

CITY OF MONTCLAIR

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

To be held in the Council Chambers

5111 Benito Street, Montclair, California

June 20, 2011

7:00 p.m.

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

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

Page No.

**I. CALL TO ORDER** - City Council and Redevelopment Agency and  
Montclair Housing Corporation Boards of Directors

**II. INVOCATION**

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

**III. PLEDGE OF ALLEGIANCE**

**IV. ROLL CALL**

**V. PRESENTATIONS**

- A. Introduction of New Employees
- B. Presentation by Inland Empire Resource Conservation District on Present and Future Partnerships - Inland Empire RCD/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 Board/MHC Board is prohibited from taking action on items not listed on the agenda.*

**VII. PUBLIC HEARINGS**

- |    |   |    |
|----|---|----|
| A. | Consider Adoption of Resolution No. 11-2908 Amending the Fee Schedule for the Collection and Disposal of Residential Refuse [CC]                              | 7  |
| B. | First Reading - Adoption of Ordinance No. 11-923 Adding Chapter 11.75 to Title 11 of the Montclair Municipal Code Related to Undergrounding of Utilities [CC] | 19 |

**VIII. CONSENT CALENDAR**

- |     |   |    |
|-----|---|----|
| A.  | Approval of Minutes   |    |
| 1.  | Minutes of the Regular Joint Council/Agency Board/MHC Board Meeting of June 6, 2011 [CC/RDA/MHC]  |    |
| B.  | Administrative Reports  |    |
| 1.  | Consider Receiving and Filing of Treasurer's Report [CC]  | 25 |
| 2.  | Consider Approval of Warrant Register and Payroll Documentation [CC]  | 26 |
| 3.  | Consider Receiving and Filing of Treasurer's Report [RDA]   | 27 |
| 4.  | Consider Approval of Warrant Register [RDA]   | 28 |
| 5.  | Consider Receiving and Filing of Treasurer's Report [MHC]   | 29 |
| 6.  | Consider Approval of Warrant Register [MHC]   | 30 |
| 7.  | Consider Setting a Public Hearing to Consider Adoption of Resolution No. 11-12, a Resolution of the City of Montclair Redevelopment Agency Approving Agreement No. 11-79, a Disposition and Development Agreement by and Between the City of Montclair Redevelopment Agency and National Community Renaissance of California (National Core) Regarding Property Located at 4113 Kingsley Street [RDA]   | 31 |
| 8.  | Consider Setting a Public Hearing to Consider Adoption of Resolution No. 11-2910 Amending the Master User Fee Schedule Related to Vehicle Impound Service Fees [CC]   | 34 |
| 9.  | Consider Setting a Public Hearing to Consider Ordinance No. 11-924, Replacing Section 11.72.270 of the Montclair Municipal Code Related to Temporary and Special Event Sign Permits [CC]  | 38 |
| 10. | Consider Providing Concurrence With the Metro Gold Line Foothill Extension Construction Authority's Inclusion of the Proposed Concept for the Montclair Station and Parking Locations as Part of the Project Description for the EIS/EIR and Updated Project Definition Report for the Azusa to Montclair Project, With the Understanding that Further Analysis Will Take Place Regarding These Locations Through the Environmental Review Process [CC] | 43 |

11. Consider Approval of the Filing of a Notice of Completion for the Alma Hofman Park Lighting and Landscape Improvement Project; Reduction of Faithful Performance Bond to 10 Percent; and Retention of Payment Bond for Six Months [CC]

Consider Release of Retention 30 Days After Recordation of Notice of Completion [CC]

Consider Authorization of a \$40,855.66 Transfer From 2005 Lease Revenue Bond Proceeds From the Montclair Senior Center Construction Contingency to the Alma Hofman Park Lighting and Landscape Improvement Project [CC]

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### C. Agreements

1. Consider Redevelopment Agency Board of Directors' Approval of Agreement No. 11-59 With R. Richard Fleener for Planning Services [RDA]

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2. Consider Approval of Agreement No. 11-66 with Dietz Towing and Agreement No. 11-67 With Pacific Truck and Auto Towing, Inc., for Vehicles Towed and Stored at the City Impound Lot Pursuant to California Vehicle Code Section 14602.6, the 30-Day Impound Law [CC]

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3. Consider Approval of the Filing of a Notice of Completion for Construction of the Montclair Senior Center Project; Reduction of Faithful Performance Bond to 10 Percent; and Retention of Payment Bond for Six Months [CC]

Consider Release of Retention 30 Days After Recordation of Notice of Completion [CC]

Consider Approval of Agreement No. 11-68 Amending Agreement Nos. 10-22 and 10-140 With Cavalier Construction for Miscellaneous Construction Work Associated with Montclair Youth and Senior Centers and Increasing Compensation Due Under Agreement Nos. 10-22 and 10-140 by \$25,000 [CC]

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4. Consider Approval of Agreement No. 11-69 With Lientek Solutions, Inc., for Lien Processing of Vehicles Stored at the City Impound Lot Pursuant to California Vehicle Code Section 14602.6, the 30-Day Impound Law [CC]

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5. Consider Approval of Agreement No. 11-70 With Catering Systems, Inc., to Provide Meals for the City's Senior Citizen Nutrition Program [CC]

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6. Consider Approval of Agreement No. 11-71 With Ontario-Montclair School District to Provide After-School Programs [CC]

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7. Consider Approval of Agreement No. 11-72 With Nutrition Ink to Provide Nutrition-Education Services for the City's Senior Citizen Nutrition Program [CC]

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8. Consider Approval of Agreement No. 11-73, the Third Amendment to Agreement No. 07-122, a Funding and Administrative Services Agreement by and Between the City of Montclair Redevelopment Agency and Neighborhood Partnership Housing Services [RDA]
- Consider Approval of Agreement No. 11-74, the Third Amendment to Agreement No. 07-123, a Trust Agreement by and Between the City of Montclair Redevelopment Agency and Neighborhood Partnership Housing Services [RDA] 132
9. Consider Approval of Agreement No. 11-75 With the County of San Bernardino for Allocation and Expenditure of Justice Assistance Grant Program Funds [CC] 134
10. Consider Award of Contract to Gentry Brothers, Inc., in the Amount of \$925,111.00 [CC]
- Consider Approval of Agreement No. 11-76 With Gentry Brothers, Inc., for Construction of the Mission Boulevard Improvement Phase 9 Project [CC]
- Consider Authorization of a \$95,000 Construction Contingency [CC] 153
11. Consider Award of Contract to Earth Tek Engineering Corp. in the Amount of \$396,635.00 [CC/RDA]
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- Consider Authorization of a \$40,000 Construction Contingency [CC/RDA] 160
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1. Consider Adoption of Resolution No. 11-2903 Authorizing Approval of the Change in Population in the City of Montclair During 2010 for the Purpose of Calculating the Gann Spending Limit for Fiscal Year 2011-12 [CC] 170
2. Consider Adoption of Resolution No. 11-2904 Authorizing Approval of the Percentage Change in California Per Capita Personal Income During Fiscal Year 2009-10 as the Final Fiscal Year 2009-10 Change in the Cost-of-Living Factor for Use in Calculating the Gann Spending Limit for Fiscal Year 2010-11 and Provisional Adoption of the Percentage Change in California Per Capita Personal Income During Calendar Year 2010 as the Change in the Cost-of-Living Factor for Fiscal Year 2010-11 for Use in Calculating the Gann Spending Limit for Fiscal Year 2011-12 [CC] 172

