

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

October 18, 2010

7:00 p.m.

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

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

Page No.

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

II. INVOCATION

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

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL

V. PRESENTATIONS

- A. Proclamation Declaring October 21, 2010, as "Lights on Afterschool Day" in the City of Montclair

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. Second Reading - Consider Ordinance No. 10-916 Amending Chapters 11.02, 11.18, and 11.38 and Adding Chapter 11.19 to the Montclair Municipal Code Related to Accessory Structures in Single-Family Residential Zones [CC]

VIII. CONSENT CALENDAR

- A. Approval of Minutes
1. Minutes of Regular Joint Council/Agency/MHC Meeting of October 4, 2010
- B. Administrative Reports
1. Consider Receiving and Filing of Treasurer's Report [CC] 17
 2. Consider Approval of Warrant Register and Payroll Documentation [CC] 18
 3. Consider Receiving and Filing of Treasurer's Report [RDA] 19
 4. Consider Approval of Warrant Register [RDA] 20
 5. Consider Receiving and Filing of Treasurer's Report [MHC] 21
 6. Consider Approval of Warrant Register [MHC] 22
 7. Consider Setting a Public Hearing to Consider Ordinance No. 10-918 Amending Specific Chapters in Title 10 of the Montclair Municipal Code Related to Adoption of Building Codes to Regulate Construction in the City of Montclair and to Establish January 1, 2011, as the Effective Date of the Codes [CC] 23
 8. Consider City Council's and Redevelopment Agency Board of Directors' Approval of a Quitclaim Deed for Temporary Construction Easements Associated with the Construction of the Ramona Avenue/Union Pacific Railroad Grade Separation Project and Authorize the Recordation of the Quitclaim Deed with the San Bernardino County Recorder [CC/RDA] 35
 9. Consider Approval of an Updated Listing of Designated Employees Required to File Statements of Economic Interests [CC] 41
 10. Consider Redevelopment Agency Board of Directors' Approval of the Filing of a Notice of Completion for the 9916 Central Avenue Improvement Project, Phase 2; Reduction of Faithful performance Bond to Ten Percent; and Retention of Payment Bond for Six Months [CC]
 - Consider Increasing Construction Contingency by \$4,226 [CC]
 - Consider Release of Retention 30 Days After Recordation of Notice of Completion [CC] 52
 11. Consider Approval of the Filing of a Notice of Completion for Construction of the Splash Pad at Alma Hofman Park [CC] 54
- C. Agreements
1. Consider Approval of Agreement No. 10-111 with San Bernardino County to Receive Approximately \$9,200 in Nonmatching Funds from the Fiscal Year 2008 Homeland Security Grant Program [CC] 55

D. Resolutions

- 1. Consider Redevelopment Agency Board of Directors' Adoption of Resolution No. 10-04 Making a Finding that the Planning and Administrative Expenses Funded by the Low- and Moderate-Income Housing Fund are Necessary for the Production, Improvement, and Preservation of the Community's Supply of Low- and Moderate-Income Housing [RDA] 65
- 2. Consider Adoption of Resolution No. 10-2864 Authorizing Mayor Eaton to Sign the Right-of Way Certification for the Mission Boulevard Corridor Improvement Project, Phase 9 [CC] 74

IX. PULLED CONSENT CALENDAR ITEMS

X. RESPONSE

XI. COMMUNICATIONS - None

- A. City Attorney/Agency Counsel
- B. City Manager/Executive Director
- C. Mayor/Chairman
- D. Council/Agency Board
- E. Committee Meeting Minutes (*For Informational Purposes Only*)
 - 1. Minutes of the Personnel Committee Meeting of October 4, 2010 79

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

The next regularly scheduled City Council, Redevelopment Agency, and Montclair Housing Corporation meetings will be held on Monday, November 1, 2010, at 7:00 p.m. in the Council Chambers.

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

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

I, Donna M. Jackson, City Clerk, hereby certify that I posted, or caused to be posted, a copy of this Agenda not less than 72 hours prior to this meeting on the bulletin board adjacent to the south door of Montclair City Hall on October 14, 2010.

AGENDA REPORT

SUBJECT: CONSIDER ORDINANCE NO. 10-916 AMENDING CHAPTERS 11.02, 11.18, AND 11.38 AND ADDING CHAPTER 11.19 TO THE MONTCLAIR MUNICIPAL CODE RELATED TO ACCESSORY STRUCTURES IN SINGLE-FAMILY RESIDENTIAL ZONES <u>SECOND READING</u>	DATE: October 18, 2010 SECTION: PUBLIC HEARINGS ITEM NO.: A FILE I.D.: LDU410 DEPT.: COMMUNITY DEV.
BUSINESS PLAN: N/A	

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

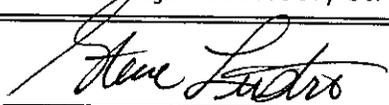
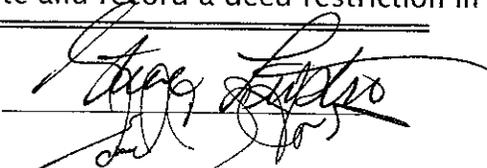
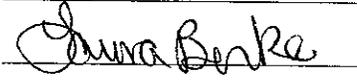
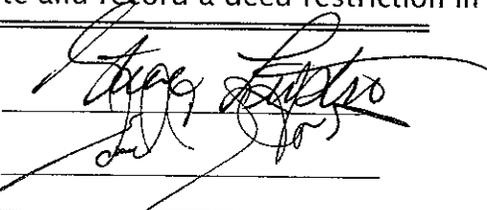
BACKGROUND: On several occasions in the past few years, staff has been approached by property owners seeking to build larger accessory structures on their property. The Montclair Municipal Code has historically limited accessory structures to a maximum size of 400 square feet, with the exception of a 700-square-foot second dwelling unit pursuant to Chapter 11.23 of the Municipal Code.

Staff has determined that there has been an inconsistent pattern of approving large, detached accessory structures, particularly on estate-zoned lots in the southerly portion of the City, over the past 15 to 20 years. Some of these structures are unsightly and do not appear to have been designed to be compatible with the home or neighborhood. The purpose of this code amendment would be to clarify the standards that apply to accessory structures to ensure that such structures are compatible within a single-family environment.

Proposed Ordinance No. 10-916 adds or clarifies definitions, including distinguishing between "major" and "minor" accessory structures, and sets forth general requirements, design standards, setback requirements, height limits, and the maximum number and size allowed for accessory structures. A copy of proposed Ordinance No. 10-916 is included in the Council packet for reference.

Staff conducted public hearings on the proposed Ordinance before the Planning Commission on June 14 and August 9, 2010. The two Montclair residents who are the proponents of the code amendment spoke at both public hearings and are supportive of the Ordinance as written. At the August 9 public hearing, the Commission expressed unanimous support for the proposed Ordinance and directed staff to submit it to City Council for consideration.

At its regular meeting on October 4, 2010, Council directed staff to add language to proposed Chapter 11.19 of the Montclair Municipal Code requiring applicants who are seeking to construct major accessory structures to execute and record a deed restriction in

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

order to deter the subsequent conversion of said accessory structures to a second dwelling unit or some other use without benefit of review and approval by the City. The subject modification is contained in Section 11.19.030.M of Ordinance No. 10-916.

FISCAL IMPACT: There would be no direct fiscal impact to the City's General Fund should the City Council adopt proposed Ordinance No. 10-916. The review of accessory structures for residential property is part of the routine and ongoing function of the Planning Division. For accessory structures requiring a building permit, the Building Division has in place plan check procedures and fees to cover the cost of this aspect of project review and approval.

RECOMMENDATION: The Planning Commission and staff recommend the City Council adopt Ordinance No. 10-916 amending Chapters 11.02, 11.18, and 11.38 and adding Chapter 11.19 to the Montclair Municipal Code related to accessory structures in single-family residential zones.

ORDINANCE NO. 10-916

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AMENDING CHAPTERS 11.02, 11.18, AND 11.38 AND ADDING CHAPTER 11.19 TO THE MONTCLAIR MUNICIPAL CODE (ACCESSORY STRUCTURES IN SINGLE-FAMILY RESIDENTIAL ZONES)

WHEREAS, California Government Code Section 65800 *et seq.* authorizes the adoption and administration of zoning laws, ordinances, rules and regulations by cities as a means of implementing the General Plan; and

WHEREAS, on several occasions in the past few years, staff has been approached by property owners desiring to build larger accessory structures on their residential property; and

WHEREAS, the Montclair Municipal Code currently limits accessory structures to a maximum size of 400 square feet, with the exception of a 700-square-foot second dwelling unit pursuant to the provisions of Chapter 11.23 of the Municipal Code; and

WHEREAS, an application for a Code amendment was filed by two residents seeking a change in the existing Code that would allow them to construct a larger accessory structure on their respective properties; and

WHEREAS, from time to time, it becomes necessary and/or advantageous to amend particular portions of the Zoning and Development Code of the City of Montclair to address new development issues or to improve the general welfare of the community and encourage attractive and logical development; and

WHEREAS, the purpose of this Code amendment is intended to allow proportionately larger accessory structures on larger properties and to provide development and design standards for the construction of said accessory structures on single-family-zoned properties within the City to promote the general welfare of the community and to ensure attractive and logical development; and

WHEREAS, the proposed Ordinance and subsequent Code amendment applies only to single-family-residential-zoned properties within the City boundaries; and

WHEREAS, the City Council finds that the proposed Ordinance is consistent with the General Plan's goal of protecting residential property values and privacy by preventing the intrusion of incompatible land uses in that the proposed code amendment provides enhanced development criteria and design guidelines for accessory structures in single-family residential districts of the City; and

WHEREAS, the proposed Code amendments regarding accessory structures would be incorporated into Title 11 of the Montclair Municipal Code

(Zoning and Development) and will modify and supersede the existing provisions addressing accessory structures on single-family properties in Title 11; and

WHEREAS, the City Council finds that this Ordinance is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) and the City's CEQA Guidelines. The Code amendment is an enactment of a Zoning Ordinance to modify existing development standards applicable to accessory (appurtenant) improvements on existing residential properties. The accessory structures envisioned with this Code amendment would be categorically exempt as improvements to new construction of small structures under Section 15303(e) of the CEQA Guidelines. Moreover, the Code amendment would not have a significant effect on the environment as it does not in itself directly approve any construction activities but, instead, establishes standards, permit requirements, and other measures that regulate the design, installation, and maintenance of accessory (appurtenant) structures on existing residential properties; 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 11.02.010 ("Definitions") of Title 11 ("Zoning and Development") of the Montclair Municipal Code is hereby amended to include the following. In cases where a definition currently exists, it shall be replaced in its entirety by the definition contained herein.

11.02.010 Definitions.

Accessory Structure/Building - A structure that is subordinate to, smaller in floor area than, and detached from the primary structure of a residential property. Typical residential accessory structures include, but are not limited to, pool houses, storage buildings, patio covers, canopies, garages, carports, workshops, greenhouses (for noncommercial raising of plants), outdoor fireplaces, light poles, gazebos, tree houses, and play structures. A cargo/shipping container is not considered an accessory structure in any residential district.

Attached Accessory Structure - An accessory building or structure shall be considered an integral part of the principal building if it is connected to the primary building including by a covered passageway.

Floor Area, Gross - Gross floor area of the primary structure or residence, including the area of attached garages and solid roof covered patios.

Lot Coverage - The sum of the footprint area of the primary and all accessory structures on a lot.

Minor Accessory Structure - An accessory building or structure with a footprint of 120 square feet or less and which is 8 feet or less in height. Minor accessory buildings or structures shall not be connected to utilities without necessary permits.

Major Accessory Structure - Any accessory building or structure with a footprint greater than 120 square feet in area, and/or greater than 8 feet in

height. Major accessory buildings or structures shall not be connected to utilities without necessary permits.

Open Patio or Trellis Structure - An accessory structure having a roof constructed of lattice or other roof material that allows light and air to pass through a minimum of 50 percent of the roof surface. Additionally, the sides of an open structure consist only of support posts and decorative or functional elements, such as braces and railings, such that light and air can pass through a minimum of 75 percent of each side. Open patio structures include, but are not limited to, trellises, trellis-like patio covers, and other shade structures.

Space, Habitable - A room or rooms meeting the minimum requirements of the California Building Code and that is intended for sleeping, living, cooking or dining purposes, excluding enclosed places (*e.g.*, closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, unfinished attics, foyers, storage spaces, cellars, utility rooms, garages, and similar spaces).

Structure, Primary - A structure that houses the primary legal use on a property or lot. It shall not apply to accessory structures (*e.g.*, garages, pool houses, sheds, etc.).

SECTION II. Section 11.18.010 is hereby repealed and replaced in its entirety as follows:

11.18.010 Single-Family Residential Zone.

The R-1 Single-Family Residential Zone is intended as a district of single-family homes with not more than one primary dwelling unit, a maximum of one second dwelling unit pursuant to Chapter 11.23 of this Title, and detached accessory building(s) pursuant to Chapter 11.19 of this Title, upon one lot. Except as specifically provided elsewhere in this Title, any and every building and premises or land in the R-1 Zone shall be used for, or occupied, and every building shall be erected, constructed, established, altered, enlarged, maintained, and moved into or within such R-1 Zone exclusively and only in accordance with the provisions set forth in this Chapter.

SECTION III. Section 11.18.030.H is hereby repealed and replaced in its entirety as follows:

11.18.030 Uses Permitted.

H. Second dwelling units pursuant to Chapter 11.23 of this Title and accessory buildings pursuant to Chapter 11.19 of this Title or improvements incidental to any of the permitted uses in this Chapter. No motor home, mobile home, tank, shipping container, trailer, business, or other vehicle or similar item shall be considered or permitted as accessory buildings.

SECTION IV. Sections 11.38.050.E-G are hereby repealed and replaced in their entirety as follows:

11.38.050 Yards.

E. Detached accessory building(s) shall not occupy more than 35 percent of a rear yard and shall meet the setback criteria set forth in Chapter 11.19 of this Title.

F. Reserved.

G. Reserved.

SECTION V. Chapter 11.19 is hereby added to Title 11 ("Zoning and Development") of the Montclair Municipal Code to read as follows:

Chapter 11.19

**ACCESSORY STRUCTURES IN
SINGLE-FAMILY RESIDENTIAL ZONES**

Sections:

11.19.010	Purpose and Intent.
11.19.020	Applicability.
11.19.030	General Requirements.
11.19.040	Accessory Structures in Multifamily Districts.
11.19.050	Size and Number of Accessory Structures Allowed.
11.19.060	Setbacks.
11.19.070	Height.
11.19.080	Building Separation.
11.19.090	Lot Coverage.
11.19.100	Design.
11.19.110	Additional Standards for Recreational Vehicle Garages.
11.19.120	Maintenance.

11.19.010 Purpose and Intent.

The purpose and intent of this Chapter is to:

- A. Establish development standards that apply to accessory structures in single-family residential zoning districts.
- B. Ensure accessory structures are consistent with the residential character of the surrounding neighborhood.
- C. Minimize the visual impact associated with the design of accessory structures.

11.19.020 Applicability.

- A. This Chapter shall apply to the construction of any accessory structure in single-family residential districts within the City as defined herein.
- B. Except as provided elsewhere in this Title, it shall be unlawful for any person to erect, construct, enlarge, move, or replace any accessory use or structure without first complying with the development standards established herein and obtaining necessary construction and alteration permits as may be required by adopted Codes listed in Title 10 of the Montclair Municipal Code.
- C. Existing accessory structures that were legally constructed prior to the date of this Ordinance but which do not conform to the provisions of this Chapter are deemed to be legal nonconforming and shall be subject to the provisions of Chapter 11.78.060 of the Montclair Municipal Code.
- D. The provisions of this Chapter shall in no way validate any existing accessory structure constructed without City approval. Accessory structures erected without benefit of City approval and a building permit shall be removed upon notification or, if possible, modified to comply with the provisions of this Chapter and any applicable requirements in the adopted Codes listed in Title 10 of the Montclair Municipal Code.

