of 1965 (as amended). The City Clerk shall require each candidate filing a Statement to pay in advance the amount of \$474 for his or her estimated pro rata share as a condition of having his or her Statement included in the Voter's Pamphlet. The estimate is just an approximation of the actual cost that varies from one election to another election and may be significantly more or less than the estimate, depending on the actual number of candidates filing statements. Accordingly, the City Clerk is not bound by the estimate and shall bill each candidate for any cost in excess of the deposit or shall refund within 30 days after the election any unused portion of the deposit.

**Section 4. ADDITIONAL MATERIALS.** No candidate will be permitted to include additional materials in the sample ballot package.

**Section 5.** That the City Clerk shall provide each candidate or the candidate's representative a copy of this Resolution at the time Nomination Papers are issued.

**Section 6.** That all previous Resolutions establishing Council policy on payment for Candidates' Statements are repealed.

**Section 7.** That this Resolution shall apply only to the election to be held on Tuesday, November 2, 2010, and shall then be repealed.

**Section 8.** That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original resolutions.

**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. 10-2850 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

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Donna M. Jackson  
City Clerk

**RESOLUTION NO. 10-2851**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN BERNARDINO TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 2, 2010, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE DATE PURSUANT TO SECTION 10403 OF THE CALIFORNIA ELECTIONS CODE**

**WHEREAS**, the City Council of the City of Montclair, California, called a General Municipal Election to be held on Tuesday, November 2, 2010, for the purpose of the election of a Mayor and two Members of the City Council; and

**WHEREAS**, it is desirable that the General Municipal Election be consolidated with the Statewide General Election to be held on the same date and that within the City the precincts, polling places, and election officers of the two elections be the same and that the San Bernardino County Registrar of Voters Office canvass the returns of the General Municipal Election and that the election be held in all respects as if there were only one election.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair, California, does hereby declare, determine, and order as follows:

**Section 1.** That pursuant to the requirements of Section 10403 of the California Elections Code, the Board of Supervisors of the County of San Bernardino is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election to be held on Tuesday, November 2, 2010, for the purpose of the election of a Mayor and two Members of the City Council.

**Section 2.** That the San Bernardino County Registrar of Voters Office is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

**Section 3.** That the Board of Supervisors is requested to issue instructions to the Registrar of Voters Office to take any and all steps necessary for the holding of the consolidated election.

**Section 4.** That the City of Montclair recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any such costs.

**Section 5.** That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the Registrar of Voters Office of the County of San Bernardino.

**Section 6.** That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

APPROVED AND ADOPTED this XX day of XX, 2010.

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Mayor

ATTEST:

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City Clerk

I, Donna M. Jackson, City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 10-2851 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

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Donna M. Jackson  
City Clerk

**MINUTES OF THE MEETING OF THE MONTCLAIR  
PERSONNEL COMMITTEE HELD ON MONDAY,  
JUNE 7, 2010, AT 8:38 P.M. IN THE CITY  
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,  
MONTCLAIR, CALIFORNIA**

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**I. CALL TO ORDER**

Mayor Eaton called the meeting to order at 8:38 p.m.

**II. ROLL CALL**

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

**III. APPROVAL OF MINUTES**

**A. Minutes of the Regular Personnel Committee Meeting of May 17, 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 17, 2010.

**IV. PUBLIC COMMENT - None**

**V. CLOSED SESSION**

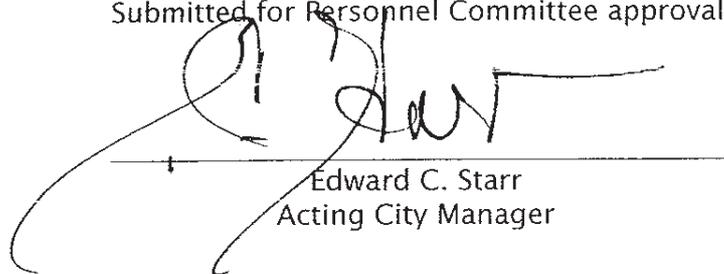
At 8:39 p.m., the Personnel Committee went into Closed Session regarding personnel matters related to appointments, resignations/terminations, and evaluations of employee performance.

At 9:01 p.m., the Personnel Committee returned from Closed Session. Mayor Eaton stated that no announcements would be made at this time.

**VI. ADJOURNMENT**

At 9:01 p.m., Mayor Eaton adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



Edward C. Starr  
Acting City Manager