3. Consider Adoption of Resolution No. 11-2905 Establishing an Appropriations Limit for Fiscal Year 2011-12 Pursuant to Article 13-B of the California Constitution and to Section 7910 of the Government Code [CC] 176
4. Consider Adoption of Resolution No. 11-2911, a Resolution of the City Council of the City of Montclair Supporting Adoption of Assembly Bill 1250 (Alejo), Which Increases the Accountability and Effectiveness of Redevelopment In California [CC] 180
5. Consider Adoption of Resolution No. 11-2912 Adopting the City of Montclair Fiscal Year 2011-12 Annual Budget [CC] 184
6. Consider Redevelopment Agency Board of Directors' Adoption of Resolution No. 11-10, a Resolution of the City of Montclair Redevelopment Agency Authorizing Expenditure of Agency Funds for Graffiti Abatement During Fiscal Year 2011-12 [RDA]

Consider City Council's Approval of Agreement Nos. 11-61, 11-62, 11-63, and 11-64 Approving Respective Promissory Notes 11-01, 11-02, 11-03, and 11-04 Between the City of Montclair and the City of Montclair Redevelopment Agency [CC/RDA]

Consider Redevelopment Agency Board of Directors' Approval of Agreement Nos. 11-61, 11-62, 11-63, and 11-64 Approving Respective Promissory Notes 11-01, 11-02, 11-03, and 11-04 Between the City of Montclair Redevelopment Agency and the City of Montclair [RDA/CC]

Consider Redevelopment Agency Board of Directors' Adoption of Resolution No. 11-11 Adopting the Fiscal Year 2011-12 Budget for the City of Montclair Redevelopment Agency [RDA]

Consider Redevelopment Agency Board of Directors' Approval of Agreement No. 11-65 Approving Promissory Note 11-02 Between the City of Montclair Redevelopment Agency and the Montclair Housing Corporation [RDA/MHC]

Consider Montclair Housing Corporation Board of Directors' Approval of Agreement No. 11-65 Approving Promissory Note 11-02 Between the Montclair Housing Corporation and the City of Montclair Redevelopment Agency [MHC/RDA]

Consider Montclair Housing Corporation Board of Directors' Adoption of Resolution No. 11-02 Adopting the Fiscal Year 2011-12 Budget for the Montclair Housing Corporation [MHC] 187

**IX. PULLED CONSENT CALENDAR ITEMS**

**X. RESPONSE - None**

**XI. COMMUNICATIONS**

**A. City Attorney/Agency Counsel**

1. Closed Session Pursuant to Section 54956.8 of the Government Code Regarding Real Property Negotiations

Property: 9950 Fremont Avenue

Negotiating Parties: City of Montclair and First United Methodist Church of Montclair

Negotiators: Edward C. Starr, City Manager, and Marilyn J. Staats, Director of Redevelopment/Public Works

Under Negotiation: Recommendations Regarding Purchase Price

**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 June 6, 2011 199

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

*(At this time, the City Council will meet in Closed Session regarding real property negotiations.)*

**XIV. CLOSED SESSION ANNOUNCEMENTS**

**XV. ADJOURNMENT OF CITY COUNCIL**

*The next regularly scheduled City Council, Redevelopment Agency, and Montclair Housing Corporation meetings will be held on Tuesday, July 5, 2011, at 7:00 p.m. in the Council Chambers.*

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

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

*I, Yvonne L. Smith, Deputy City Clerk, hereby certify that I posted, or caused to be posted, a copy of this Agenda not less than 72 hours prior to this meeting on the bulletin board adjacent to the south door of Montclair City Hall on June 16, 2011.*

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER ADOPTION OF RESOLUTION NO. 11-2908 AMENDING THE FEE SCHEDULE FOR THE COLLECTION AND DISPOSAL OF RESIDENTIAL REFUSE	<b>DATE:</b> June 20, 2011 <b>SECTION:</b> PUBLIC HEARINGS <b>ITEM NO.:</b> A <b>FILE I.D.:</b> REF285 <b>DEPT.:</b> ADMIN. SVCS.
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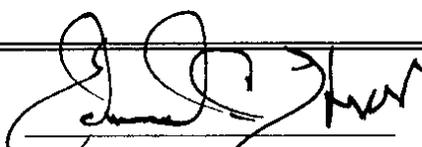
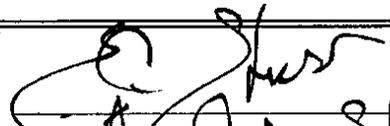
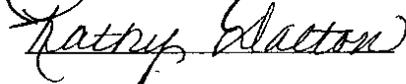
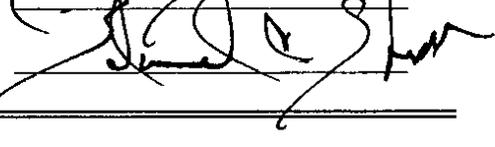
**REASON FOR CONSIDERATION:** The City Council is requested to consider adoption of Resolution No. 11-2908 amending the fee schedule for the collection and disposal of residential refuse. A copy of proposed Resolution No. 11-2908 is attached for the City Council's review and consideration.

**BACKGROUND:** Chapter 6.16 of the Montclair Municipal Code requires all refuse and waste material accumulating within Montclair's jurisdictional boundaries be removed by the City or its duly authorized agent. The City, through separate agreements with Burrtec Waste Industries, Inc. (Burrtec) for solid waste removal and the County of San Bernardino for household hazardous waste disposal, provides for elimination of residential-generated refuse.

The full range of refuse services includes weekly curbside pickup of solid waste, green-waste, and recyclables; the disposal of household hazardous waste at designated sites; and on-demand haul away of refuse and large bulky items. For this convenience, residents and businesses are assessed a monthly charge, billed bimonthly—every two months, or six billings annually. Furthermore, with City Council approval this evening of Agreement No. 11-57 with Burrtec Waste Industries, Inc. for solid waste services, all residential regular route solid waste collection provided under contract with Burrtec would become fully automated in Fiscal Year 2011-12.

Proposed Agreement No. 11-57 provides for the annual adjustment of residential refuse service rates by a percentage increase not to exceed the *All Cities Consumer Price Index (CPI) for the Los Angeles-Riverside-Orange Co. Area, All-Items Indexes, All Urban Consumers, for the year ending in January*, not to exceed 5 percent per annum. Burrtec last requested and received a cumulative 5 percent residential Refuse Service Rate adjustment effective June 1, 2009. Burrtec is not requesting a residential refuse rate adjustment for Fiscal Year 2011-12; however, City staff is proposing the addition of a new rate component to residential refuse rates: the general sanitation fee—an assessment to reimburse for the cost of general community maintenance issues including graffiti abatement, alleyway maintenance, illegal dumping, property cleanup, sanitation services, and removal of abandoned bulky items in neighborhoods and alleyways.

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

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**Table 1** below identifies cost components of Montclair's *Total Monthly Household Refuse Rate* including current and proposed rates. **Table 1** also indicates that adoption of proposed Resolution No. 11-2908 would increase the *Total Monthly Household Refuse Rate* from \$22.51 to \$25.36, an increase of \$2.85. Senior households would continue to be charged a refuse rate that is 20 percent below the monthly refuse fee for nonsenior households—the monthly senior household rate would increase from \$18.01 to \$20.29, an increase of \$2.28.