11.19.030 General Requirements.

Accessory buildings and structures, except walls and fences, in the R-1 Single-Family Residential Zone shall be subject to the following provisions:

A. An accessory structure may only be constructed on a lot containing a primary structure that is occupied by the appropriate use.

B. Accessory structures may only be used for purposes permitted in the district in which they are located. It shall be the responsibility of the Director to determine if a proposed accessory structure or use is appropriate, incidental, and subordinate to the principal permitted use.

C. No major accessory structure shall be allowed on a property that does not provide minimum required covered parking meeting the development standards of the underlying zoning district.

D. When an accessory structure is proposed on a property that is comprised of more than one lot or parcel, the parcels or lots in question shall be merged and recorded with the Office of the County Recorder.

E. No mobile home, tank, shipping container, trailer, bus, or other vehicle or similar item shall be utilized as an accessory building or storage structure in any single-family or multifamily residential zoning district.

F. Accessory buildings or structures containing machinery or other fixed equipment capable of creating noise audible outside of the structure shall comply with City noise standards as set forth in the Montclair Municipal Code.

G. Significant changes to the use of an accessory structure shall be subject to City review for compliance with the development standards contained in this Title and may be subject to construction and alteration permits as may be required by adopted codes listed in Title 10 of the Montclair Municipal Code. No accessory building shall be used as habitable space as defined in this Title, including, but not limited to, a dwelling unit, sleeping quarters, or a housekeeping unit or contain a kitchen unless permitted within an approved Second Dwelling Unit, subject to the provisions of Chapter 11.23 of the Montclair Municipal Code.

H. A bathroom may be allowed within an enclosed accessory structure if approved by the Community Development Director.

I. Accessory structures shall not be used for a commercial or industrial business, or home occupations. Other activities involving the use, manufacturing/processing, or storage of flammable, combustible, explosive, toxic, or other hazardous materials in quantities that are not normally associated with a household use as determined by the Montclair Fire Department shall be prohibited.

J. Accessory buildings or structures shall not be located in any utility or drainage easement.

K. Accessory structures shall be located and designed so as not to directly drain onto another property.

L. All accessory structures may be subject to the review and approval of the Montclair Fire Department including the requirement to install fire suppression (sprinkler) systems, monitoring, and/or alarms.

M. Before obtaining a building permit for a fully enclosed major accessory structure, the property owner shall file with the Office of the County Recorder a deed restriction, which has been approved by the City Attorney as to its form and content, containing a reference to the deed under which the property was acquired by the owner stating:

1. The permitted use(s) for which the accessory structures may be used.
2. That the accessory structures may not be converted to habitable space (i.e. a Second Dwelling Unit pursuant to Chapter 11.23 herein and all other applicable ordinances and resolutions) without review and approval by the City, provided, however, that conversion to a similar use as determined by the Community Development Director shall not require execution and recordation of a new deed restriction.
3. The restrictions shall be binding upon any successors or assigns in ownership of the property, and lack of compliance may result in legal action against the owner.

N. Proposals for accessory structures shall be subject to the following:

1. Review and approval of all accessory structures shall be conducted administratively by City staff. Staff decisions may be appealed to the Planning Commission pursuant to the criteria set forth in Chapter 1.08 of the Montclair Municipal Code.

2. Concurrently with the review, but prior to the approval of plans for all accessory structures, Planning Division staff shall schedule a multi-departmental inspection of the subject property to ensure that the submitted plans are accurate and contain no errors or omissions. At a minimum, staff from the Planning and Building Divisions and Code Enforcement Unit of the Fire Department shall participate in the site inspection; however, representatives from other City departments/divisions may participate in the inspection at the discretion of the City Planner.

3. Within ten days of acceptance of a complete set of plans for a major accessory structure, the Community Development Director shall cause a courtesy notification of said proposal to be mailed to surrounding property owners who, in the Director's opinion, would be directly impacted by the proposed accessory structure. Said notification shall contain sufficient information regarding the general scope of the project and the days and times during which project plans may be reviewed by the public at the Community Development Department.

11.19.040 Accessory Structures in Multifamily Districts.

A. No accessory structure shall be erected in a multifamily zoning district unless pursuant to a Precise Plan of Design (PPD).

B. For multifamily developments, all accessory structures including carports and garages, trash enclosures, common open space structures, etc., shall be subject to the approval of, or included as an element of, a PPD.

C. Where a development standard in an underlying Specific Plan (SP) or Planned Unit Development (PUD) project site addresses a specific accessory structure standard (e.g., height or setback), those standards shall take precedence over this Chapter.

11.19.050 Size and Number of Accessory Structures Allowed.

The maximum size and number of accessory structures on any single-family residential lot shall be as follows:

**Maximum Allowable Size for Accessory Structures
on R-1 (Single-Family Residential) Properties**

<i>Lot Size</i>	<i>Maximum Total Size¹</i>	<i>Maximum Number²</i>	<i>Maximum Height³</i>
Less than 6,000 s.f.	200 square feet	1	1 story or 15 feet
6,001 - 9,000 s.f.	400 square feet	2	
9,001 - 12,000 s.f.	600 square feet		
12,001 - 15,000 s.f.	800 square feet		
15,001 - 18,000 s.f.	1,000 square feet		
18,001 - 20,000 s.f.	1,200 square feet		
Over 20,000 s.f.	1,400 square feet		

¹ Maximum cumulative floor area of all accessory structures on the property, including approved second units. Does not include attached accessory structures.

² In cases where the required garage is not part of the primary structure, it shall count as one of the two accessory buildings allowed, provided that the total floor area of the accessory buildings does not exceed the size limit or total lot coverage.

³ For RV garages see Sections 11.19.070 and 11.19.110.

11.19.060 Setbacks.

Accessory buildings and structures shall comply with the following setback standards:

Setbacks for Minor Accessory Structures (less than 120 square feet)	
<i>Location</i>	<i>Setback Requirement*</i>
Front Yard	<ul style="list-style-type: none"> No accessory structures allowed except for fences or walls pursuant to Section 11.38.050.
Interior Side Yard	<ul style="list-style-type: none"> None for structures less than 6 feet in height behind a solid fence or wall and not visible to the street or adjacent properties. 3 feet minimum from side property line for structures greater than 6 feet but less than 8 feet in height. A 4-foot wide minimum unobstructed passageway to the rear yard shall be maintained at all times for access and onsite circulation.
Street Side Yard	<ul style="list-style-type: none"> No accessory structures allowed except for fences or walls pursuant to Section 11.38.050.
Rear Yard	<ul style="list-style-type: none"> None for structures less than 6 feet in height behind a solid fence or wall and not visible to the street or adjacent properties. 3 feet for structures up to 8 feet in height.
* Setbacks for all structures shall be measured from property line.	

Setbacks for Major Accessory Structures (120 square feet or greater)	
<i>Location</i>	<i>Setback Requirement**</i>
Front Yard	<ul style="list-style-type: none"> No major accessory structures allowed except for fences or walls pursuant to Section 11.38.050. No swimming pools, spas, or hot tubs shall be allowed. Required garage shall meet applicable setback requirements of the underlying district. A minimum of 20 feet is required in front of garage structures that directly face a public or private street.
Interior Side Yard	<ul style="list-style-type: none"> 5 or 12 feet as required by the underlying zoning district. A 4-foot wide minimum unobstructed passageway to the rear yard shall be maintained at all times for access and onsite circulation.
Street Side Yard	<ul style="list-style-type: none"> 15 feet minimum No accessory structures allowed except for fences or walls pursuant to Section 11.38.050. No swimming pools, spas, or hot tubs shall be allowed. Required garage shall meet applicable setback requirements of the underlying district. A minimum of 20 feet is required in front of garage structures that directly face a public or private street.
Rear Yard	<ul style="list-style-type: none"> 5 feet minimum
Alley	<ul style="list-style-type: none"> 25 feet from the opposite side of the alley for required garages taking direct access from the alley. 5 feet minimum for all other major accessory structures.
Equestrian Trails	<ul style="list-style-type: none"> 5 feet minimum as measured from fence line designating nearest side of equestrian trail easement in interior side or rear yards.
Through Lots	<ul style="list-style-type: none"> Accessory buildings may be placed in the apparent rear yard that is enclosed with a solid wall or fence and behind the required front yard setback of the opposite street.
** Setbacks for all structures shall be measured from property line except as noted. Eaves, cornices, and canopies shall not extend beyond 2 feet into the required setback.	

11.19.070 Height.

A. All accessory structures shall be limited to one (1) story and a maximum height of 15 feet, or the height of the primary structure, whichever is less. A rooftop designed so that it may be used as a deck shall be considered a second story for the purposes of this Chapter and shall not be permitted.

B. For recreational vehicle (RV) garages, building height may exceed the stated height limit provided that overall height of the structure is the minimum necessary to achieve necessary clearances and allow a roof pitch that complements the roof pitch of the primary structure on the property. In no case shall the maximum height of the portion of the accessory structure intended for accommodating an RV exceed 20 feet in height.

C. Accessory structures designed with exterior walls exceeding 10 feet in height shall contain architectural design elements as described in Section 11.19.100.B herein.

11.19.080 Building Separation.

A. Major accessory buildings or structures shall be separated from the primary structure and any other major accessory building or structure by a minimum distance of 10 feet, as measured from nearest exterior vertical wall or post surface.

B. No accessory structure shall be attached to a property line fence or wall.

11.19.090 Lot Coverage.

A. The sum total of all accessory structures (except in-ground pools) shall not occupy more than 35 percent of the rear yard of a property.

B. All accessory buildings or structures shall be counted toward the overall total lot coverage limit allowed by the underlying zoning district.

11.19.100 Design.

Plans for an accessory structure shall be reviewed for conformity with the following guidelines:

A. Roofing and siding materials shall match as closely as possible the predominant materials on the principal dwelling. Alternate materials may be approved if the Director finds that the alternate roofing and siding materials effectively complement the character and appearance of the primary structure on the property.

B. A single, large, dominant building mass shall be avoided. When large accessory structures are proposed, the overall mass of the structure should be broken up through the change in wall planes, setbacks, projecting and recessed elements, and similar design techniques. Roofline offsets shall be provided to lend an architectural interest and variety to the massing of a building and to relieve the effect of a single long roof.

C. The color(s) shall reflect, or be complementary to, the color scheme of the primary structure or dwelling.

D. Trim detailing including, but not limited to, fascia, window trim, and door trim shall reflect and be complementary to the trim detailing of the principal dwelling.

E. Any lighting affixed to an accessory structure shall be designed or shielded so as to not cause glare upon neighboring properties.

11.19.110 Additional Standards for Recreational Vehicle Garages.

Recreational vehicles (RVs) may be parked and stored within a completely or partially enclosed garage structure. Such structures shall be subject to the additional development criteria provided in the following standards:

A. The RV garage shall be located in the rear yard meeting all applicable setback requirements.

B. An RV garage structure shall be designed to minimize volume and mass and comply with the general design standards for large accessory structures contained in this Chapter. Rooflines shall be varied to reduce the scale of structures and add visual interest.

C. RVs shall not be covered solely by means of a carport structure. A carport for an RV may be considered when it is a part of, and appropriately

integrated into, the overall design of a large accessory structure meeting the intent of the design standards for large accessory structures.

D. An RV garage structure shall not be placed on the property in any manner that blocks or obstructs direct vehicular access to required covered parking for the property.

E. Garages that are visible to the street shall have an automatic garage door opener and a decorative garage door design (e.g., "carriage style" garage doors) in keeping with the architectural style of the main house.

F. Temporary or permanent connections to an existing septic tank or the City's sanitary sewer system designed for the express purpose of conveying waste from RV septic holding tanks to a private sewer system or the public sewer shall be prohibited. Further, waste from RV septic holding tanks shall not be conveyed to a private sewer system or the public sewer system through toilets or other approved plumbing fixtures within an approved accessory structure, main dwelling unit, or second dwelling unit. RV septic holding tanks shall be evacuated only at a licensed dump station designed to accept such waste.

11.19.120 Maintenance.

All accessory structures shall be maintained in good repair in conformance with the property maintenance standards of the Montclair Municipal Code at all times.

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. 10-916 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: October 18, 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 September 30, 2010.

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

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

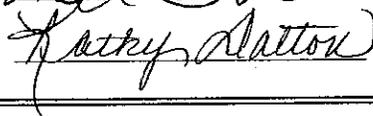
Prepared by:



Reviewed and
Approved by:



Proofed by:



Presented by:



AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION	DATE: October 18, 2010
	SECTION: ADMIN. REPORTS
	ITEM NO.: 2
BUSINESS PLAN: N/A	FILE I.D.: FIN540
	DEPT.: ADMIN. SVCS.

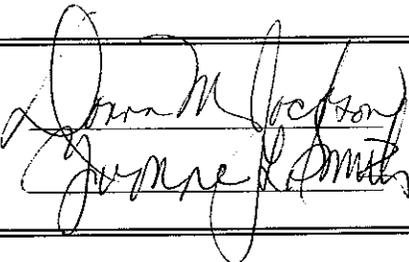
REASON FOR CONSIDERATION: The City Council is requested to consider approval of the Warrant Register and Payroll Documentation.

BACKGROUND: Mayor Pro Tem Dutrey has examined the Warrant Register dated October 18, 2010, and Payroll Documentation dated August 15, 2010, finds them to be in order and recommends their approval.

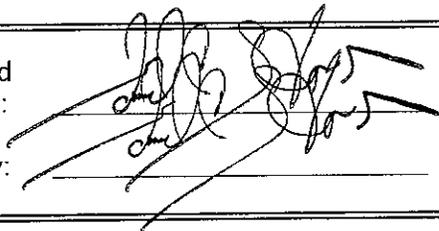
FISCAL IMPACT: The Warrant Register dated October 18, 2010, totals \$883,518.40. The Payroll Documentation dated August 15, 2010, totals \$601,553.62, with \$437,479.67 being the total cash disbursement.

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

Prepared by:



Reviewed and
Approved by:



Proofed by:

Presented by:

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: October 18, 2010

SECTION: ADMIN. REPORTS

ITEM NO.: 3

FILE I.D.: FIN510

**BUSINESS
PLAN:** N/A

DEPT.: REDEVELOPMENT

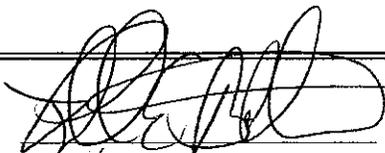
REASON FOR CONSIDERATION: State law requires the Agency Board of Directors to receive and file the Treasurer's Report.

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

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

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

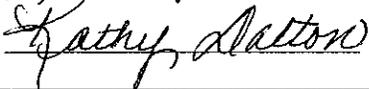
Prepared by:



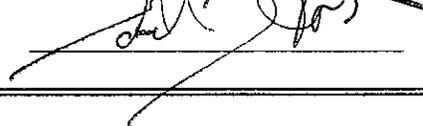
Reviewed and
Approved by:



Proofed by:



Presented by:



AGENDA REPORT

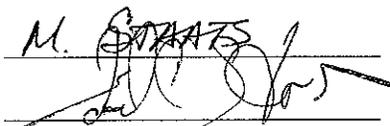
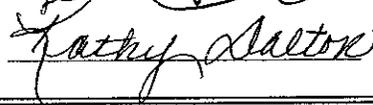
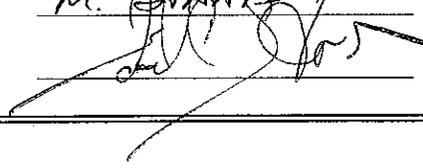
SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER	DATE: October 18, 2010
	SECTION: ADMIN. REPORTS
	ITEM NO.: 4
BUSINESS PLAN: N/A	FILE I.D.: FIN530
	DEPT.: REDEVELOPMENT

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

BACKGROUND: Vice Chairman Dutrey has examined the Warrant Register dated 09/01/10 - 09/30/10 in the amounts of \$49,531.39 for Project I; \$4,800.69 for Project II; \$2,870,329.23 for Project III; \$871,389.59 for Project IV; \$448,014.18 for Project V; and \$622,941.12 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 September 30, 2010.