**Table 1**  
**Total Monthly Household Refuse Rate Components**  
**Current and Proposed Residential Refuse Rates**

<i>Fee Components</i>	<i>Current</i>	<i>Proposed</i>
Refuse service rate	\$ 10.32	\$ 10.32
Recycling service rate	\$ 3.19	\$ 3.19
Refuse landfill/Transfer rate	\$ 3.69	\$ 3.69
MRF fees	\$ 0.09	\$ 0.09
Greenwaste disposal rate	\$ 0.81	\$ 0.81
<b>Total cost of services—paid to Burrtec</b>	<b>\$ 18.10</b>	<b>\$ 18.10</b>
General sanitation fee	N/A	\$ 2.82
Administrative fee	\$ 3.99	\$ 3.99
Household Hazardous Waste fee	\$ 0.42	\$ 0.45
<b>Total monthly cost to provide refuse collection</b>	<b>\$ 22.51</b>	<b>\$ 25.36</b>
<b>TOTAL MONTHLY HOUSEHOLD RATE</b>	<b>\$ 22.51</b>	<b>\$ 25.36</b>
<b>TOTAL MONTHLY SENIOR HOUSEHOLD RATE</b>	<b>\$ 18.01</b>	<b>\$ 20.29</b>
Monthly City subsidy per senior household	\$ 4.17	\$ 5.07
<b>Miscellaneous:</b>		
Multifamily bin	\$ 3.11	\$ 3.11
Extra Cart: Refuse/Recycling/ Greenwaste	\$5.50/\$1.25/ N/A	\$5.50/\$1.25/ \$ 3.75
<b>Large item collection: Monthly Burrtec charge—all City households; cost incorporated in administrative fee</b>	<b>\$2,400.00</b>	<b>\$2,400.00</b>

### July 2011 Proposed Adjustments to Residential Refuse Rate Components

Under terms of the previous exclusive franchise Agreement between the City and Burrtec (Agreement No. 93-6 and amendments thereto), the process for development of the monthly refuse rate includes consideration of various rate components. Under successor Agreement No. 11-57, the refuse rate calculation process has been modified and would be reflected in future Burrtec-requested rate adjustments. However, to maintain consistency in explaining the existing monthly refuse rate, this discussion relies on the rate structure identified in Agreement No. 93-6 and amendments thereto.

Following is a description of each rate component, the respective methods of adjustment, and the proposed adjustments effective July 1, 2011:

1. **Refuse Service Rate:** The refuse service rate is that portion of the rate paid to the waste hauler for collecting refuse and transporting it to the Materials Recovery Facility (MRF). Proposed Agreement No. 11-57 with Burrtec would allow for the refuse service rate to be adjusted each year by the Consumer Price Index (CPI), not to exceed 5 percent annually. The refuse service rate will be the primary rate component under successor Agreement No. 11-57:

*Proposed adjustment: Burrtec is not proposing a refuse rate adjustment for Fiscal Year 2011-12.*

2. **Landfill Rate:** The landfill rate represents a pass-through of actual transportation and tipping fees paid by the waste hauler. Currently, refuse generated in Montclair is transported from Burrtec's MRF in Fontana to an Orange County landfill. The tipping fee at the Orange County landfill is \$18.55 per ton and transportation costs are \$20.95 per ton, for a total of \$39.50 per ton. Approximately 37,000 tons of refuse are generated in Montclair each year. The landfill rate (Disposal/Processing Facility Tip Fee adjustment under proposed Agreement No. 11-57) is a pass-through fee. The rate is adjusted based on a specified distribution formula.

Landfill/recycling records for 2009 indicate that after removing recyclables from the waste stream, the average Montclair household currently generates approximately 1.12 tons of refuse annually, consistent with the 2007 estimate and down from 1.309 tons in June 2005 and 2.2 tons in the year before implementation of the curbside residential recycling program.

*Proposed adjustment: There is no anticipated adjustment in the landfill rate for Fiscal year 2011-12.*

3. **Recycling Service Rate:** The recycling service rate represents the cost of collecting and transporting recyclables to the MRF. The rate is adjusted by the CPI.

*Proposed adjustment: There is no anticipated adjustment in the recycling service rate for Fiscal Year 2011-12.4.*

4. **MRF Fee:** The MRF component is affected by (1) the volume of recyclables processed; (2) the amount of refuse (contamination) found in the recyclables; and (3) the market value of recycled commodities over the preceding 12 months. For the June 2009 refuse rate adjustment, this cost component was lowered because of a reduction in the volume of recyclables per household: from .2977 tons per household per year to .2911. Typically, a decrease in the volume of a commodity would affect market price by raising the cost to acquire the commodity—basic supply and demand. However, volume growth in recyclable commodities from sources outside of Montclair produced a downward trend in commodity prices; furthermore, contamination of the recycled materials stream at the local MRF remains low. Together, these favorable factors combined to reduce processing costs from \$8.04 to \$3.76 per ton. Under proposed Agreement No. 11-57, this rate component would be recommended for modification only as an extraordinary rate adjustment when there is a change in the market value of recyclables.

*Proposed adjustment: There is no anticipated adjustment in the MRF fee component for Fiscal Year 2011-12.*

5. *Greenwaste Disposal:* In 2009, when this rate component was last adjusted, the greenwaste disposal fee increased from \$23 per ton to \$28 per ton. The increase was based, in part, by an overall decline in greenwaste disposal over the previous four years: e.g., in 2009 the average household in Montclair generated 3,490 tons of greenwaste per year, down from 4,407 tons in 2005. Typically, decreases in the volume of a commodity affect market price by raising the cost to acquire the commodity. However, the cost increase for greenwaste disposal is also driven by other factors including fuel costs.

Despite the cost increases cited above, the formula used to calculate the greenwaste component is essentially based on disposal volume, plus the disposal charge per ton. As indicated, the volume of greenwaste per household has decreased significantly; therefore, in June 2009 this cost component was reduced based on the formula agreed upon in the existing Agreement between the City and Burrtec.

It is noted that pursuant to proposed Agreement No. 11-57, Burrtec would implement an automated greenwaste collection program. The program is scheduled to go into effect during the second half of calendar year 2011. Despite this change-over, Burrtec is not proposing a rate adjustment related to greenwaste disposal—instead, the cost of conversion is amortized over the ten-year exclusive franchise period. Furthermore, Burrtec is transitioning to a fleet of alternative fuel vehicles to operate its regular route residential services in the City of Montclair. This transition will provide a cleaner, nonpolluting solid waste collection program for the Montclair community. Introduction of new vehicles is scheduled to occur over the balance of 2011 and into calendar year 2012—transition to alternative fuel vehicles will also be amortized over the ten-year franchise period.

*Proposed adjustment: There is no anticipated adjustment in the greenwaste disposal fee component for Fiscal Year 2011-12.*

6. *Household Hazardous Waste:* The City is in the 16th year of an agreement with San Bernardino County to provide household hazardous waste disposal facilities—facilities are located at:

5050 Schaefer Avenue, Chino  
1408 East Francis Street, Ontario  
1370 North Benson Avenue, Upland

Montclair residents may dispose of their household hazardous waste at any of the above locations, with no charge at time of disposal. Montclair refuse ratepayers are currently charged approximately \$5.04 per household annually (\$0.42 monthly) for this service. The proposed annual rate for Fiscal Year 2011-12 would be \$5.39 annually (\$0.45 monthly). The household hazardous waste fee is based on the actual cost charged to the City by the County of San Bernardino and is intended as a pass-through cost to each ratepayer.