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

AGENDA REPORT

SUBJECT: CONSIDER RECEIVING AND FILING OF
TREASURER'S REPORT

DATE: October 18, 2010

SECTION: ADMIN. REPORTS

ITEM NO.: 5

**BUSINESS
PLAN:** N/A

FILE I.D.: FIN525

DEPT.: MHC

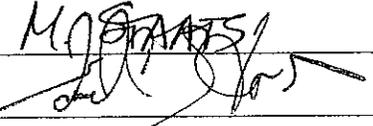
REASON FOR CONSIDERATION: State law requires the Montclair Housing Corporation Board of Directors to receive and file the Treasurer's Report.

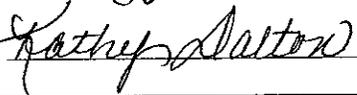
BACKGROUND: Included in your agenda is a copy of the Treasurer's Report for the period ending September 30, 2010.

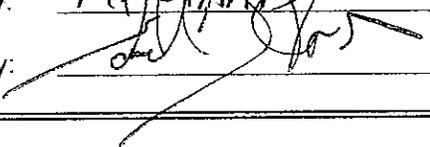
FISCAL IMPACT: Routine—report of the Montclair Housing Corporation's cash and investments.

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

Prepared by: 

Reviewed and
Approved by: 

Proofed by: 

Presented by: 

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER **DATE:** October 18, 2010
SECTION: ADMIN. REPORTS
ITEM NO.: 6
FILE I.D.: FIN545
DEPT.: MHC

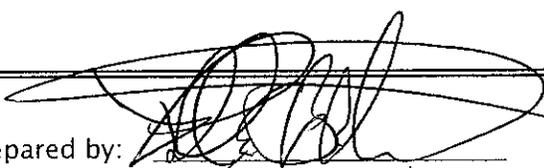
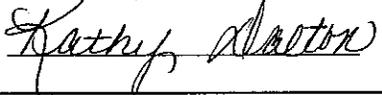
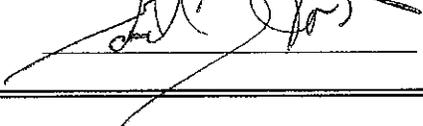
BUSINESS PLAN: N/A

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 09/01/10 - 09/30/10 in the amount of \$22,500.80 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 September 30, 2010.

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

AGENDA REPORT

SUBJECT: CONSIDER SETTING A PUBLIC HEARING TO CONSIDER ORDINANCE NO. 10-918 AMENDING SPECIFIC CHAPTERS IN TITLE 10 OF THE MONTCLAIR MUNICIPAL CODE RELATED TO ADOPTION OF BUILDING CODES TO REGULATE CONSTRUCTION IN THE CITY OF MONTCLAIR AND TO ESTABLISH JANUARY 1, 2011, AS THE EFFECTIVE DATE OF THE CODES	DATE: October 18, 2010 SECTION: ADMIN. REPORTS ITEM NO.: 7 FILE I.D.: CDV100 DEPT.: COMMUNITY DEV.
--	---

BUSINESS PLAN: N/A

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

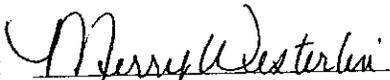
BACKGROUND: The California Health and Safety Code establishes a Building Standards Commission, whose duties include approval, codification, and publication of building standards in a triennial edition of the California Building Standards Code. These codes, commonly called Title 24, incorporate the latest editions of the model codes that apply in all parts of California. The Commission also establishes a date that these codes become effective throughout the State; the date for this triennial edition is January 1, 2011. The adoption of these codes would regulate the fabrication, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, or other improvements to real property; maintenance of all buildings or structures in the City of Montclair; and providing for issuance of permits and collection of fees therefore.

The Building Standards Code does *not* include the adoption of procedural ordinances by a City or other agency related to civil, administrative, or criminal procedures and remedies available for enforcing code violations.

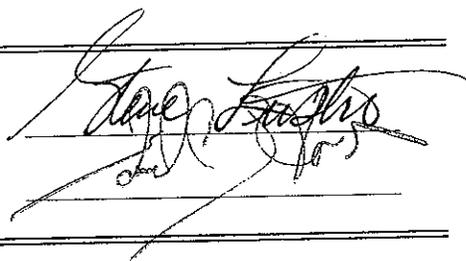
FISCAL IMPACT: The cost to publish a Notice of Public Hearing in the *INLAND VALLEY DAILY BULLETIN* related to Ordinance No. 10-918 should not exceed \$400.

RECOMMENDATION: Staff recommends the City Council set a public hearing for Monday, November 1, 2010, at 7:00 p.m. in the Council Chambers to consider adoption of Ordinance No. 10-918 amending various Chapters in Title 10 of the Montclair Municipal Code related to adoption of building codes to regulate construction in the City of Montclair and to establish January 1, 2011, as the effective date of the codes.

Prepared by:



Reviewed and Approved by:



Proofed by:



Presented by:

ORDINANCE NO. 10-918

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AMENDING SPECIFIED CHAPTERS OF TITLE 10 OF THE MONTCLAIR MUNICIPAL CODE AND ADOPTING BY REFERENCE THE 2010 EDITION OF THE CALIFORNIA BUILDING CODE, VOLUMES 1 AND 2; THE 2010 EDITION OF THE CALIFORNIA RESIDENTIAL CODE; THE 2010 EDITION OF THE CALIFORNIA PLUMBING CODE; THE 2010 EDITION OF THE CALIFORNIA ELECTRICAL CODE; THE 2010 EDITION OF THE CALIFORNIA MECHANICAL CODE; AND THE 2010 EDITION OF THE CALIFORNIA GREEN BUILDING STANDARDS CODE, TOGETHER WITH CERTAIN AMENDMENTS, ADDITIONS, DELETIONS, AND EXCEPTIONS INCLUDING FEES AND PENALTIES

WHEREAS, the California Health and Safety Code establishes a Building Standards Commission whose duties include approval, codification, and publication of building standards in a triennial edition of the California Building Standards Code, commonly called Title 24; and

WHEREAS, the Building Standards Commission also establishes a date that these codes become effective throughout the state; and

WHEREAS, the effective date for this triennial edition is January 1, 2011; and

WHEREAS, adoption of these codes would regulate the fabrication, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area, or other improvements to real property; maintenance of all buildings or structures in the City of Montclair; and provision for issuance of permits and collection of fees therefor; and

WHEREAS, the Building Standards Code does *not* include adoption of procedural ordinances by a city or other agency related to civil, administrative, or criminal procedures and remedies available for enforcing code violations.

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

SECTION I. Section 10.08.010 of the Montclair Municipal Code is hereby repealed and replaced in its entirety as follows:

10.08.010 Adoption.

Except as provided in this Chapter, those certain building codes known and designated as the California Building Code, 2010 Edition, Volumes 1 and 2, including Appendix Chapters "C," "F," "I," and "J," based on the 2009 International Building Code as published by the International Code Council, shall be

and become the Building Codes of the City of Montclair for regulating the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every buildings and/or structures or any appurtenances connected or attached to such buildings or structures throughout the City. The California Building Code and its appendix chapters will be on file for public examination in the office of the Building Official.

SECTION II. Section 10.08.020 of the Montclair Municipal Code is hereby amended as follows:

10.08.020 Building Code amendments.

The following Section of Chapter 1, "Scope and Administration, Division I, California Administration," is amended as follows:

1.8.8 Appeals Board. Subsection 1.8.8 is hereby deleted in its entirety.

The following portions and sections of "Chapter 1, Scope and Administration, Division II, Scope and Administration" are hereby amended as follows:

The following language shall be added to Subsection 101.2 "Scope":

In order to properly maintain and safeguard healthful living conditions and comply with all provisions of the Building Codes, it is hereby declared unlawful to use any streetcars, boxcars, house cars, motor bus bodies, or similar means of conveyance or structures of similar nature of construction, for places of habitation, residence, or place of business in this City. However, nothing contained herein shall prohibit the use of any house trailer or mobile home for places of abode or habitation in an approved mobile home park, providing such structures comply with all other conditions and requirements of this Code.

The following language shall be added to Subsection 102.1 "General":

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Code or any part thereof is in conflict with the Fire Code, the most restrictive shall be applicable.

Subsection 104.1 "General" of Section 104 "Duties and Powers of Building Official" is hereby deleted and replaced in its entirety as follows:

104.1 General. The Building Official is hereby authorized and directed to enforce all the provisions of this Code and referenced technical codes. For such purposes, the Building Official shall have the powers of a law enforcement officer. The Building Official shall have the power to render interpretations of this Code and the referenced technical codes, and to adopt and enforce rules and regulations supplemental to this Code as may be deemed necessary to clarify the application of the provisions of this Code. Such interpretations, rules, and regulations shall be in conformity with the intent and purpose of this Code.

Subsection 104.12 "Cooperation of Other Officials and Officers" shall be added as follows:

104.12 Cooperation of Other Officials and Officers. The Building Official may request and shall receive the assistance and cooperation of other officials of this jurisdiction so far as is required in the discharge of the duties required by this Code or other pertinent laws or ordinances.

Subsection 105.2 "Work exempt from permit" is hereby amended as follows:

Item 1 under "Building" is hereby deleted and replaced in its entirety as follows:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet or measures over 8 feet in height to the highest point of the roof.

Item 2 under "Building" is hereby deleted in its entirety.

Item 4 under "Building" is hereby deleted and replaced in its entirety as follows:

4. Retaining walls that are not over three (3) feet in height as measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II, or IIIA liquids.

Item 9 under "Building" is hereby deleted in its entirety.

Subsection 105.3.2 "Time limitation of application" is hereby adopted and amended to read as follows:

Applications for which no permit is issued within 180 days following the date of application shall expire by limitation. Plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the Building Official. The Building Official may extend the time for action by the applicant for a period not exceeding 180 days on written request by the applicant showing the circumstances beyond the control of the applicant having prevented action from being taken. An application shall not be extended more than once. An application shall not be extended if this Code or any other pertinent laws or ordinances have been amended subsequent to the date of application. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee. All plans submitted for review prior to the effective date of this Ordinance shall expire by limitation within 180 days of application with no extensions.

Subsection 105.5 "Expiration" is hereby adopted and amended to read as follows:

Every permit issued by the Building Official under the provisions of the technical codes shall expire by limitation and become null and void, if the

building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained to do so, and the fee therefore shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work, and provided further, that such suspension or abandonment has not exceeded one year. In order to renew action on a permit after expiration, the permittee shall pay a new full permit fee.

A permittee holding an unexpired permit may apply for an extension of the time within which work may commence under that permit when the permittee is unable to commence work within the time required by this Section for good and satisfactory reasons. The Building Official may extend the time for action by the permittee for a period not exceeding 180 days upon written request by the permittee showing that circumstances beyond the control of the permittee have prevented action from being taken. Permits shall not be extended more than once.

Section 107 "Submittal Documents" is hereby adopted and amended as follows:

Subsection 107.5 "Retention of construction documents" is hereby amended by adding the following language:

Before final inspection, electronic images of all plans, engineering calculations, and records that are submitted for the purpose of obtaining a building permit shall be submitted to the Building Official. Electronic images shall be based on the Building Division's Electronic Archiving Policy.

Section 109 "Fees" is hereby adopted and amended as follows:

Subsection 109.2 "Schedule of permit fees" is hereby amended by adding the following language:

When submittal documents are required by Section 302.2 of the Uniform Administrative Code, a plan review fee shall be paid at the time of submitting the submittal documents for plan review. The plan review fee shall be 100 percent of the building, electrical, mechanical and plumbing work permit fee as required in accordance with the fee schedule established by resolution of the City Council. When the City retains a private entity or person to perform plan review, the plan review fee shall be in an amount sufficient to defray the cost of such services, plus a 15 percent fee to cover the cost of administration, but in no case shall the plan review fee be less than the amount specified in this Section.

Subsection 109.4 "Work commencing before permit issuance" is hereby deleted and replaced in its entirety as follows:

109.4 Work commencing before permit issuance. Whenever work for which a permit is required by this Code has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for such work. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be as required, as in accordance with the schedule as established by the applicable governing authority. The minimum investigation fee shall be the same as the minimum fee set forth in accordance with the schedule as established by the applicable governing authority. The payment of such investigation fee shall not exempt an applicant from compliance with all other provisions of either this Code or the technical codes nor from the penalty prescribed by law. Whenever the same person or entity is found to have performed work for which a permit is required without first obtaining said permit four or more times, said investigation fee shall be ten times the fee amount set forth in accordance with the schedule as established by the applicable governing authority.

Subsection 109.6 "Refunds" is hereby deleted and replaced in its entirety as follows:

109.6 Refunds. The Building Official may authorize refunding of a fee paid hereunder which was erroneously paid or collected. The Building Official may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this Code. The Building Official may authorize refunding of not more than 80 percent of plan review fee has been paid when an application for a permit for which a plan review fee has been paid is withdrawn or cancelled before any examination time has been expanded. The Building Official shall not authorize the refunding of any fee paid except upon written request filed by the original permittee not later than 180 days after the date of payment.

Section 110 "Inspections" is adopted and amended by adding the following subsection:

110.1.1 Workmanship. It is the intention of the City that all construction carried on under the review of the Building Division is of good quality. The Building Official shall be empowered to enforce the installation of work that is straight, level, plumb, square, etc., as the situation requires. All work shall be well fit and of a durable nature. Paint in all cases shall not be below normal standard for the use applied. The proper grading of walks, drives, and yards shall be required when being installed with the work requiring a building permit. A minimum thickness of 3½ inches for flat concrete work and 2 inches for asphalt paving shall be required. All exterior flat concrete work shall include such breaks for expansion as deemed necessary by the Building Official.

Subsection 110.3.4 "Frame inspection" is hereby amended by adding the following language:

The structure shall have lath paper completely installed at the time of framing inspection.

Subsection 110.3.5 "Lath and gypsum board inspection" is hereby amended by deleting the "exception" in its entirety.

Subsection 110.3.8 "Other inspections" is hereby amended by adding the following language:

A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made. This Section is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of the technical codes but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection. Reinspection fees may be assessed when the inspection record card is not posted or otherwise available on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or deviation from plans requiring the approval of the Building Official. To obtain a reinspection, the applicant shall file an application therefore in writing upon a form furnished for that purpose and pay the reinspection fee in accordance with a fee schedule adopted by this jurisdiction. In instances where reinspection fees have been assessed, additional inspection of the work will not be performed until the required fees have been paid.

Subsection 110.5 "Inspection requests" is hereby deleted and replaced in its entirety as follows:

110.5 Inspection requests. It shall be the duty of the person doing the work authorized by the permit to notify the Building Official that such work is ready for inspection. The Building Official may require that every request for inspection be filed at least one working day before such inspection is desired. Such request may be requested in writing or by telephone at the option of the Building Official. It shall be the duty of the person requesting any inspections required by either this Code or the technical codes to provide access to and means for inspection of the work.

Section 111 "Certificate of Occupancy" is hereby adopted and amended by adding the following subsection:

111.5 Utility release. The following minimum requirements shall be completed prior to any occupancy or utilities connected:

(1) Written clearance from the Fire and Public Works Departments and Planning and Business License Divisions.