*Proposed adjustment: An increase in this component from \$0.42 to \$0.47 per month is proposed based on the following formula: \$48,763 (proposed annual*

*County contract rate) ÷ 36,664 (per capita/population) = \$1.33 (annual per capita rate); 36,664 (per capita) x \$1.33 (annual per capita rate) = \$48,763 (annual County contract rate) ÷ 9,039 (households) = \$5.39 (annual household rate) ÷ 12 (months per year) = \$0.45 (monthly household rate).*

7. *General Sanitation Fee:* The general sanitation fee is a proposed rate component assessed to residential and commercial rate payers to reimburse for the cost of general community maintenance issues including graffiti abatement, alleyway maintenance, illegal dumping, property cleanup, sanitation services, and removal of abandoned bulky items in neighborhoods and alleyways. Service charges approximate the actual/estimated cost of service.

Over the past decade, public facilities and residential and commercial neighborhoods throughout Montclair have experienced increases in various forms of graffiti, window etching, vandalism, illegal dumping, and other forms of public abuse requiring significant redirection and expenditure of General Fund resources to provide abatement, sanitation, disposal, and cleanup services. To address one single issue—graffiti abatement—the City now expends approximately \$200,000 annually in cleanup activities and in excess of \$300,000 in code enforcement, police investigation, and contract-related services. Maintenance and cleanup of the community, contracting for specialized maintenance and investigation services, and disposal of illegally and inappropriately discarded and abandoned waste and household items are appropriately charged as special services delivered through solid waste and sanitation service programs. Accordingly, City staff recommends the City Council consider including a general sanitation fee component as part of the monthly refuse service rate.

*Proposed adjustment: The proposed rate is \$2.82 per month per household. Combined, the general sanitation fee would generate approximately \$305,880 annually to reimburse the City for cost of services: \$2.82 (proposed monthly rate per household) x 9,039 (households) = \$25,490 (monthly) x 12 = \$305,880 (annually).*

*The proposed fee is inadequate to pay for the full cost of services related to maintenance and cleanup of the community, contracting for specialized maintenance and investigation services, and disposal of illegally and inappropriately discarded and abandoned waste and household items; the proposed rate does, however, fall within the monthly maximum rate allowed under Proposition 218, effective January 1, 2011. The rate may be adjusted annually, subject to the adjustment of other components of the monthly refuse rate.*

8. *Administrative Fee:* The administrative fee is a charge imposed by the City to reimburse for the cost of administering the refuse service program. Service charges should approximate the actual/estimated cost of service.

*Proposed adjustment: The current rate is \$3.99 per month per household and generates approximately \$432,780 annually to reimburse the City for cost of services: \$3.99 (existing monthly rate per household) x 9,039 (households) = \$36,065 (monthly) x 12 = \$432,780 (annually).*

## Senior Household Subsidy Program

Montclair currently provides a monthly refuse rate subsidy program for senior households—to qualify, accountholders must be age 65 or older. The current monthly household refuse rate for senior households is \$18.01—a savings of \$4.50 off the current *Total Monthly Household Refuse Rate* of \$22.51; the proposed rate is \$20.29—a savings of \$5.07 off the proposed *Total Monthly Household Refuse Rate* of \$25.36. Continuation of a discount program for senior households was discussed at the November 21, 2005 meeting of the City Council—the City Council considered alternatives related to discounting refuse service rates and ultimately approved maintaining a 20 percent discount off the *Total Monthly Household Refuse Rate*.

The subsidy program is not a rate discount on the *Total Monthly Household Refuse Rate*; it is a Refuse Impound Fund subsidy that offsets the *Total Monthly Household Refuse Rate* currently charged to the households of nonsenior residential refuse ratepayers. The Refuse Impound Fund is used to make full payment to Burrtec for refuse services, and to reimburse the General Fund for refuse program-related costs.

## Proposition 218 and the Total Monthly Refuse Rate

City Council Members may recall that during the Strategic Planning Session on June 6, 2006, City staff was directed to conduct a Proposition 218 notification and hearing process in early 2007 to set new maximum monthly rates for sewer and refuse services. The appropriate notification documents were prepared and, at the February 5, 2007 meeting of the City Council, authorization was granted to ask residents to consider long-term monthly rate caps for refuse services pursuant to Proposition 218's notification and hearing requirements.

Notices were sent to approximately 10,000 property owners of record in February 2007. Residents were notified that the City Council, at a meeting scheduled for April 16, 2007, would consider future annual rate adjustments encompassing a period of ten years, with an overall total maximum rate cap not to exceed \$32.34 per month, effective January 2016. At the public hearing, property owners and residents were provided an opportunity to protest against the maximum proposed rate caps for refuse services. Ten written protests were filed with the City Clerk and no members of the public protested. Upon completion of the public hearing, the City Council adopted the maximum schedule of monthly rates for sewer and refuse services.

**Table 2** on the following page indicates the maximum monthly refuse rates that can now be charged to residential refuse ratepayers effective on the specified dates for the period June 2007 through January 2016—the schedule of rates is the product of the April 16, 2007, Proposition 218 public hearing on maximum monthly refuse and sewer rates. State law provides that, pursuant to Proposition 218, utility rates could be adjusted on an annual basis provided the formula for adjusting rates does not change or does not change in a way that would otherwise impose future increases that are higher than the adopted fee formula.

**Table 2  
Proposition 218  
Annual Residential Refuse Rate Caps  
June 2007 through January 2016**

Proposed Nonsenior/Senior Monthly Household Rates Effective 6-1-2007	Proposed Nonsenior/Senior Monthly Household Rates Effective 1-1-2008	Proposed Nonsenior/Senior Monthly Household Rates Effective 1-1-2009	Proposed Nonsenior/Senior Monthly Household Rates Effective 1-1-2010	Proposed Nonsenior/Senior Monthly Household Rates Effective 1-1-2011
\$20.87/\$16.70	\$21.91/\$17.53	\$23.01/\$18.41	\$24.16/\$19.33	\$25.36/\$20.29
Proposed Nonsenior/Senior Monthly Household Rates Effective 1-1-2012	Proposed Nonsenior/Senior Monthly Household Rates Effective 1-1-2013	Proposed Nonsenior/Senior Monthly Household Rates Effective 1-1-2014	Proposed Nonsenior/Senior Monthly Household Rates Effective 1-1-2015	Proposed Nonsenior/Senior Monthly Household Rates Effective 1-1-2016
\$26.63/\$21.30	\$27.96/\$22.37	\$29.36/\$23.49	\$30.83/\$24.66	\$32.34/\$25.87

The maximum monthly refuse rate caps adopted by the City Council at its April 16, 2007 meeting satisfy the following requirements:

1. Comply with Proposition 218 notification/hearing requirements without retriggering such requirements each year the City Council is asked to consider a refuse rate adjustment, through 2016. City staff projects that maximum monthly refuse rate caps indicated in **Table 2** are sufficient to address annual refuse rate adjustments without the need to comply annually with Proposition 218 notification/hearing requirements.
2. Allow for annual fee adjustments indexed to the CPI and/or other rate calculation methodologies.
3. Allow for recovery of costs related to household hazardous waste collection; administrative fees; C.A.U.T.I.O.N. cleanups; legal fees; graffiti abatement; alleyway maintenance; illegal dumping; and collection of oversized household items dumped in alleyways, on commercial properties, and in residential neighborhoods.