(2) Written clearance from the Monte Vista Water District, NPDES Coordinator, and Environmental Manager, when applicable.

(3) The following when applicable:

- (a) Electronic imaging of plans received.
- (b) Verification of school fees paid.
- (c) Grading certificate received.
- (d) All plan review fees paid.
- (e) Sewer assessment fees paid.
- (f) Hazard materials statements received.
- (g) Subcontractor's list received.
- (h) Parkland fees received.
- (i) Transportation fees received.

Section 114 "Violations" is hereby adopted and amended as follows:

Subsection 114.4 "Violation penalties" is hereby amended by adding the following language:

Whenever the same person or entity is found to have performed work for which a permit is required without first obtaining said permit four or more times, said investigation fee shall be ten times the fee amount set forth in Section 108.

SECTION III. Section 10.20.010 of the Montclair Municipal Code is hereby repealed and replaced in its entirety as follows:

10.20.010 Adoption.

Except as provided in this Chapter, the California Electrical Code, 2010 Edition, based on the 2008 National Electrical Code as published by the National Fire Protection Association, shall be and become the Electrical Code of the City of Montclair, regulating all installation, arrangement, alteration, repair, use, and other operation of electrical wiring, connections, fixtures, and other electrical appliances on premises within the City. The California Electrical Code is on file for public examination in the office of the Building Official.

SECTION IV. Section 10.20.020 is hereby added to Chapter 10.20 "Electrical Code" of the Montclair Municipal Code as follows:

10.20.020 Electrical Code amendments.

The 2010 Edition of the California Electrical Code is hereby adopted with no amendments.

SECTION V. Chapter 10.30 is hereby added to Title 10 ("Buildings and Construction") of the Montclair Municipal Code to read as follows:

Chapter 10.30

GREEN BUILDING STANDARDS CODE

Sections:

- | | |
|------------------|--|
| 10.30.010 | Adoption. |
| 10.30.020 | Green Building Standards Code amendments. |

10.30.010 Adoption.

Except as provided in this Chapter, the California Green Standards Code, 2010 Edition as published by the California Building Standards Commission, shall be and become the Green Building Standards Code of the City, regulating and controlling the planning, design, operation, use and occupancy of every newly constructed building or structure in the City. The California Green Building Standards Code shall be on file for public examination in the office of the Building Official.

10.30.020 Green Building Standards Code amendments.

The 2010 Edition of the California Green Building Standards Code is hereby adopted with no amendments.

SECTION VI. Sections 10.36.010 and 10.36.020 of the Montclair Municipal Code are hereby repealed and replaced in their entirety as follows:

10.36.010 Adoption.

Except as provided in this Chapter, the California Mechanical Code, 2010 Edition, based on the 2009 Uniform Mechanical Code as published by the International Association of Plumbing and Mechanical Officials (IAPMO), shall be and become the Mechanical Code of the City, regulating and controlling the design, construction, installation, quality of materials, location, operation, and maintenance of heating, ventilating, cooling, refrigeration systems, incinerators, and other miscellaneous heat-producing appliances. The California Mechanical Code is on file for public examination in the office of the Building Official.

10.36.020 Mechanical Code amendments.

The 2010 Edition of the California Mechanical Code is hereby adopted with no amendments.

SECTION VII. Sections 10.40.010 and 10.40.020 of the Montclair Municipal Code are hereby repealed and replaced in their entirety as follows:

10.40.010 Adoption.

Except as provided in this chapter, the California Plumbing Code, 2010 Edition, based on the 2009 Uniform Plumbing Code as published by the International Association of Plumbing and Mechanical Officials (IAPMO), shall be and become the Plumbing Code of the City of Montclair, regulating erection, installation, alteration, repair, relocation, replacement, maintenance, or use of plumbing systems within the City. The California Plumbing Code will be on file for public examination in the office of the Building Official.

10.40.020 Plumbing Code amendments.

The 2010 Edition of the California Plumbing Code is adopted with no amendments.

SECTION VIII. Chapter 10.42 is hereby added to Title 10 ("Buildings and Construction") of the Montclair Municipal Code to read as follows:

**Chapter 10.42
RESIDENTIAL CODE**

Sections:

10.42.010 Adoption.
10.42.020 Residential Code amendments.

10.42.010 Adoption.

Except as provided in this Chapter, the California Residential Code, 2010 Edition, based on the 2009 International Residential Code, as published by the California Building Standards Commission, shall be and become the Residential Building Code of the City, regulating construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every detached one- and two-family dwelling and townhouse not more than three stories above grade in height with a separate means of egress and structures accessory thereto in the City. The California Residential Code will be on file for public examination in the office of the Building Official.

10.42.020 Residential Code amendments.

The following portions and sections of Chapter 1, Scope and Application, Division I "California Administration," and Division II "Administration" are hereby amended as follows:

1.8.3 Permits, Fees, Applications and Inspections. Section 1.8.3 is hereby deleted in its entirety.

1.8.7 Appeals Board. Section 1.8.7 is hereby deleted in its entirety.

1.8.8 Unsafe Buildings or Structures. Section 1.8.8 is hereby deleted in its entirety.

Section R105 "Permits" is hereby amended as follows:

Item 1 under "Building" is hereby deleted and replaced in its entirety as follows:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet or measures over eight (8) feet in height to the highest point of the roof.

Item 2 under "Building" is hereby deleted in its entirety.

Item 3 under "Building" is hereby deleted and replaced in its entirety as follows:

3. Retaining walls that are not over three (3) feet in height as measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or IIIA liquids.

Item 7 under "Building" is hereby deleted and replaced in its entirety as follows:

7. Prefabricated swimming pools that are capable of containing water to a depth of not more than 12 inches.

Section R109 "Inspection" is hereby adopted and amended by adding the following subsection:

R109.0.1 Workmanship. It is the intention of the City that all construction carried on under the review of the Building Division is of good quality. The Building Official shall be empowered to enforce the installation of work that is straight, level, plumb, square, etc., as the situation requires. All work shall be well fit and of a durable nature. Paint in all cases shall not be below normal standard for the use applied. The proper grading of walks, drives, and yards shall be required when being installed with the work requiring a building permit. A minimum thickness of 3½ inches for flat concrete work and 2 inches for asphalt paving shall be required. All exterior flat concrete work shall include such breaks for expansion as deemed necessary by the Building Official.

Subsection R109.1.4 "Frame and masonry inspection" is hereby amended by adding the following language:

The structure shall have lath paper completely installed at the time of framing inspection.

Subsection R109.1.5 "Other inspections" is hereby amended by adding the following language:

A reinspection fee may be assessed for each inspection or reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made. This Section is not to be interpreted as requiring reinspection fees the first time a job is rejected for failure to comply with the requirements of the technical codes but as controlling the practice of calling for inspections before the job is ready for such inspection or reinspection. Reinspection fees may be assessed when the inspection record card is not posted or otherwise available on the work site, the approved plans are not readily available to the inspector, for failure to provide access on the date for which inspection is requested, or deviation from plans requiring the approval of the Building Official. To obtain a reinspection, the applicant shall file an application therefore in writing upon a form furnished for that purpose and pay the reinspection fee in accordance with a fee schedule adopted by this jurisdiction. In instances where reinspection fees have been assessed, additional inspection of the work will not be performed until the required fees have been paid.

SECTION IX. 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 X. Effective Date.

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

SECTION XI. 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. 10-918 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 CITY COUNCIL'S AND REDEVELOPMENT AGENCY BOARD OF DIRECTORS' APPROVAL OF A QUITCLAIM DEED FOR TEMPORARY CONSTRUCTION EASEMENTS ASSOCIATED WITH THE CONSTRUCTION OF THE RAMONA AVENUE/ UNION PACIFIC RAILROAD GRADE SEPARATION PROJECT AND AUTHORIZE THE RECORDATION OF THE QUITCLAIM DEED WITH THE SAN BERNARDINO COUNTY RECORDER

DATE: October 18, 2010
SECTION: ADMIN. REPORTS (JT)
ITEM NO.: 8
FILE I.D.: STA100
DEPT.: PUBLIC WORKS/RDA

BUSINESS

PLAN: N/A

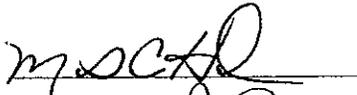
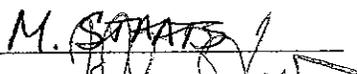
REASON FOR CONSIDERATION: Temporary construction easements were required on several properties adjacent to the construction limits of the Ramona Avenue/Union Pacific Railroad Grade Separation Project. Unlike permanent easements required in perpetuity for the project, the temporary easements were required only during construction. City Council action is required to quitclaim the easements which are no longer required now that construction has been completed.

BACKGROUND: As part of the Ramona Avenue/Union Pacific Railroad Grade Separation Project, the City acquired multiple easements from various property owners. These easements included both permanent easements required for the new road and bridge alignment and temporary easements allowing access onto various properties only during construction. Now that construction has been completed, the temporary construction easements are no long necessary.

One of the property owners from whom temporary construction easements were acquired is Tri-Alloy Group, LLC (Tri-Alloy). Tri-Alloy, located at the southeast corner of Brooks Street and Ramona Avenue, went out of business earlier this year. Tri-Alloy is currently in escrow to sell the property to another company. Tri-Alloy has asked the City to relinquish or quitclaim its temporary construction easements which currently encumber portions of the property. Inasmuch as the easements are no longer necessary, staff has no objections to the request.

FISCAL IMPACT: There is no fiscal impact associated with the relinquishment of these temporary construction easements.

RECOMMENDATION: Staff recommends the City Council and Redevelopment Agency Board of Directors approve a quitclaim deed for temporary construction easements associated with construction of the Ramona Avenue/Union Pacific Railroad Grade Separation Project and authorize the recordation of the quitclaim deed with the San Bernardino County Recorder.

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

QUITCLAIM DEED

FOR VALUE RECEIVED, THE CITY OF MONTCLAIR, A CALIFORNIA MUNICIPAL CORPORATION, AND THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY, A PUBLIC BODY, CORPORATE AND POLITIC

do hereby remise, release, and forever quitclaim to:

TRI-ALLOY GROUP, LLC, a California limited liability company

all rights, title, and interest in and to those certain easements recorded:

1. May 21, 2007, as Instrument No. 2007-0327343, and
2. April 22, 2009, as Instrument No. 2009-0171728

both located in the City of Montclair, County of San Bernardino, State of California, and in the office of the County Recorder, County of San Bernardino, State of California, more particularly described in Exhibit A-1, B-1, A-2, and B-2, attached hereto and incorporated herein.

CITY OF MONTCLAIR, A CALIFORNIA MUNICIPAL CORPORATION

CITY OF MONTCLAIR REDEVELOPMENT AGENCY, A PUBLIC BODY, CORPORATE AND POLITIC

By: _____
Mayor

By: _____
Chairman

IN WITNESS WHEREOF, grantors have executed this Quitclaim Deed as of _____, 2010.

This is to certify that the interest in real property conveyed by the within instrument by the City of Montclair, State of California, a Municipal Corporation, and the City of Montclair Redevelopment Agency, a Public Body, Corporate and Politic, is hereby quitclaimed by order of the Montclair City Council and the City of Montclair Redevelopment Agency made on _____.

Dated: _____

By: _____
City Clerk

EXHIBIT "A-1"

LEGAL DESCRIPTION

TEMPORARY CONSTRUCTION EASEMENT

That portion of a parcel, in the City of Montclair, County of San Bernardino, State of California, as described in the Certificate of Parcel Merger No. 89-3 recorded February 2, 1990 as Instrument No. 90-044952 of Official Records of said County more particularly described as follows:

Beginning at a point in the northerly line of said parcel distant north $88^{\circ} 15' 43''$ east 12.93 feet from the northwest corner thereof, said point being the beginning of a non-tangent curve concave easterly and having a radius of 756.00 feet, a radial line to said point bears south $78^{\circ} 29' 17''$ west;

Thence southerly along said curve through a central angle of $0^{\circ} 18' 48''$ a distance of 4.13 feet to a point of reverse curvature said curve being concave westerly and having a radius of 844.00 feet, a radial line to said point bears north $78^{\circ} 10' 29''$ east;

Thence southerly along said curve through a central angle of $10^{\circ} 55' 31''$ a distance of 160.94 feet;

Thence south $0^{\circ} 54' 00''$ east a distance of 55.75 feet to the southerly line of said parcel;

Thence north $88^{\circ} 15' 43''$ east along said southerly line a distance of 22.00 feet;

Thence north $0^{\circ} 54' 00''$ west a distance of 21.23 feet;

Thence south $89^{\circ} 00' 41''$ west a distance of 21.34 feet;

Thence north $0^{\circ} 59' 19''$ west a distance of 182.54 feet;

Thence north $89^{\circ} 00' 4''$ east a distance of 118.58 feet;

Thence north $0^{\circ} 59' 19''$ west a distance of 17.51 feet to said northerly line of parcel;

Thence south $88^{\circ} 15' 43''$ west along said northerly line a distance of 135.01 feet to the point of beginning.

Containing 3433 square feet, more or less.

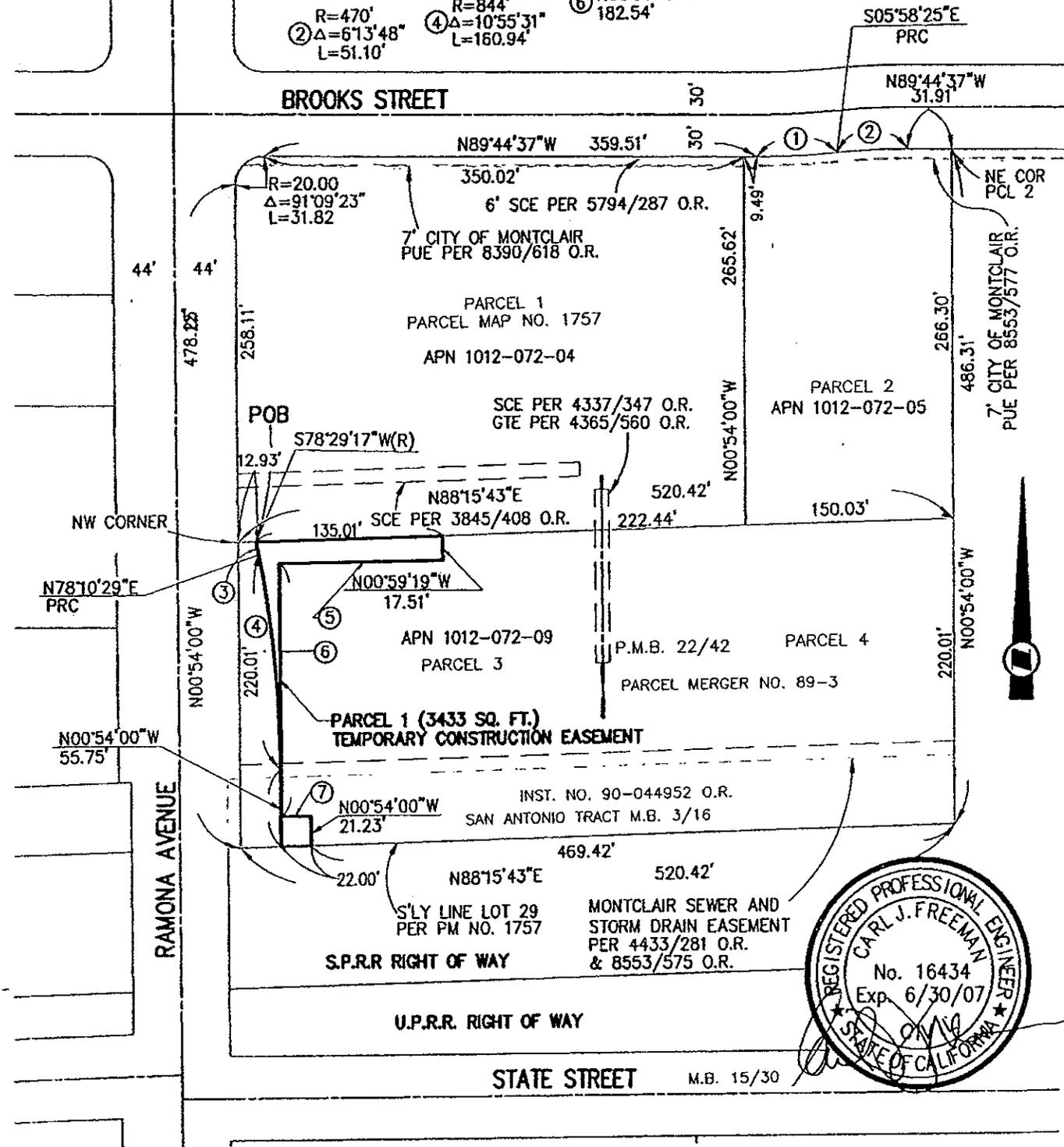
Assessor's Parcel Number: 1012-072-09



EXHIBIT "B-1"