### **Refuse Rate Comparison with Neighboring Cities**

As indicated in **Table 3** on the following page, the Council's adoption of proposed Resolution No. 11-2908 would take Montclair from having the fourth lowest monthly household refuse rate (currently \$22.51) in a survey of eight area cities to the third lowest at \$25.36. Only four cities in the survey group offer a senior household refuse rate; among these four cities, Montclair's senior household rate would remain the second lowest to the highest at \$20.29.

City Council Members are reminded that Montclair's *Total Monthly Household Refuse Rate* has remained one of the lowest of the eight survey cities during the last 20 years. Historically, the Montclair City Council adjusts refuse rates every second or third year, not

annually—the last increase to the residential refuse rate occurred in June 2009, two years ago. Unlike refuse rate increases in the past, the proposed rate adjustment is not related to the curbside pickup of refuse, but general maintenance issues related to increasing occurrences of graffiti; illegal dumping; abandonment of large and bulky items in alleyways, on commercial properties, and in residential neighborhoods; and contractual requirements related to household hazardous waste. Furthermore, each city in the survey is expected to implement new refuse rates in 2011 or 2012—again distinguishing Montclair as having one of the area's lowest monthly residential refuse rates. A comparison of residential refuse rates for survey cities is indicated in Table 3.

**Table 3  
Comparison of Residential Refuse Rates**

<b>Agency</b>	<b>Monthly Residential Refuse Rate</b>	<b>Monthly Senior Residential Refuse Rate</b>
Ontario	\$29.48—Colony Development \$26.09—All other areas	Not offered
Pomona	\$25.76	Not Offered
<del>Montclair current/proposed</del>	<del>\$22.51/\$25.36</del>	<del>\$18.01/\$20.29</del>
Upland	\$22.55	Not offered
Chino	\$22.47	\$20.22
Fontana	\$22.26	\$18.92
Rancho Cucamonga	\$21.74—Above Banyan Street \$20.99—All other areas	\$14.57—Above Banyan Street \$14.06—All other areas
La Verne	\$20.84—95-Gallon Container	Not offered

The proposed July 1, 2011 refuse rate adjustment continues the City Council's pattern of implementing refuse rate adjustments that are significantly below contractually authorized limits. Pursuant to the terms of proposed Agreement No. 11-57, Burrtec is technically eligible for an increase of 3.6 percent—the cumulative CPI for the years ending January 2010 (1.8 percent) and January 2011 (1.8 percent). At this time, City staff is not recommending a rate adjustment to the cost of services paid to Burrtec.

**FISCAL IMPACT:**

1. *Administrative Fee.* The administrative fee is not recommended for adjustment. The current administrative fee of \$3.99 per month per household would continue to generate approximately \$432,780 annually to reimburse the City for service costs related to operation of the refuse program.
2. *General Sanitation Fee.* The proposed general sanitation fee of \$2.82 per month per household would generate approximately \$305,880 annually to reimburse the City for general maintenance issues related to increasing occurrences of graffiti; illegal dumping; abandonment of large and bulky items in alleyways, on commercial properties, and in residential neighborhoods; and contractual requirements related to household hazardous waste.

3. *Total Cost of Services Paid to Burrtec.* The monthly cost of services passed through to Burrtec would remain at \$18.10 per household. This monthly service charge represents an annual cost of approximately \$1,878,780 for residential refuse services. This annual estimate is incorporated into the Fiscal Year 2011-12 Budget.
4. *Household Hazardous Waste Fee.* The household hazardous waste fee is a pass-through fee for the cost to San Bernardino County to provide this disposal service. The proposed monthly rate for Fiscal Year 2011-12 would be \$0.45 (\$5.39 annually)—an increase of \$0.03 above the current monthly rate of \$0.42 (\$5.04). The household hazardous waste fee is based on the actual cost charged to the City by the County of San Bernardino and is intended as a pass-through cost to each ratepayer. Adjusting the rate has no impact on General Fund revenues.
5. Continuing a monthly residential refuse discount program for senior households at a discount rate of 20 percent would result in a loss of approximately \$59,502 in revenue to the Refuse Impound Fund [978 (senior households) x \$5.07 (monthly senior household subsidy) = \$4,958 x 12 (months) = \$59,502].

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 11-2908 amending the fee schedule for the collection and disposal of residential refuse.

**RESOLUTION NO. 11-2908**

**A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF MONTCLAIR AMENDING THE  
FEE SCHEDULE FOR THE COLLECTION  
AND DISPOSAL OF RESIDENTIAL REFUSE**

**WHEREAS**, the City Council approved Agreement No. 11-57 at its meeting of June 6, 2011, approving a new ten-year exclusive franchise agreement with Burrtec Waste Industries, Inc. (Burrtec) for solid waste management services; and

**WHEREAS**, Section 6.16.050 of the Montclair Municipal Code and Agreement No. 11-57 between the City of Montclair and Burrtec provide for annual adjustments of rates related to collection and disposal of residential refuse not to exceed the *All Cities Consumer Price Index (CPI) for the Los Angeles-Riverside-Orange Co. Area, All-Items Indexes, All Urban Consumers, for the year ending in January*; and

**WHEREAS**, the Montclair City Council last approved, and Burrtec last requested and received a 5 percent residential refuse service rate adjustment with an effective date of June 1, 2009; and

**WHEREAS**, pursuant to the terms of Agreement No. 11-57, Burrtec is technically eligible for an increase of 3.6 percent—the cumulative CPI for the years ending January 2010 (1.8 percent) and January 2011 (1.8 percent)—for the refuse service rate component of the *Total Monthly Household Refuse Rate*; and

**WHEREAS**, for Fiscal Year 2011-12, Burrtec, as part of negotiations for adoption of Agreement No. 11-57, has declined to request an increase in the refuse service rate, recycling service rate, refuse landfill/transfer rate, MRF fee, and greenwaste disposal fee components of the *Total Monthly Household Refuse Rate*; and

**WHEREAS**, the City Council is required to consider adjustments to other components of the *Total Monthly Household Refuse Rate*; and

**WHEREAS**, the County of San Bernardino has requested an increase to the household hazardous waste component of the *Total Monthly Household Refuse Rate*; and

**WHEREAS**, the City Council has directed inclusion of a general sanitation fee component to the *Total Monthly Household Refuse Rate*, such fee to be calculated in part on the cost of providing services related to general community maintenance issues including graffiti abatement, alleyway maintenance, illegal dumping, property cleanup, sanitation services, and removal of abandoned bulky items in neighborhoods and alleyways; and

**WHEREAS**, at the November 21, 2005 meeting of the City Council, authorization was provided to continue a program for senior households that would provide a 20 percent discount off the *Total Monthly Household Refuse Rate*; and

WHEREAS, the proposed *Total Monthly Household Refuse Rate*, inclusive of each of the rate components identified herein, is \$25.36 and the *Total Monthly Senior Household Rate* is \$20.29, both rates proposed to be effective July 1, 2011; and

WHEREAS, on April 16, 2007, the Montclair City Council conducted a public hearing, pursuant to requirements of Proposition 218 on proposed refuse rate increases and adopted a maximum schedule of monthly household rates as indicated in Table 1.