SHEET 1 OF 1 SHEET

- ① R=530' Δ=6°13'48" L=57.63'
- ② R=470' Δ=6°13'48" L=51.10'
- ③ R=756' Δ=0°18'48" L=4.13'
- ④ R=844' Δ=10°55'31" L=160.94'
- ⑤ N89°00'41"E 118.58'
- ⑥ N00°59'19"W 182.54'
- ⑦ N89°00'41"E 21.34'



D:\CADD\100-99\survey\EXH-5.dwg 06/27/00 03:55:45 PM PM.PBT

LDKING
 Engineers/Planners
 Surveyors

2151 Convention Center Way
 Suite 100 B
 Ontario, California 91764-4464
 Phone 909-937-0200
 Fax 909-937-0202

DATE: 2-10-03	SCALE 1"=100'
DRAWN BY: SB	JN 100-99
CHECKED BY: CB	

SKETCH TO ACCOMPANY
 LEGAL DESCRIPTION
 FOR RAMONA AVE-STATE ST.
 GRADE SEPARATION

EXHIBIT "A-2"

TEMPORARY CONSTRUCTION EASEMENT

BEING THE WESTERLY 30 FEET OF PARCEL 1 OF PARCEL MAP NO. 1757, IN THE CITY OF MONTCLAIR, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 22, PAGE 42 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, EXCEPTING THEREFROM THOSE PORTIONS DESCRIBED AS FOLLOWS:

PARCEL 1

BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL 1; THENCE NORTH 88°15'43" EAST ALONG THE SOUTHERLY LINE OF SAID PARCEL 1, 12.95 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE EASTERLY AND HAVING A RADIUS OF 756.00 FEET, A RADIAL LINE THROUGH SAID POINT BEARS SOUTH 78°28'55" WEST; THENCE NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 10°37'05" AN ARC DISTANCE OF 140.10 FEET TO A POINT OF TANGENCY WITH THE WESTERLY LINE OF SAID PARCEL 1; THENCE SOUTH 0°54'00" EAST ALONG SAID WESTERLY LINE, 139.49 FEET TO THE POINT OF BEGINNING.

PARCEL 2

BEGINNING AT A POINT ON THE WESTERLY LINE OF SAID PARCEL 1, SAID POINT BEING DISTANT NORTH 0°54'00" WEST, 139.49 FEET FROM THE SOUTHWEST CORNER OF SAID PARCEL 1; THENCE NORTH 0°54'00" WEST ALONG THE WESTERLY LINE OF SAID PARCEL 1, 118.70 FEET TO THE BEGINNING OF A CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 20.00 FEET; THENCE NORTHEASTERLY ALONG SAID CURVE AND SAID WESTERLY LINE THROUGH A CENTRAL ANGLE OF 3°34'53" AN ARC DISTANCE OF 1.25 FEET TO THE TRUE POINT OF BEGINNING; THENCE CONTINUING NORTHEASTERLY ALONG SAID CURVE AND SAID WESTERLY LINE THROUGH A CENTRAL ANGLE OF 83°59'48" AN ARC DISTANCE OF 29.32 FEET; THENCE NON-TANGENT TO SAID CURVE, SOUTH 44°40'47" WEST, 26.76 FEET TO THE TRUE POINT OF BEGINNING.

-CONTAINING 7,558 SQUARE, FEET MORE OR LESS.

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

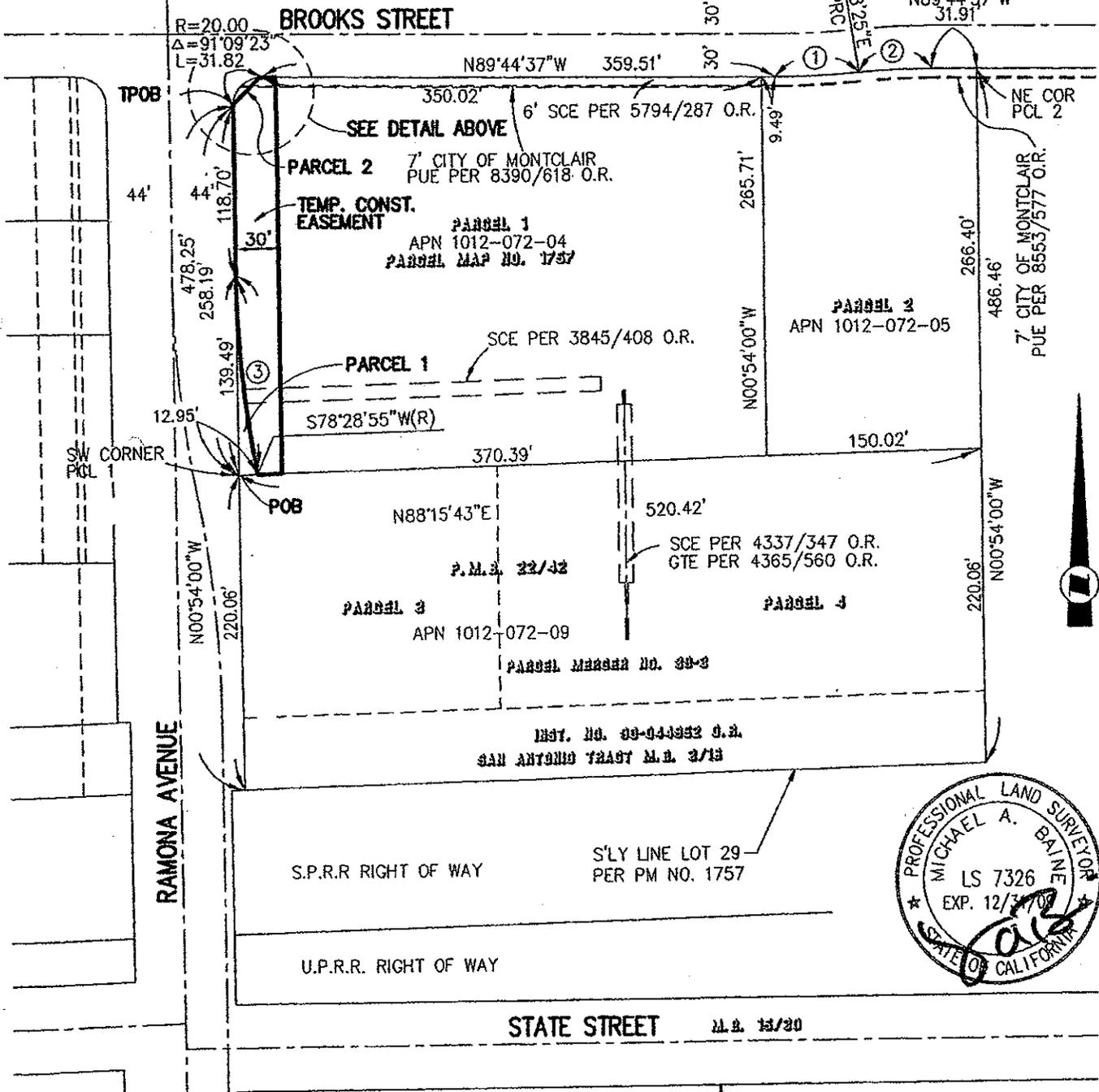
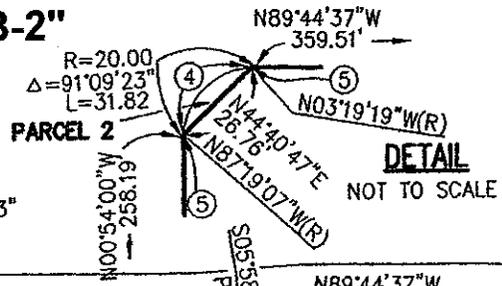


MaB
MICHAEL A. BAINE, P.L.S. 7326
EXP. 12/31/09

Feb. 2, 2009
DATE

EXHIBIT "B-2"

- ① R=530' Δ=6°13'48" L=57.63'
- ② R=470' Δ=6°13'48" L=51.10'
- ③ R=756' Δ=10°37'05" L=140.10'
- ④ R=20.00' Δ=83°59'48" L=29.32'
- ⑤ R=20.00' Δ=3°34'53" L=1.25'



LDKING
 Engineers/Planners
 Surveyors

2151 Convention Center Way
 Suite 100 B
 Ontario, California 91764-4484
 Phone 909-937-0200
 Fax 909-937-0202

DATE: 2-2-09	SCALE 1"=100'
DRAWN BY: JG	JN 100-99
CHECKED BY: JG	

SKETCH TO ACCOMPANY
 LEGAL DESCRIPTION
 FOR RAMONA AVE-STATE ST.
 GRADE SEPARATION

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AN UPDATED LISTING OF DESIGNATED EMPLOYEES REQUIRED TO FILE STATEMENTS OF ECONOMIC INTERESTS

DATE: October 18, 2010

SECTION: ADMIN. REPORTS

ITEM NO.: 9

BUSINESS PLAN: N/A

FILE I.D.: FPP150

DEPT.: ADMIN. SVCS.

REASON FOR CONSIDERATION: It is necessary to update the list of designated employees who are required to file Statements of Economic Interests to reflect changes in job responsibilities and titles.

BACKGROUND: The Political Reform Act requires every state and local government agency to review its Conflict of Interest Code biennially to determine if it is accurate or, alternatively, to amend the Code if necessary. The attached City of Montclair Conflict of Interest code contains the requirement that all City Council Members, Planning Commissioners, City Manager, City Attorney, and designated employees responsible for managing public investments annually file Statements of Economic Interests. In addition, the Code requires that there be a listing of designated employees who, by job title, "make or participate in the making of governmental decisions which may foreseeably have a material effect on financial interests."

Recommended changes to the designated employees listing are as follows:

Additions:

- Assistant Planner
- Deputy Fire Chief
- Deputy Police Chief
- Facilities and Grounds Superintendent
- Senior Code Enforcement Officer
- Senior Fire Inspector
- Senior Recreation Supervisor

Deletions:

- Assistant Public Works Superintendent
- Building Maintenance Supervisor
- Code Enforcement Supervisor
- Police Captain

Prepared by:

Proofed by:

Reviewed and Approved by:

Presented by:

The recommended changes are reflected on the attached Exhibit A and, if approved, would become Exhibit A to the City's Conflict of Interest Code. Exhibit B, a listing of disclosure categories, is also part of the Conflict of Interest Code.

FISCAL IMPACT: Approval of an updated listing of designated employees would create no fiscal impact to the City.

RECOMMENDATION: Staff recommends the City Council approve an updated listing of designated employees required to file Statements of Economic Interests.

**EXHIBIT A
CITY OF MONTCLAIR DESIGNATED EMPLOYEES**

The persons in the following positions are deemed to be "Designated Employees" within the meaning of Government Code Section 72109 and Section 2 of the Conflict of Interest Code. These persons shall file appropriate disclosure statements pursuant to this Code:

<i>Positions</i>	<i>Disclosure Categories</i>
Accounting Specialist (License and Collections)	1,2,3,4
Accounting Supervisor	1,2,3,4
Administrative Analyst	1,2,3,4
Assistant Director of Human Services	1,2,3,4
Assistant Director of Redevelopment	1,2,3,4
Assistant Finance Director	1,2,3,4
Assistant Planner	1,2,3,4
Assistant Public Works Superintendent	1,2,3,4
Associate Planner	1,2,3,4
Benefits Coordinator	1,2,3,4
Building Inspector	1,2,3,4
Building Official	1,2,3,4
City Clerk	1,2,3,4
City Engineer	1,2,3,4
City Planner	1,2,3,4
Code Enforcement Officer	1,2,3,4
Deputy City Attorney	1,2,3,4
Deputy City Clerk	1,2,3,4
Deputy City Manager	1,2,3,4
Deputy Fire Chief	1,2,3,4
Deputy Fire Marshal	1,2,3,4
Deputy Police Chief	1,2,3,4
Director of Administrative Services	1,2,3,4
Director of Community Development	1,2,3,4
Director of Redevelopment/Public Works	1,2,3,4
Economic Development Coordinator	1,2,3,4
Facilities and Grounds Superintendent	1,2,3,4
Fire Captain	1,2,3,4
Fire Chief	1,2,3,4
Fire Division Chief	1,2,3,4
Information Technology Supervisor	1,2,3,4
Personnel Officer	1,2,3,4
Police Chief	1,2,3,4
Police Lieutenant	1,2,3,4
Police Records Supervisor	1,2,3,4
Public Works Inspector	1,2,3,4
Public Works Superintendent	1,2,3,4
Redevelopment and Housing Associate	1,2,3,4
Senior Building Inspector	1,2,3,4
Senior Code Enforcement Officer	1,2,3,4

Updated 10/18/10

**EXHIBIT B
DISCLOSURE CATEGORIES**

- | | |
|------------|---|
| Category 1 | Relates to a reportable interest in investments and real property as defined in Section 7(a) and 7(e) of this Code. |
| Category 2 | Relates to a reportable interest in sources of income and gifts as defined in Section 7(b) of this Code. |
| Category 3 | Relates to a reportable interest in sources of income of a business entity as defined in Section 7(c) of this Code. |
| Category 4 | Relates to a reportable interest in sources of income of each business entity in which a position of management is held, as defined in Section 7(d) of this Code. |

CONFLICT OF INTEREST CODE FOR CITY OF MONTCLAIR

The Political Reform Act, Government Code Sections 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Code of Regs Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 Cal. Code of Regs Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference and, along with the attached Appendices in which officials and employees are designated and disclosure categories are set forth, shall constitute the Conflict of Interest Code of the City of Montclair.

Pursuant to Section 4(A) of the standard Code, designated employees, listed on Exhibit A, shall file Statements of Economic Interests with the City Clerk. These Statements shall be retained by the City Clerk.

The City Clerk shall make and retain copies of the Statements of City Council Members, City Manager, City Attorney, and Planning Commissioners and forward the originals of these Statements to the filing officer of the Fair Political Practices Commission.

(Regulations of the Fair Political Practices Commission, Title 2, Division 6 of the California Administrative Code)

18730. Provisions of Conflict of Interest Codes

(a) Incorporation by reference of the terms of this regulation, along with the designation of employees and the formulation of disclosure categories in the Exhibits referred to below constitute the adoption and promulgation of a Conflict of Interest Code within the meaning of Government Code Section 87300 or the amendment of a Conflict of Interest Code within the meaning of Government Code Section 87306 if the terms of this regulation are substituted for terms of a Conflict of Interest Code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of Article 2 of Chapter 7 of the Political Reform Act, Government Code Sections 81000, et seq. The requirements of a Conflict of Interest Code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Government Code Section 87100, and to other state or local laws pertaining to conflicts of interest.