**Table 1  
Proposition 218  
Annual Residential Refuse Rate Caps  
June 2007 through January 2016**

Proposed Nonsenior/Senior Monthly Household Rates Effective 6-1-2007	Proposed Nonsenior/Senior Monthly Household Rates Effective 1-1-2008	Proposed Nonsenior/Senior Monthly Household Rates Effective 1-1-2009	Proposed Nonsenior/Senior Monthly Household Rates Effective 1-1-2010	Proposed Nonsenior/Senior Monthly Household Rates Effective 1-1-2011
\$20.87/\$16.70	\$21.91/\$17.53	\$23.01/\$18.41	\$24.16/\$19.33	\$25.36/\$20.29
Proposed Nonsenior/Senior Monthly Household Rates Effective 1-1-2012	Proposed Nonsenior/Senior Monthly Household Rates Effective 1-1-2013	Proposed Nonsenior/Senior Monthly Household Rates Effective 1-1-2014	Proposed Nonsenior/Senior Monthly Household Rates Effective 1-1-2015	Proposed Nonsenior/Senior Monthly Household Rates Effective 1-1-2016
\$26.63/\$21.30	\$27.96/\$22.37	\$29.36/\$23.49	\$30.83/\$24.66	\$32.34/\$25.87

WHEREAS, pursuant to the maximum schedule of rates as indicated in Table 1, the maximum *Total Monthly Household Refuse Rate* in effect as of January 1, 2011, cannot exceed \$25.36; and the proposed *Total Monthly Household Rate* of \$25.36, scheduled to be effective July 1, 2011, is in compliance with the maximum schedule of rates adopted pursuant to a Proposition 218 public hearing and notice process; and

WHEREAS, the Montclair City Council examined the proposed rate schedule and determined residential refuse service rates hereinafter enumerated are fair, reasonable, and necessary and bear a reasonable relationship between actual cost to provide such services and the benefit received by residents; and

WHEREAS, Montclair households subject to the proposed refuse rate adjustment have been notified or will be notified through the public notice process and through utility billing statements regarding the proposed increase to the *Total Monthly Household Refuse Rate*.

NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Montclair hereby sets forth a schedule of service rates for the collection and disposal of residential refuse, effective July 1, 2011, and as set forth in Table 2 herein.

**Table 2  
Total Monthly Household Refuse Rate Components  
Current and Proposed Residential Refuse Rates**

<i>Fee Components</i>	<i>Current</i>	<i>Proposed</i>
Refuse service rate	\$ 10.32	\$ 10.32
Recycling service rate	\$ 3.19	\$ 3.19
Refuse landfill/Transfer rate	\$ 3.69	\$ 3.69
MRF fees	\$ 0.09	\$ 0.09
Greenwaste disposal rate	\$ 0.81	\$ 0.81
<b>Total cost of services—paid to Burrtec</b>	<b>\$ 18.10</b>	<b>\$ 18.10</b>
General sanitation fee	N/A	\$ 2.82
Administrative fee	\$ 3.99	\$ 3.99
Household Hazardous Waste fee	\$ 0.42	\$ 0.45
<b>Total monthly cost to provide refuse collection</b>	<b>\$ 22.51</b>	<b>\$ 25.36</b>
<b>TOTAL MONTHLY HOUSEHOLD RATE</b>	<b>\$ 22.51</b>	<b>\$ 25.36</b>
<b>TOTAL MONTHLY SENIOR HOUSEHOLD RATE</b>	<b>\$ 18.01</b>	<b>\$ 20.29</b>
Monthly City subsidy per senior household	\$ 4.17	\$ 5.07
<i>Miscellaneous:</i>		
<i>Multifamily bin</i>	\$ 3.11	\$ 3.11
<i>Extra Cart: Refuse/Recycling/     Greenwaste</i>	\$5.50/\$1.25/ N/A	\$5.50/\$1.25/ \$ 3.75
<i>Large item collection: Monthly Burrtec charge—all City households; cost incorporated in administrative fee</i>	\$2,400.00	\$2,400.00

APPROVED AND ADOPTED this XX day of XX, 2011.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Deputy City Clerk

I, Yvonne L. Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 11-2908 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, 2011, and that it was adopted by the following vote, to-wit:

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

\_\_\_\_\_  
Yvonne L. Smith  
Deputy City Clerk

# AGENDA REPORT

**SUBJECT:** CONSIDER ADOPTION OF ORDINANCE  
NO. 11-923 ADDING CHAPTER 11.75 TO  
TITLE 11 OF THE MONTCLAIR MUNICIPAL  
CODE RELATED TO UNDERGROUNDING OF  
UTILITIES  
  
FIRST READING

**DATE:** June 20, 2011  
**SECTION:** PUBLIC HEARINGS  
**ITEM NO.:** B  
**FILE I.D.:** UTL050  
**DEPT.:** PUBLIC WORKS

**REASON FOR CONSIDERATION:** Staff typically requires developers to underground utilities within and adjacent to their developments as a condition of approval for their developments. When the development is extensive, the cost of undergrounding is a small percentage of the overall cost of development. When the development is small, such as an infill single lot or an addition to an existing house, the potential cost of undergrounding can be significant.

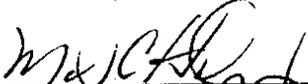
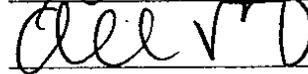
The City Council is requested to consider adoption of Ordinance No. 11-923 to provide the City with some flexibility in how the utility undergrounding requirement is applied to development. A copy of proposed Ordinance No. 11-923 is attached for the City Council's review and consideration.

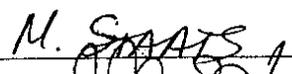
**BACKGROUND:** The California Public Utilities Commission has established a practice of undergrounding overhead utilities. Reasons include safety, reliability, and aesthetics. The Commission's Rule 20 sets policies and procedures for the conversion of overhead power lines and other equipment to underground facilities.

Undergrounding funds are made available to cities through Rule 20 and Southern California Edison to underground overhead electrical facilities. Cities also typically require developers to underground electrical and telecommunication facilities as conditions of approval for their developments. Many cities include undergrounding requirements in their municipal codes. Having undergrounding requirements associated with development activities codified generally allows more uniform application of the requirement. Depending on how the ordinance is written, it can also provide options to undergrounding when the undergrounding cost is disproportionate to the development cost.

Proposed Ordinance No. 11-923 defines a developer as any person, entity, agency, or property owner building on or remodeling, developing, or redeveloping any property within the City. The development could be something as minor as adding a bathroom to an existing house to building hundreds of houses on acres of land.

It is the intent of proposed Ordinance No. 11-923 to automatically exempt developers from undergrounding requirements when any of the following conditions apply:

Prepared by:   
Proofed by: 

Reviewed and Approved by:   
Presented by: 

- Overhead lines and services have already been placed underground
- Overhead lines are electrical transmission lines
- Overhead services are temporary in nature, such as temporary power to a construction site
- Utilities are located in rear or side yards
- If building an addition, the addition amounts to less than 50 percent of original building (example, the bathroom addition previously cited)

Proposed Ordinance No. 11-923 allows an in lieu fee to be paid to exempt the developer from undergrounding requirements under certain conditions. It may not be economically feasible to underground overhead utilities less than 600 feet in length. An infill lot development, for example, with a width of 60 feet might have to underground several hundred feet of overhead wires. The Ordinance allows the developer to "opt out" of undergrounding by paying a fee to the City equal to the cost of undergrounding just that portion within the frontage of the development. The use of the fee collected by the City would not be limited to the area from which it was collected. Proposed Ordinance No. 11-923 would allow it to be used for undergrounding overhead utilities anywhere in the City.

An additional exception is also available to a developer by requesting a hardship exemption from the City Manager from both the actual work and the in lieu fee. An exception application would be submitted to the City Manager for his consideration. Should it be denied, a final appeal could be made to the City Council.