(b) The terms of a Conflict of Interest Code amended or adopted and promulgated pursuant to this regulation are as follows:

Section 1. Definitions

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regs Sections 18100, et seq.) and any amendments to the Act or regulations, are incorporated by reference into this Conflict of Interest Code.

Section 2. Designated Employees

The persons holding positions listed in Exhibit A are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on financial interests.

Section 3. Disclosure Categories

This Code does not establish any disclosure obligation for those designated employees who are also specified in Government Code Section 87200 if they are designated in this Code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their financial interests pursuant to Article 2 of Chapter 7 of the Political Reform Act, Government Code Sections 87200, et seq. Such persons are governed by this Code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in Exhibit B specify which kinds of financial interests are reportable. Such a designated employee shall disclose in his or her Statement of Economic Interests those financial interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the financial interests set forth in a designated employee's disclosure categories are the kinds of financial interests which he or she foreseeably can affect materially through the conduct of his or her office.

Section 4. Statements of Economic Interests: Place of Filing

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body as provided by the code reviewing body in the agency's Conflict of Interest Code.

Section 5. Statements of Economic Interests: Time of Filing

(A) Initial Statements. All designated employees employed by the City of Montclair on the effective date of this Code, as originally adopted, promulgated, and approved by the code reviewing body, shall file Statements

within 30 days after the effective date of this Code. Thereafter, each person already in a position when it is designated by an amendment to this Code shall file an initial Statement within 30 days after the effective date of the amendment.

(B) Assuming Office Statements. All persons assuming designated positions after the effective date of this Code shall file Statements within 30 days after assuming the designated positions.

(C) Annual Statements. All designated employees shall file Statements no later than April 1.

(D) Leaving Office Statements. All persons who leave designated positions shall file Statements within 30 days after leaving office.

Section 6. Contents of and Period Covered by Statements of Economic Interests

(A) Contents of Initial Statements. Initial Statements shall disclose any reportable investments, interests in real property, and business positions held on the effective date of the Code. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the effective date of the Code.

(B) Contents of Assuming Office Statements. Assuming Office Statements shall disclose any reportable investments, interests in real property, and business positions held on the date you assumed the office. In addition, income (including loans, gifts, and travel payments) received during the 12 months prior to the date you assumed the office or position.

(C) Contents of Annual Statements. Annual Statements shall disclose any reportable investments, interests in real property, business positions held, and income (including loans, gifts, and travel payments) received during the period covered by the Statement.

(D) Contents of Leaving Office Statements. Leaving Office Statements shall disclose reportable investments, interests in real property, business positions held, and income (including loans, gifts, and travel payments) received during the period covered by the Statement.

Section 7. Manner of Reporting

Statements of Economic Interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the City Clerk and shall contain the following information:

(A) Investments and Real Property Disclosure. When an investment or an interest in real property is required to be reported, the Statement shall contain the following:

1. A statement of the nature of the investment or interest.
2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged.
3. The address or other precise location of real property.
4. A statement whether the fair market value of the property exceeds two thousand dollars (\$2,000), exceeds ten thousand dollars (\$10,000), exceeds one hundred thousand dollars (\$100,000), or exceeds one million dollars (\$1,000,000).

(B) Personal Income Disclosure. When personal income is required to be reported, the statement shall contain:

1. The name and address of each source of income aggregating five hundred dollars (\$500) or more in value or fifty dollars (\$50) or more in value if the income was a gift and a general description of the business activity, if any, of each source.
2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000), or greater than ten thousand dollars (\$10,000), or greater than one hundred thousand dollars (\$100,000).
3. A description of the consideration, if any, for which the income was received.
4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received.
5. In the case of a loan, the annual interest rate and the security, if any, given for the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported, the statement shall contain:

1. The name, address, and a general description of the business activity of the business entity.
2. The name of every person from whom the business entity received payments if the filer's pro rata share of the gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000).

(D) Business Position Disclosure. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management; a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) Acquisition or Disposal During Reporting Period. In the case of an Annual or Leaving Office Statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the Statement, the Statement shall contain the date of acquisition or disposal.

Section 8. Disqualification

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

(A) Any business entity in which the designated employee has a direct or indirect investment worth two thousand dollars (\$2,000) or more;

(B) Any real property in which the designated employee has a direct or indirect interest worth two thousand dollars (\$2,000) or more;

(C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating five hundred dollars (\$500) or more in value provided to, received by, or promised to the designated employee within twelve (12) months prior to the time the decision is made;

(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating three hundred sixty dollars (\$420) or more in value

provided to, received by, or promised to the designated employee within twelve (12) months prior to the time the decision is made.

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this Section.

Section 9. Manner of Disqualification

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest.

Section 10. Assistance of the Commission and Counsel

Any designated employee who is unsure of his or her duties under this Code may request assistance from the Fair Political Practices Commission pursuant to Government Code Section 83114 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

Section 11. Violations

This Code has the force and effect of law. Designated employees violating any provision of this Code are subject to the administrative, criminal, and civil sanctions provided in the Political Reform Act, Government Code Sections 81000 - 91015. In addition, a decision in relation to which a violation of the disqualification provisions of this Code or of Government Code Section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code Section 91003.

Endnotes

1. Designated employees who are required to file Statements of Economic Interests under any other agency's Conflict of Interest Code, or under Article 2 for a different jurisdiction, may expand their Statement of Economic Interests to cover reportable interests in both jurisdictions and file copies of this expanded Statement with both entities in lieu of filing separate and distinct Statements, provided that each copy of such expanded Statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code Section 81004.
2. See Government Code Section 81010 and 2 Cal. Code of Regs Section 18115 for the duties of filing officers and persons in agencies who make and retain copies of Statements and forward the originals to the filing officer.

3. For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.
4. Investments and interests in real property which have a fair market value of less than two thousand dollars (\$2,000) are not investments and interests in real property within the meaning of the Political Reform Act; however, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse, and dependent children own, in the aggregate, a direct, indirect, or beneficial interest of 10 percent or greater.
5. A designated employee's income includes his or her community property interest in the income of his or her spouse, but does not include salary or reimbursement for expenses received from a state, local, or federal government agency.
6. Income of a business entity is reportable if the direct, indirect, or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

AGENDA REPORT

SUBJECT: CONSIDER REDEVELOPMENT AGENCY BOARD OF DIRECTORS' APPROVAL OF THE FILING OF A NOTICE OF COMPLETION FOR THE 9916 CENTRAL AVENUE IMPROVEMENT PROJECT, PHASE 2; REDUCTION OF FAITHFUL PERFORMANCE BOND TO 10 PERCENT; AND RETENTION OF PAYMENT BOND FOR SIX MONTHS	DATE: October 18, 2010
	SECTION: ADMIN. REPORTS
	ITEM NO.: 10
	FILE I.D.: RDA685
	DEPT.: REDEVELOPMENT

CONSIDER INCREASING CONSTRUCTION CONTINGENCY BY \$4,226

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

BUSINESS

PLAN: N/A

REASON FOR CONSIDERATION: The Redevelopment Agency Board of Directors is requested to consider approval of a Notice of Completion for the 9916 Central Avenue Improvement Project, Phase 2.

BACKGROUND: On May 4, 2010, LSC Construction, Inc., was awarded a contract for the 9916 Central Avenue Improvement Project, Phase 2, and entered into Agreement No. 10-47. All work required pursuant to Agreement No. 10-47 has been satisfactorily completed. Work included removal and replacement of flooring material, interior and exterior lighting fixtures, and bathroom fixtures; construction of a fence; electrical upgrades; as well as interior and exterior painting of the residence.

FISCAL IMPACT: The 9916 Central Avenue Improvement Project, Phase 2, is included in the Redevelopment Agency Fiscal Year 2010-2011 Budget. The awarded amount was \$21,300. The final cost of the project was \$27,726. The increase in project costs stemmed from unforeseen conditions at the project site that resulted in two change orders.

The first change order resulted from a lead and asbestos survey that indicated small amounts of lead in the exterior fascia paint, which required abatement of the contaminated areas by a certified environmental consultant/contractor. The cost of the change order was \$4,426.

The second change order resulted from a need to install new subflooring material in the kitchen and bathroom prior to installation of the new flooring material. The contractor found that the multiple layers of previously installed flooring materials had damaged the subfloor in the two rooms, thereby requiring installation of a new layer of subflooring material. The amount of the second change order was \$2,000.

Prepared by: <u>Labrida Preciado</u>	Reviewed and Approved by:	<u>M. STARRS</u>
Proofed by: <u>Whitney P. Caldwell</u>	Presented by:	<u>[Signature]</u>

RECOMMENDATION: Staff recommends the Redevelopment Agency Board of Directors take the following actions related to completion of the 9916 Central Avenue Improvement Project, Phase 2:

1. Approve the filing of a Notice of Completion with the Office of the County Recorder.
2. Reduce the Faithful Performance Bond to 10 percent.
3. Retain the Payment Bond for six months.
4. Increase construction contingency by \$4,226.
5. Release retention 30 days after recordation of Notice of Completion.

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF FILING OF A NOTICE OF COMPLETION FOR CONSTRUCTION OF THE SPLASH PAD AT ALMA HOFMAN PARK	DATE: October 18, 2010
	SECTION: ADMIN. REPORTS
	ITEM NO.: 11
BUSINESS PLAN: STRATEGIC PRIORITY NO. 9	FILE I.D.: PRK200
	DEPT.: PUBLIC WORKS

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

Approval of this Notice of Completion would satisfy a portion of Strategic Priority No. 9 as contained in Montclair's "Business Plan."

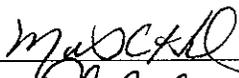
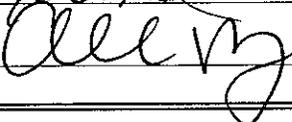
BACKGROUND: On January 19, 2010, the City of Montclair entered into Agreement No. 10-10 with San Bernardino County (County) for the construction of a splash pad facility at Alma Hofman Park. The project includes an equipment shelter that houses the pumping equipment, a 4,000-gallon underground tank and filtration system, and an interactive water play area with structures to stimulate and challenge children of all ages and physical abilities.

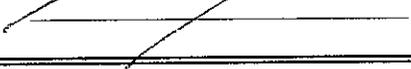
Construction funding for the facility was provided by the County. The City is responsible for ongoing operating and maintenance costs. The County hired Micon Construction to perform the actual construction, and construction began on March 29, 2010. A dedication ceremony was held on July 1, 2010, and the facility was opened to the public.

Since July 1, staff has been working with both the County and Micon Construction to address punch list items and ensure that all equipment was functioning properly. All operating and maintenance issues have been resolved, and the facility is now closed for fall and winter. It will reopen for the summer season on Memorial Day weekend 2011.

FISCAL IMPACT: During the course of construction, it was found to be necessary to remove and reconstruct a block wall that was intended to be used as one of the walls for the equipment shelter. The existing wall was found to be structurally inadequate. The County requested the City contribute \$10,000 towards the reconstruction of the wall; and by City Council action on May 3, 2010, the City agreed. The City incurred no other construction costs for this project.

RECOMMENDATION: Staff recommends the City Council approve the filing of a Notice of Completion for construction of the Splash Pad at Alma Hofman Park.

Prepared by: 
Proofed by: 

Reviewed and Approved by: 
Presented by: 

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 10-111 WITH SAN BERNARDINO COUNTY TO RECEIVE APPROXIMATELY \$9,200 IN NONMATCHING FUNDS FROM THE FISCAL YEAR 2008 HOMELAND SECURITY GRANT PROGRAM

DATE: October 18, 2010

SECTION: AGREEMENTS

ITEM NO.: 1

FILE I.D.: EMR100

BUSINESS

PLAN: N/A

DEPT.: FIRE

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 10-111 with San Bernardino County to receive approximately \$9,200 in nonmatching funds from the Fiscal Year 2008 Homeland Security Grant Program (HSGP).

BACKGROUND: On March 9, 2005, the City of Montclair adopted a Hazard Mitigation Plan as required by the Disaster Act of 2000. Local jurisdictions are required to update this plan every five years pursuant to Section 201.6(d)(3) of Title 44 of the Code of Federal Regulations. The California Emergency Management Agency approved the San Bernardino County Fire Department Office of Emergency Service's request to fund the enhancement or development of participating jurisdictions' Hazard Mitigation Plans through the Fiscal Year 2008 HSGP. Each participating jurisdiction with a population of less than 70,000 is eligible to receive a total of \$12,500 to enhance or develop its Hazard Mitigation Plan. All eligible applicants are required to pay for the consulting services in advance and would be entitled to 100 percent reimbursement through the grant program. On September 7, 2010, the City Council approved retention of consultant Emergency Management Services Initiative to update the Hazard Mitigation Plan at a cost of \$9,200.

FISCAL IMPACT: Should the City Council approve proposed Agreement No. 10-111, the City would receive approximately \$9,200 in nonmatching funds from the Fiscal Year 2008 HSGP for the City's Federal Fiscal Year 2010-11. The distribution of grant funds shall be coordinated through each Operational Area. The coordinating agency for the City of Montclair is the San Bernardino County Fire Department Office of Emergency Services.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 10-111 with San Bernardino County to receive approximately \$9,200 in nonmatching funds from the Fiscal Year 2008 Homeland Security Grant Program.

Prepared by: Angela Bull

Reviewed and
Approved by: [Signature]

Proofed by: Mari Bu

Presented by: [Signature]

**SAN BERNARDINO COUNTY FIRE DEPARTMENT
OFFICE OF EMERGENCY SERVICES**

**FY2008 HOMELAND SECURITY GRANT PROGRAM
SUB RECIPIENT AGREEMENT**

Name of Sub Recipient City of Montclair

Address: 5111 Benito Street

City: Montclair State: CA Zip Code: 91763

Telephone Number: (909) 447-3542

E-Mail Address: abird@cityofmontclair.org

In acceptance of the fiscal year 2008 Homeland Security Grant funds, the above referenced Sub Recipient understands and agrees to the following Federal Grant Guides:

1. Sub Recipient shall submit to (County Fire/OES) a copy of their procurement policies and adhere to such policies as specified in the OMB Circular, and shall comply with the financial and administrative requirements set forth in the current editions of the Office of Justice Programs (OJP) Financial Guide.
2. Sub Recipient shall attach Request for Proposals, bid advertisements, and/or a list of quotes from qualified vendors, etc. to Reimbursement Requests when procurement policies require such procedures in the purchasing of grant equipment.
3. Sub Recipient will not make any award or permit any award (sub-grant or contract) to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549 and 12689, "Debarment and Suspension." Sub Recipient is responsible to ensure that vendors and/or consultants are fully qualified for services and have not been debarred or suspended from the State. Suspended or debarred suppliers can be located on www.pd.dgs.ca.gov/smbus/suspendlist.htm.
4. Sub Recipient must maintain all payment documents and procurement records for grant purchases/expenditures for three (3) years after the close of the grant, which occurs when the Office of Homeland Security has filed the final report.
5. Sub Recipient shall immediately report to (County Fire/OES) all damaged, lost or stolen equipment/property that is purchased with grant funds per the OMB Circular. Sub Recipient must be complete and return the attached "Damaged, Lost, or Stolen Report Form" to County Fire/OES for reporting to the California Emergency Management Agency (CALEMA).
6. Sub Recipient shall give the federal government, the General Accounting Office, the Comptroller General of the United States, the State of California, the County of San Bernardino, through any

authorized representative, access to and the right to examine all paper or electronic records, books, papers or documents related to the award.

7. Sub Recipient shall assure that grant funds are used for allowable, fair and reasonable costs. Funds awarded shall be used to supplement existing funds for program activities, and will not supplant (replace) non-federal funds. All grant-purchased equipment shall be maintained for intended purposes.
8. Once all grant equipment is tagged and documented by County Fire/OES, it shall be the responsibility of the Sub Recipient to track and maintain all equipment on a generally accepted accounting system. County Fire/OES will request periodic progress reports on the location and condition of grant purchased equipment to forward to CALEMA when necessary.
9. Sub Recipient will comply with Standardized Emergency Management System (SEMS) requirements as stated in the California Emergency Services Act, Government Code, Chapter 7 of Division 1 of Title 2, Section 8607.1(e) and CCR Title 19, Sections 2445, 2446, 2447 and 2448.
10. Sub Recipient will comply with all federal statutes relating to Civil Rights and Nondiscrimination. These include but are not limited to:
 - a. Title VI of the Civil Rights Act of 1964 (P.L. 88-352), as amended, which prohibits discrimination on the basis of race, color or national origin.
 - b. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683 and 1685-1686), which prohibits discrimination on the basis of gender.
 - c. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794) which prohibits discrimination on the basis of handicaps.
 - d. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107) which prohibits discrimination on the basis of age.
 - e. The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255) as amended, relating to non-discrimination on the basis of drug abuse.
 - f. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
 - g. §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records.
 - h. Title VIII of the Civil Rights Act of 1968 (42 U.S.C § 3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing.
 - i. Title 28, Code of Federal Regulations, Part 42 Subparts C,D,R and G.
 - j. Title 28, CFR, Part 35.
 - k. Any other non discrimination provisions in the specific statute(s) under which application for federal assistance is being made, and
 - l. Title 44 CFR Parts 7,16, and 19 relating to non-discrimination.
 - m. The requirements on any other non-discrimination statute(s) which may apply to the application.
 - n. Will, in the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds or race, color, religion, national origin, gender, or disability against a recipient of funds, the recipient will forward a copy of the finding to the Office of Civil Rights, Office of Justice Programs.
 - o. Will provide an Equal Employment Opportunity Plan, if applicable, to the Department of Justice Office of Civil Rights within 60 days of grant award.

- p. Will comply, and assure the compliance of all its Sub Grantees and contractors, with the non-discrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 USC 3789(d), or the Juvenile Justice and Delinquency Prevention Act, or the Victims of Crime Act, as appropriate; the provision of the current edition of the Office of Justice Programs Financial and Administrative guide for Grants. M7100.1.

11. Sub Recipient will provide any information requested by FEMA/OHS to insure compliance with applicable laws including to the following:

- a. Institution of environmental quality control measures under National Environmental Policy Act, National Historical Preservation Act, Archeological and Historic Preservation Act, Endangered Species Act, and Executive Orders on Floodplains (E)11988), Wetlands (11990) and Environmental Justice (12898) and Environmental Quality (EO11514).
- b. Title 44 CFR Parts 9 and 10, referring floodplain management and environmental considerations.
- c. Notification of violating facilities pursuant to EO 11738.
- d. Assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.).
- e. Conformity of federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.).
- f. Protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523).
- g. California Environmental Quality Act (CEQA), California Public Resources Code Sections 21080-21098, California Code of Regulations, Title 14, Chapter 3 Section 15000-15007.
- h. Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
- i. Applicable provisions of the Coastal Barrier Resources Act (P.L. 97-348) dated October 19, 1982 (16 USC 3501 et seq.) which prohibits the expenditure of most new Federal funds within the units of the Coastal Barrier Resources System.

12. Will comply with all applicable Federal, State, and Local environment and historical preservation (EHP) requirements. Failure to meet Federal, State, and local EHP requirements and obtain applicable permits may jeopardize Federal funding. Will comply with all conditions placed on any project as the result of the EHP review; any change to the scope of work of a project will require re- evaluation of compliance with these EHP requirements.

13. Agrees not to undertake any project having the potential to impact the EHP resources without the prior writing approval of FEMA/OHS, including but not limited to communications towers, physical security enhancements, new construction and modifications to buildings that are 50 (fifty) years old or more. Any construction related activities initiated prior to full environmental and historic preservation (EHP) review will result in a non-compliance finding. If ground disturbing activities occur during the project implementation, the sub recipient must ensure monitoring of the ground disturbance and if any potential archaeological resources are discovered, the Sub Recipient will immediately cease activity in that area and notify FEMA/OHS and the appropriate State Historic Preservation Office.

14. Sub Recipient will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. Sections 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

15. Sub Recipient will comply with provisions of the Hatch Act (5 U.S.C. Sections 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.
16. Sub Recipient will comply, if applicable, with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
17. Sub Recipient will comply, if applicable, with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling and treatment of warm blooded animals held for research, teaching, or other activities supported by this award assistance.
18. Sub Recipient will comply with the minimum wage and maximum hour provisions of the Federal Fair Labor Standards Act (29 U.C.S. 201), as they apply to employees of institutions of higher education, hospitals, and other non-profit organizations.
19. Sub Recipient will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. Section 276a to 276a-7), the Copeland Act (40 U.S.C. Section 276c and 18 U.S.C. Sections 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. Sections 327-333), regarding labor standards for federal assisted construction sub-agreements.
20. Sub Recipient will comply with provisions of 28 CFR applicable to grants and cooperative agreements, including:
 - a. Part 18, Administrative Review Procedures.
 - b. Part 20, Criminal Justice Information Systems.
 - c. Part 22, Confidentiality of Identifiable Research and Statistical Information.
 - d. Part 23, Criminal Intelligence Systems Operating Policies.
 - e. Part 30, Intergovernmental Review of Department of Justice Programs and Activities.
 - f. Part 35, Nondiscrimination on the Basis of Disability in State and Local Government Services
 - g. Part 38, Equal Treatment of Faith-based Organizations
 - h. Part 63, Floodplain Management and Wetland Protection Procedures.
 - i. Part 42, Nondiscrimination/Equal Employment Opportunities Policies and Procedures.
 - j. Part 61, Procedures for Implementing the National Environment Policy Act.
 - k. Part 64, Floodplain Management and Wetland Protection Procedures; and Federal laws or regulations applicable to Federal Assistance Programs.
 - l. Part 66, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
 - m. Part 67, Government-wide Debarment and Suspension (Non-Procurement).
 - n. Part 69, New Restrictions on Lobbying
 - o. Part 70, Uniform Administrative Requirements for Grants and Cooperative Agreements (including sub-awards) with Institutions of Higher Learning, Hospitals and other Non-Profit Organizations.
 - p. Part 83, Government- Wide Requirements for a Drug Free Workplace (grants).
21. Sub Recipient will comply with Subtitle A, Title II of the Americans with Disabilities Act (ADA) 1990.

22. Sub Recipient agrees to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including but not limited to, the provision of any information required for the assessment or evaluation of any activities within this agreement.
23. Sub Recipient agrees that all allocations and use of funds under this grant will be in accordance with the FY 2008 Homeland Security Grant Program Guidance and Application Kit, and the California Supplement to the FY 2008 Homeland Security Grant Program Guidance and Application Kit. All allocations and use of funds under this grant will be in accordance with the allocations, and use of grant funding which must support the goals and objectives included in the State and/or Urban Area Homeland Security Strategies as well as the investments identified in the Investment Justifications which were submitted as part of the California FY2008 Homeland Security Grant Program application. Further, use of FY2008 funds is limited of those investments included in the California FY08 Investment Justifications submitted to DHS/FEMA and evaluated through the peer review process.
24. Sub Recipient acknowledges that FEMA reserves a royalty-free, non exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for Federal government purposes: a) the copyright in any work developed under an award or sub-award; and b) any rights of copyright to which a recipient or sub-recipient purchases ownership with Federal support. The recipient agrees to consult with GDP regarding the allocation of any patent rights that arise from, or are purchased with, this funding.
25. As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28CFR Part 67, Section 67. 510.
 - a. The applicant certifies that it and its principals:
 - (i) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency.
 - (ii) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or Local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
 - (iii) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (I)(b) of this certification; and (d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or Local) terminated for cause or default; and
 - b. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

26. Sub Recipient agrees to comply with the Drug-Free Workplace Act of 1988, and implemented at 28CFR Part 67, Subpart F, for grantees as defined at 28 CFR Part 67 Sections 67.615 and 67.620 and certifies that it will or will continue to provide a drug-free workplace by:
- a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
 - b. Establishing an on-going drug-free awareness program to inform employees about:
 - (1) The dangers of drug abuse in the workplace.
 - (2) The grantee's policy of maintaining a drug-free workplace
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
 - c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a).
 - d. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.
 - e. Notify County Fire/OES, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title. Notice shall include the identification number(s) of each affected grant.
 - f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:
 - i. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - ii. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by Federal, State, or Local health, law enforcement or other appropriate agency.
 - g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).
27. Sub Recipient will comply with all applicable requirements of all other federal laws, executive orders, regulations, program and administrative requirements, policies and any other requirements governing this program.

28. Sub Recipient understands that failure to comply with any of the above assurances may result in suspension, termination or reduction of grant funds.
29. Sub Recipient will comply with FEMA's codified regulation 44 Part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, including part 13.1 regarding the payment of interest earned on advances.
30. Sub Recipient will establish safeguards to prohibit employees from using positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain for themselves or others, particularly those with whom they have family, business or other ties.
31. Sub Recipient agrees that to the extent contractors or subcontractors are utilized, grantees and sub grantees shall use small, minority, women-owned, or disadvantaged business concerns and contractors or subcontractors to the extent practicable.
32. Sub Recipient will comply with 2 CFR 215.25, and will notify OHS of any developments that have a significant impact on award-supported activities, including changes to key program staff.
33. Sub Recipient will comply, if applicable, with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.), which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
34. Sub Recipient understand and agrees Federal funds will not be used, directly or indirectly, to support the enactment, repeal, modification or adoption of any law, regulation, or policy, at any level of government, without the express prior written approval from FEMA.
35. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 et seq. (P.L. 91-646) which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of federal or federal or federally assisted programs. These requirements apply to all interested in real property acquired for project purpose regardless of federal participation in purchases. Will also comply with Title 44-Code of Federal Regulations, Part 25, Uniform Relocation Assistance and Real Property Acquisition for Federal and federally-assisted programs.
36. Will comply, if applicable, with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 (ten thousand dollars) or more.
37. Agrees that all publications created or published with funding under this grant shall prominently contain the following statement: *"This document was prepared under a grant from FEMA's Grant Programs Directorate. U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of FEMA's Grant Programs Directorate or the U.S Department of Homeland Security."* The recipient also agrees that, when practicable, any equipment purchased with grant funding shall be prominently marked as follows: *"Purchased with funds provided by the U.S Department of Homeland Security."*

38. Regarding labor standards for federally assisted constructions, Sub Recipient agrees that:
- a. No federal appropriated funds have been paid or will be paid, by or in behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
 - b. If any other funds than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or an employee of Congress, or employee of a Member of Congress in connection with the federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
 - c. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers including subgrants, contracts under grants and cooperative agreements, and subcontract(s) and that all sub recipients shall certify and disclose accordingly.
 - d. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
39. Sub Recipient agrees that equipment acquired or obtained with grant funds:
- a. Will be made available pursuant to applicable terms of the California Disaster and Civil Defense Master Mutual Aid Agreement in consultation with representatives of the various fire, emergency medical, hazardous materials response services, and law enforcement agencies within the jurisdiction of the applicant, and deployed with personnel trained in the use of such equipment in a manner consistent with the California Law Enforcement Mutual Aid Plan or the California Fire Services and Rescue Mutual Aid Plan.
 - b. Is consistent with needs as identified in the State Homeland Security Strategy and will be deployed in conformance with that Strategy.
40. Sub Recipient agrees that funds awarded under this grant will be used to supplement existing funds for programs activities, and will not supplant (replace) non-federal funds.
41. Sub Recipient will comply with all applicable Federal statues, regulations, policies, guidelines and requirements, including OMB Circulars A-21, A-87, A-102, A-110, A-122, and A-133, E.O. 12372 and the current Administrative Requirements, Cost Principles, and Audit Requirements. Will also comply with Title 28, Code of Federal Regulations, Parts 66 and 70, that govern the application, acceptance and use of Federal funds for federally assisted projects.
42. Sub Recipient is required to provide a single audit report to County Fire/OES if total federal grant dollars received in a fiscal year exceeds \$500,000.

- 45. Sub Recipient will comply with sole source procurement requirements of the Homeland Security Grant. Sole Source Contract Request Form must be completed and submitted to County Fire/OES for reporting and approval of CALEMA prior to incurring any cost. Sub Recipient understands that this requirement does not supersede the Sub Recipients sole source procurement policy.

- 46. Sub Recipient shall obtain a performance bond for any equipment item over \$250,000, or any vehicle, aviation, or watercraft (regardless of the cost) financed with Homeland Security dollars.

By signing this agreement, the Sub Recipient has read, understands, and agrees to the above terms. (The authorized signer of this agreement should be an Elected Official, Mayor, City/Town Manager, Fire Chief or Police Chief.)

Authorized Signature

Date

Title

Please fax this form to (909) 356-3965, Attention: Grants Administration Unit.

AGENDA REPORT

SUBJECT: CONSIDER REDEVELOPMENT AGENCY BOARD OF DIRECTORS' ADOPTION OF RESOLUTION NO.10-04 MAKING A FINDING THAT THE PLANNING AND ADMINISTRATIVE EXPENSES FUNDED FROM THE LOW- AND MODERATE-INCOME HOUSING FUND ARE NECESSARY FOR THE PRODUCTION, IMPROVEMENT, AND PRESERVATION OF THE COMMUNITY'S SUPPLY OF LOW- AND MODERATE-INCOME HOUSING

DATE: October 18, 2010

SECTION: RESOLUTIONS

ITEM NO.: 1

FILE I.D.: RDA575

DEPT.: REDEVELOPMENT

BUSINESS

PLAN: N/A

REASON FOR CONSIDERATION: State law allows redevelopment agencies to use low-to-moderate-income housing funds to pay for certain administrative and planning costs related to the production, improvement, and preservation of affordable housing. Health and Safety Code Section 33334.3 requires the Redevelopment Agency make a finding that administrative and planning expenses are necessary and related to the production, improvement, and preservation of the community's supply of affordable housing. The Redevelopment Agency Board of Directors is requested to consider adoption of Resolution No. 10-04 making such finding. A copy of proposed Resolution No. 10-04 is attached for the Agency Board of Directors' review and consideration.

BACKGROUND: The City of Montclair Redevelopment Agency administers various programs and participates in various projects to benefit low- and moderate-income households. Examples of such programs include a portion of the costs related to the Exterior Housing Improvement Program, the cost for the Rehabilitation Loan Program and the Rehabilitation Grant Program for Seniors, the acquisition and rehabilitation of housing owned by the Redevelopment Agency and operated by the Montclair Housing Corporation, and the cooperative partnerships that the Redevelopment Agency has developed with nonprofit housing developers for construction of new affordable units. These programs and projects generate administrative costs in the form of Redevelopment Agency staff time, occasional use of consulting services, legal fees, costs for supplies, and payment of mandated fees.