Proposed Ordinance No. 11-923 includes a requirement that fees associated with the Ordinance be set by Resolution. These fees include in lieu fees, exception applications, and appeals. Proposed Resolution No. 11-2907 is included in this Council report for information related to those fees, but no action on the Resolution is required until the second reading and adoption of proposed Ordinance No. 11-923, should that be the City Council's decision.

Proposed Resolution No. 11-2907 establishes the following fees:

• In lieu electrical undergrounding	\$190 per foot
• In lieu telecommunications undergrounding	\$130 per foot
• Application for undergrounding exception	\$220
• Application for City Council appeal	\$100

**FISCAL IMPACT:** the City Council's adoption of proposed Ordinance No. 11-923 would potentially create an unknown but positive fiscal impact, depending upon development and in lieu fees collected.

**RECOMMENDATION:** Staff recommends the City Council adopt the first reading of Ordinance No. 11-923 adding Chapter 11.75 to Title 11 of the Montclair Municipal Code related to undergrounding of utilities.

**ORDINANCE NO. 11-923**

**AN ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF MONTCLAIR ADDING  
CHAPTER 11.75 TO TITLE 11 OF THE  
MONTCLAIR MUNICIPAL CODE RELATED  
TO UNDERGROUNDING OF UTILITIES**

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

Section I. Chapter 11.75 of the Montclair Municipal Code is hereby added as follows:

**Chapter 11.75 Undergrounding of Utilities**

**Sec.11.75.010 Purpose.**

The intent and purpose of this chapter is to establish uniform regulations for the installation of underground utilities. For purposes of this chapter, any person, entity, agency, or property owner responsible for building on or remodeling, developing, or redeveloping any property within the City of Montclair is hereinafter referred to as "developer." Property upon which the work is taking place is hereinafter referred to as "property."

**Sec.11.75.020 Statutory Authorization.**

The California Public Utilities Commission's Rule 20 sets policies and procedures for the conversion of overhead power lines and other equipment to underground facilities.

**Sec. 11.75.030 Undergrounding of utilities required.**

The provisions of this chapter shall apply to subdivisions and residential, commercial, industrial, and mobilehome park development, redevelopment, remodeling, and building additions. No developer shall construct a new structure or structures; or modify, remodel, or add to any existing structure; or add an additional attached or detached dwelling structure upon any parcel of land unless:

All of the existing utility lines including, but not limited to, electrical, street lighting, data/communication/telephone, and cable television within the street frontage of the property or limits of the subdivision are placed underground and one of the following conditions has been complied with:

A. All utility lines and/or services including, but not limited to, electrical, data/ communication/telephone, and cable television that provide direct service to the existing structure and/or the new structure on the parcel of land, have been installed underground.

B. The existing main utility lines are located to the rear or side of the parcel of land on which the existing structure and/or new structure is constructed unless located in a public right-of-way.

C. The modification, remodeling, or addition is to an existing structure and no structure(s) is/are being added and the area of the work to be performed is equal to or less than 50 percent of the total square footage of the existing structures upon the parcel.

D. An exception of the foregoing requirements has been granted in accordance with the provisions of Section 11.75.050.

When utility undergrounding is required, no poles, wires, guy wires, pole supports or appurtenances, except as noted in Section 11.75.035, shall be permitted to remain within the property frontage or parkways. Development on corner lots will require undergrounding through the adjacent intersection.

Sec.11.75.035 Appurtenances permitted to be placed above ground.

For the purposes of this chapter, appurtenances and associated equipment, such as, but not limited to, surface-mounted or pad-mounted transformers, pedestal-mounted terminal boxes and meter cabinets, and streetlights (with underground service) may be placed above ground if permitted by and in accordance with the rules of the California Public Utilities Commission.

Sec. 11.75.040 In lieu utility undergrounding payment

If the width of the frontage of property is equal to or less than 600 feet, developer may opt to pay an in lieu undergrounding payment to City. If property includes two or more street frontages, the 600-foot limitation shall apply to each street individually. The in lieu undergrounding payment shall be determined as the product of the width of the property along each street and a cost per foot set forth by a Resolution of the City Council. In lieu payments collected by the City may be used for utility undergrounding anywhere within the City.

Sec. 11.75.050 Exceptions to undergrounding requirements.

11.75.051 The provisions of this chapter shall not include or apply to the following:

A. Primary electrical energy transmission facilities operated at nominal voltages in excess of 20,000 volts.

B. Facilities necessary to the transmission or reception of radiated wireless communication media.

C. Temporary facilities to supply electrical power or communication services for construction purposes.

D. Temporary facilities to supply electrical power to communication services interrupted by damage or destruction of existing underground facilities.

Sec. 11.75.052 Where the enforcement of the provisions of this Section would result in severe economic hardships requiring underground expenditures or in lieu utility undergrounding payments that are substantially disproportionate to the improvement being remodeled or erected and served, property owners may make an application for exception from the provisions of this section in the following manner:

A. An exception application shall be filed with the City Manager for consideration. An exception application filing fee shall be submitted concurrent with the exception application, said fee being set by City Council Resolution. The fee shall be paid to the City at the time of filing. No application shall be considered filed unless the established fees have been paid to the City.

B. Such application shall include all information necessary to properly apprise the City Manager of the circumstances existing that require such an exception.

C. Within 30 working days after the filing of such application, the City Manager shall consider the application and shall make his/her findings regarding the acceptance or rejection of the exception application. Failure of the City Manager to respond within 30 working days shall be deemed denial of the application.

D. The exception application may be further appealed to the City Council by submitting the application to the City Clerk to agendaize for City Council consideration. An exception appeal application filing fee shall be submitted concurrent with the exception application, said fee being set by City Council Resolution. The fee shall be paid to the City at the time of filing. No appeal application shall be considered filed unless the established fees have been paid to the City. The City Council's decision to uphold or overturn the City Manager's decision shall be deemed final.

## **Section II. 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 III. Effective Date.**

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

**Section IV. 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, 2011.

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Mayor

**ATTEST:**

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Deputy City Clerk

I, Yvonne L. Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 11-923 of said City, which was introduced at a regular meeting of the City Council held on the XX day of XX, 2011, and finally passed not less than five (5) days thereafter on the XX day of XX, 2011, by the following vote, to-wit:

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

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Yvonne L. Smith  
Deputy City Clerk

## AGENDA REPORT

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

**DATE:** June 20, 2011

**SECTION:** ADMIN. REPORTS

**ITEM NO.** 1

**FILE I.D.:** FIN520

**DEPT.:** ADMIN. SVCS.

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**REASON FOR CONSIDERATION:** The City Council is requested to consider receiving and filing the City of Montclair Treasurer's Report for the month ending May 31, 2011, pursuant to state law.

**BACKGROUND:** Included in your agenda packet is a copy of the Treasurer's Report for the period ending May 31, 2011.

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

**RECOMMENDATION:** Staff recommends the City Council receive and file the Treasurer's Report for the month ending May 31, 2011.

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Prepared by: \_\_\_\_\_

Proofed by: \_\_\_\_\_

Reviewed and  
Approved by: \_\_\_\_\_

Presented by: \_\_\_\_\_

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## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATIONS	<b>DATE:</b> June 20, 2011
	<b>SECTION:</b> ADMIN. REPORTS
	<b>ITEM NO.:</b> 2
	<b>FILE I.D.:</b> FIN540
	<b>DEPT.:</b> ADMIN. SVCS.