The primary focus for use of Redevelopment Agency low- and moderate-income housing funds must be program and project costs. The Redevelopment Agency Board of Directors is charged with making a finding that the amount of administrative and planning costs charged to the Housing Fund are necessary. In the Fiscal Year 2010-11 Budget, the following administrative and planning costs have been appropriated to the Housing Fund as shown in Table A:

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

Proofed by: [Signature] Presented by: [Signature]

Table A <i>Administrative and Planning Costs</i>	
Personnel	\$242,522
Legal Services	\$ 46,000
Contract Services	\$ 53,750
Other Expenses	\$ 43,105
Total	\$385,377

The total Fiscal Year 2010-11 Housing Fund Budget is \$7,550,621. The personnel costs shown in Table A represent partial salaries and benefits for Redevelopment Agency staff members involved in housing programs and member of the Finance Division that are tasked with accounting functions related to the Housing Fund. If taken in total, the partial salaries and benefits would represent 3.32 full-time positions. The legal services and contract services are relatively self explanatory. Contract services include charges for audit fees and fees for title reports that may be required in connection with implementation of Housing Improvement Task Force Foundation Areas. Other expenses include supplies but also include the Housing Fund's portion of SB 2557 charges. SB 2557 charges are the tax collection fees charges by the County of San Bernardino for collection of property tax. The Fiscal Year 2010-11 Housing Fund's portion of the SB 2557 costs are \$24,960.

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

Table B Housing Fund Expenditures			
<i>Fiscal Year</i>	<i>Total Expenditures</i>	<i>Administrative and Planning Expenditures</i>	<i>Percentage</i>
2007-08 (audited)	\$ 3,965,545	\$ 277,047	7
2008-09 (audited)	\$ 1,739,951	\$ 305,077	18
2009-10 (budgeted)	\$ 7,556,621	\$ 307,621	4
2010-11 (budgeted)	\$ 7,550,621	\$ 385,377	5
Total	\$20,812,738	\$1,275,122	6

As Table B reveals, direct expenditures can vary widely from year to year because of the timing of large projects in which the Redevelopment Agency is purchasing land or contributing large sums to develop projects the Redevelopment Agency has entered into through Disposition and Development Agreements or Affordable Housing Agreements. The table also indicates that administrative and planning expenditures have roughly remained in the same range for the last four years. Fiscal Year 2010-11 administrative costs reflect an increase in portions of personnel costs charged to the Housing Fund. The average cost of administrative and planning expenses relative to total costs for the 2010-11 fiscal year is 5 percent. The four-year average percentage of administrative and planning costs to total expenditures is 6 percent.

Staff believes the Redevelopment Agency's use of low- and moderate-income housing funds for administrative and planning purposes is reasonable and is not disproportionate to the costs incurred for projects and programs managed by the Redevelopment Agency. Therefore, staff recommends the Redevelopment Agency Board of Directors adopt Resolution No. 10-04, which finds that Housing Fund expenditures for administrative and planning purposes are necessary.

FISCAL IMPACT: There would be no direct fiscal impact to the Redevelopment Agency Budget should the Agency Board adopt proposed Resolution No. 10-04.

RECOMMENDATION: Staff recommends the Redevelopment Agency Board of Directors adopt Resolution No. 10-04 making a finding that the planning and administrative expenses funded from the Low- and Moderate-Income Housing Fund are necessary for the production, improvement, and preservation of the community's supply of low-and moderate-income housing.

RESOLUTION NO. 10-04

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

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

WHEREAS, the Agency has engaged in a number of projects consistent with Section 33334.2 to increase, improve, and preserve low-to-moderate-income housing and the Agency reasonably expects to continue such activity in accordance with the budget for 2010-11; and

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

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

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

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

Section 2. The Agency asserts that, in the event of substantial changes in project activity, it will reevaluate the allocations and only assess the Low- and Moderate-Income Housing Fund for that portion of administrative expenses that are reasonably related to the purposes allowable under law.

APPROVED AND ADOPTED this XX day of XX, 2010.

Chairman

ATTEST:

Secretary

I, Donna M. Jackson, Secretary of the City of Montclair Redevelopment Agency, DO HEREBY CERTIFY that Resolution No. 10-04 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

Donna M. Jackson
Secretary

EXHIBIT A

CITY OF MONTCLAIR REDEVELOPMENT AGENCY

LOW- AND MODERATE-INCOME HOUSING FUND

FISCAL YEAR 2010-11

PROJECTS AND PROGRAMS JUSTIFYING USE OF ADMINISTRATIVE FUNDS

San Antonio Gateway Area Projects

- **Senior Housing Project:** The City of Montclair Redevelopment Agency (Agency) partnered with nonprofit housing developer National Community Renaissance of California (National CORE) on development of the 85-unit affordable senior project at Mills Avenue in the area called San Antonio Gateway. The total cost of the project was approximately \$13 million. The project was financed with HUD 202 funds, a residual receipts loan from the Agency for approximately \$1.2 million, and 4 percent low- and moderate-income housing tax credits. The Disposition and Development Agreement (DDA) with the Agency was approved in June 2008. The project was completed in December 2009. In addition to monitoring compliance issues, staff has been monitoring any resident complaints.
- **Mills Family Project:** The Mills Family Project is located directly south of the Senior Housing Project on Mills Avenue. The Agency has partnered with National CORE on development of a 50-unit affordable family rental housing project. The total cost of the project is approximately \$18 million. The Agency entered into an Affordable Housing Agreement with National CORE in 2008. The Affordable Housing Agreement originally authorized Agency participation in the amount of \$3.6 million. However, the Agency amended the Affordable Housing Agreement in 2009 to provide the project with an additional \$2.65 million. The Mills Family Project received a 9 percent allocation of tax credits and is now under construction.
- **Special Needs Housing Project:** The Agency purchased a one-half acre property at 4113 Kingsley Street in 2009. The property is located adjacent to the Mills Family Project. The Agency has partnered with National CORE on the development of a special needs housing project on the site. National CORE executed an option agreement with the Agency regarding purchase of the site on October 19, 2009. National CORE has received a commitment of funds through HUD Section 811 financing for the project. The Agency would contribute approximately \$1.3 in acquisition and construction costs. Plans for the proposed project are being developed. It is estimated that 18 units for developmentally disabled persons will be constructed. A DDA with National CORE is currently being developed for presentation to the Redevelopment Agency Board of Directors.

Acquisition Purchases

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

Single-Family Housing Rehabilitation Program

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

Single-Family Rehabilitation Grant Program for Seniors

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

Multifamily Property Rehabilitation Loan

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

Exterior Housing Improvement Program (EHIP)

The Agency administers a program designed to assist income-qualifying homeowners with a grant up to \$7,000 for certain landscape maintenance and building code compliance issues. This fiscal year, the Redevelopment Agency Board of Directors approved a \$10,000 EHIP grant for those willing to install drought-tolerant landscaping and take a class to learn about proper maintenance of such plantings. In addition, these applicants have agreed to repay certain grant funds if yards are not properly maintained. The Housing Fund is limited for use to those items related to building code compliance. Approximately 50 grants are completed each year.

Affordable Housing Covenant Compliance

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

Housing Element

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

Implementation Plans

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

Administration

Staff works to track the Low- And Moderate-Income Housing Fund tax increment receipts, administers accounts payable, prepares budget documents, and coordinates financing and compliance reports including, but not limited to, check registers, financial statements, the State Controller's Report, the Statement of Indebtedness, the annual State Department of Housing and Community Development housing report, and other required reporting requirements. In addition, staff establishes, implements, and monitors compliance with various housing programs offered by and through the Redevelopment Agency.

EXHIBIT B
 CITY OF MONTCLAIR REDEVELOPMENT AGENCY
 LOW- AND MODERATE-INCOME HOUSING FUND
 FISCAL YEAR 2010-11

<i>Planning and Administrative Costs</i>	
Personnel	\$242,522
Legal services	\$ 46,000
Contract services	\$ 53,750
Other expenses	\$ 43,105
Total	\$385,377

<i>Direct Program and Project Costs*</i>	\$7,165,244
--	--------------------

TOTAL	\$7,550,621
--------------	--------------------

*Includes funds encumbered but not yet paid to National CORE Special Needs Housing Project

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 10-2864 AUTHORIZING MAYOR EATON TO SIGN THE RIGHT-OF-WAY CERTIFICATION FOR THE MISSION BOULEVARD CORRIDOR IMPROVEMENT PROJECT, PHASE 9	DATE: October 18, 2010 SECTION: RESOLUTIONS ITEM NO.: 2 FILE I.D.: SSP178
BUSINESS PLAN: STRATEGIC PRIORITY NO. 3, GOAL 2	DEPT.: PUBLIC WORKS

REASON FOR CONSIDERATION: The California Department of Transportation (Caltrans) requires that a right-of-way certification be prepared for each project using federal funds. The certification must be signed by a responsible city official. The responsible city official must be designated by City Council resolution.

Adoption of Resolution No. 10-2864 would satisfy a portion of Strategic Priority No. 3, Goal 2, as contained in Montclair's "Business Plan."

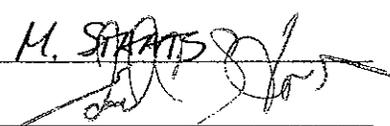
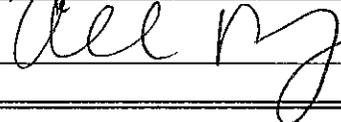
BACKGROUND: As part of the City's continuing efforts to improve the appearance of the Mission Boulevard corridor, federal funds have been secured to assist the City with construction efforts. The federal funds are administered by Caltrans. In order for the City to advertise the project for construction bids, a request for authorization to advertise and award must be obtained from Caltrans.

One requirement of the authorization process is that the City must prepare and submit a right-of-way certification to Caltrans. The certification verifies that right-of-way was acquired in accordance with state and federal laws. The certification must be signed by the City with an accompanying Resolution identifying the person authorized to sign on behalf of the City.

Proposed Resolution No. 10-2864 designates Mayor Eaton as the responsible person for signing the certification.

FISCAL IMPACT: Funding for the Mission Boulevard Corridor Improvement Project includes \$551,000 from the federal government. Failure to submit a right-of-way certification prior to advertising would eliminate all chances for federal reimbursement.

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 10-2864 authorizing Mayor Eaton to sign the right-of-way certification for the Mission Boulevard Corridor Improvement Project, Phase 9.

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

RESOLUTION NO. 10-2864

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AUTHORIZING MAYOR EATON TO SIGN THE RIGHT-OF-WAY CERTIFICATION FOR THE MISSION BOULEVARD CORRIDOR IMPROVEMENT PROJECT, PHASE 9

WHEREAS, the City of Montclair is the lead agency in designing and constructing various street improvements for Mission Boulevard in the City of Montclair; and

WHEREAS, the improvement project includes partial funding through the federal government; and

WHEREAS, the use of federal funds for the Mission Boulevard Corridor Improvement Project requires the California Department of Transportation's authorization to advertise and award a construction contract; and

WHEREAS, prior to requesting authorization to advertise and award a construction contract, the local agency responsible for the project must prepare, sign, and submit a right-of-way certification to the California Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Montclair does hereby authorize Mayor Eaton to sign the right-of-way certification for the Mission Boulevard Corridor Improvement Project, Phase 9.

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. 10-2864 was duly adopted by the City Council of said city and was approved by the Mayor of said city at a regular meeting of said City Council held on the XX day of XX, 2010, and that it was adopted by the following vote, to-wit:

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

Donna M. Jackson
City Clerk

**EXHIBIT 13 – B - Right of Way Certification Local Assistance Project
(Off State Highway System)**

CITY OF MONTCLAIR

RIGHT OF WAY CERTIFICATION NO. 1

PROJECT: RPSTPLE- 5326(015)
Federal Program # (if available)

**Project Location: Mission Blvd. Phase 9
Improvement from Los Angeles County Line to
Pipeline Avenue (1400 feet Easterly).**

**General Description of Project: Landscaping,
Improved Street Lighting, and Sidewalk
Construction.**

1. STATUS OF REQUIRED RIGHT OF WAY

A No additional right of way is required.

B Construction Permits, etc., required: The work being performed is in both the City of Montclair and unincorporated portions of San Bernardino County within Montclair's sphere of influence. On September 23, 2010, permit No. T10002336 was obtained from San Bernardino County for the work within the unincorporated County area.

2. STATUS OF ACCESS CONTROL

A. Conventional Highway, not required.

3. STATUS OF AFFECTED RAILROAD OPERATING FACILITIES

None affected.

4. MATERIAL SITE(S)

None required.

5. DISPOSAL SITE(S)

None required.

6. STATUS OF REQUIRED UTILITY RELOCATIONS

All necessary arrangements have been made for the completion of all remaining utility work required to be coordinated with project construction. The special provisions in the contract provide for the coordination. Arrangements have been made with the owners of all conflicting utility encroachments, which will remain within the right of way of the project so that adequate control of the right of way will be achieved.

7. RIGHT OF WAY CLEARANCE

There were no improvements or obstructions located within the limits of this project.

8. AIRSPACE AGREEMENTS

There are no airspace lease properties within the limits of this project.

9. COMPLIANCE WITH RELOCATION ASSISTANCE PROGRAM REQUIREMENTS

Compliance was not required as there were no displacements for this project.

10. COOPERATIVE AGREEMENTS

None required.

11. ENVIRONMENTAL MITIGATION

No environmental mitigation parcels are required for this project.

12. CERTIFICATION (USE THE APPROPRIATE STATEMENT)

I hereby certify the right of way on this project as conforming to 23 CFR 635.309(b), (c)(1) or (c)(2).
The project may be advertised with contract award being made at any time.

13. INDEMNIFICATION BY LOCAL AGENCY

The City agrees to indemnify, defend, and hold harmless the Department of Transportation (Caltrans) from any and all liabilities which may result in the event the right of way for this project is not clear as certified. The City shall pay from its own nonmatching funds, any costs which arise out of delays to the construction of the project because utility facilities have not been removed or relocated, or because rights of way have not been made available to City for the orderly performance of the project work.

City of
Montclair

By: _____
Mayor

As authorized Resolution No. 10-2864

Dated _____

The undersigned Caltrans Official has reviewed this Right of Way Certification as to form and content. Based on the review of the documents submitted, the Certificate is accepted on behalf of the local public agency. It remains the sole responsibility of the local public agency to ensure compliance with the Federal Uniform Act and this Certificate is accepted on their behalf.

Accepted as to form and content:

By _____

Title _____

Date _____

Distribution: Local agency completes this form, signs and sends it to the DLAE, who forwards it to District Right of Way for signature. Right of Way signs the completed form, keeps a copy for their files and sends original back to DLAE, who makes a copy of this file and sends the original back to the local agency. (There is an exception: If the local agency is doing work on an Interstate Highway, and requesting a Right of Way Certification #3 with a work-around, the Certification [Exhibit 13-B]) is sent to HQ Right of Way Local Programs, who forwards it to FHWA for their approval. But if the locals are doing work on the State Highway System, then they follow the instructions and guidelines of the *Right of Way Manual*, not the LAPM.)

MINUTES OF THE MEETING OF THE MONTCLAIR
PERSONNEL COMMITTEE HELD ON MONDAY,
OCTOBER 4, 2010, AT 8:10 P.M. IN THE CITY
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,
MONTCLAIR, CALIFORNIA

I. CALL TO ORDER

Mayor Eaton called the meeting to order at 8:10 p.m.

II. ROLL CALL

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

III. APPROVAL OF MINUTES

**A. Minutes of the Regular Personnel Committee Meeting of
September 20, 2010.**

Moved by City Manager Starr, seconded by Council Member Ruh,
and carried unanimously to approve the minutes of the Personnel
Committee meeting of September 20, 2010.

IV. PUBLIC COMMENT - None

V. CLOSED SESSION

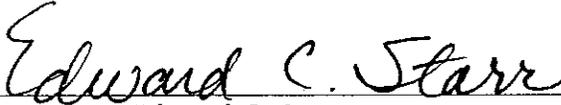
At 8:11 p.m., the Personnel Committee went into Closed Session
regarding personnel matters related to appointments, resignations/
terminations, and evaluations of employee performance.

At 8:30 p.m., the Personnel Committee returned from Closed Session.
Mayor Eaton stated that no announcements would be made at this time.

VI. ADJOURNMENT

At 8:30 p.m., Mayor Eaton adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



Edward C. Starr
City Manager *lqs*