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

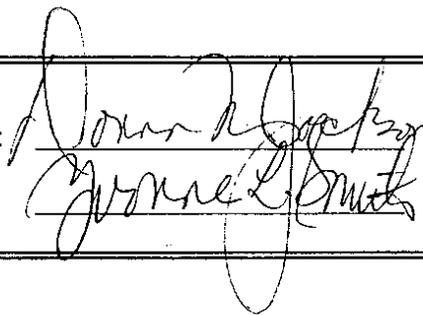
**BACKGROUND:** Mayor Pro Tem Raft has examined the Warrant Register dated June 20, 2011, and Payroll Documentations dated April 24, 2011, and May 8, 2011; finds them to be in order; and recommends their approval.

**FISCAL IMPACT:** The Warrant Register dated June 20, 2011, totals \$842,234.65. The Payroll Documentation dated April 24, 2011, totals \$563,486.80, with \$398,218.85 being the total cash disbursement. The Payroll Documentation dated May 8, 2011, totals \$581,352.77, with \$408,405.99 being the total cash disbursement.

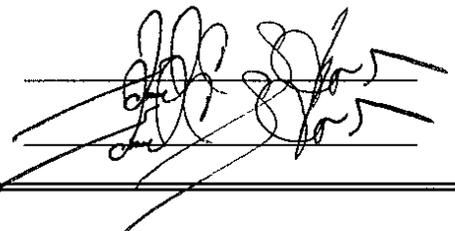
**RECOMMENDATION:** Staff recommends the City Council approve the above referenced Warrant Register and Payroll Documentations as presented.

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Prepared by:



Reviewed and  
Approved by:



Proofed by:

Presented by:

## AGENDA REPORT

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

**DATE:** June 20, 2011

**SECTION:** ADMIN. REPORTS

**ITEM NO.:** 3

**FILE I.D.:** FIN510

**DEPT.:** REDEVELOPMENT

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**REASON FOR CONSIDERATION:** The Redevelopment Agency Board of Directors is requested to consider receiving and filing the Redevelopment Agency Treasurer's Report for the month ending May 31, 2011, pursuant to state law.

**BACKGROUND:** Included in your agenda packet is a copy of the Treasurer's Report for the period ending May 31, 2011.

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

**RECOMMENDATION:** Staff recommends the Redevelopment Agency Board of Directors receive and file the Treasurer's Report for the month ending May 31, 2011.

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Prepared by:

Proofed by:

Reviewed and  
Approved by:

Presented by:

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# AGENDA REPORT

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**SUBJECT:** CONSIDER APPROVAL OF WARRANT REGISTER    **DATE:** June 20, 2011  
**SECTION:** ADMIN. REPORTS  
**ITEM NO.:** 4  
**FILE I.D.:** FIN530  
**DEPT.:** REDEVELOPMENT

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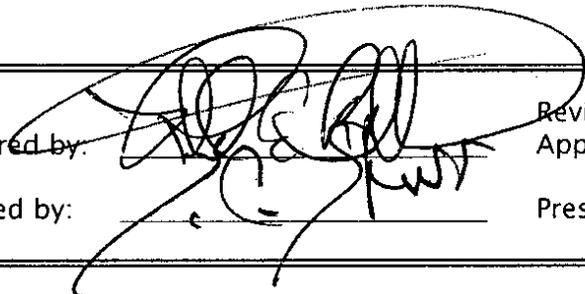
**REASON FOR CONSIDERATION:** The Redevelopment Agency Board of Directors is requested to consider receiving and filing the Warrant Register for the month ending May 31, 2011, pursuant to state law.

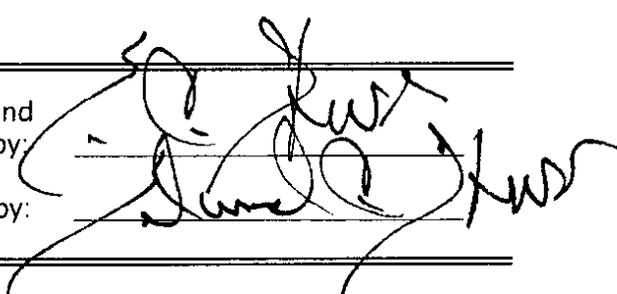
**BACKGROUND:** Vice Chairperson Raft has examined the Warrant Register dated 05.01.11-05.31.11 in the amounts of \$3,807.54 for Project I; \$278.61 for Project II; \$167,410.77 for Project III; \$466,307.95 for Project IV; \$509,863.99 for Project V; and \$76.13 for the Mission Boulevard Joint Redevelopment Project and finds it to be in order.

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

**RECOMMENDATION:** Vice Chairperson Raft recommends the Redevelopment Agency Board of Directors approve the Warrant Register for the period ending May 31, 2011.

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Prepared by: 

Reviewed and  
Approved by: 

Proofed by: \_\_\_\_\_

Presented by: \_\_\_\_\_

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## AGENDA REPORT

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

**DATE:** June 20, 2011

**SECTION:** ADMIN. REPORTS

**ITEM NO.:** 5

**FILE I.D.:** FIN525

**DEPT.:** MHC

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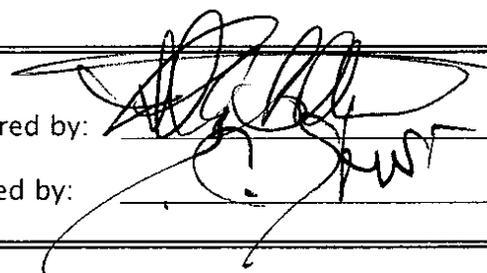
**REASON FOR CONSIDERATION:** The Montclair Housing Corporation Board of Directors is requested to receive and file the Montclair Housing Corporation Treasurer's Report for the month ending May 31, 2011, pursuant to state law.

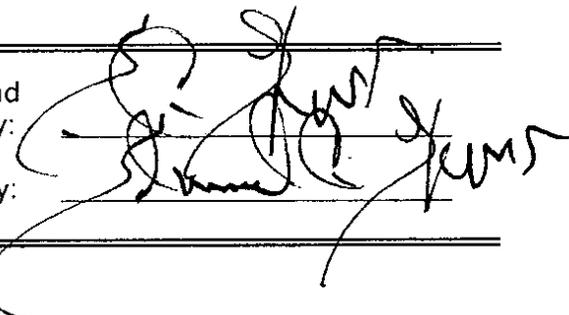
**BACKGROUND:** Included in your agenda packet is a copy of the Treasurer's Report for the period ending May 31, 2011.

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

**RECOMMENDATION:** Staff recommends the Montclair Housing Corporation Board of Directors receive and file the Treasurer's Report for the month ending May 31, 2011.

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Prepared by: 

Reviewed and  
Approved by: 

Proofed by: \_\_\_\_\_

Presented by: \_\_\_\_\_

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# AGENDA REPORT

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**SUBJECT:** CONSIDER APPROVAL OF WARRANT REGISTER    **DATE:** June 20, 2011  
**SECTION:** ADMIN. REPORTS  
**ITEM NO.:** 6  
**FILE I.D.:** FIN545  
**DEPT.:** MHC

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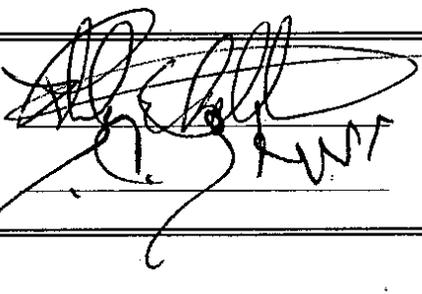
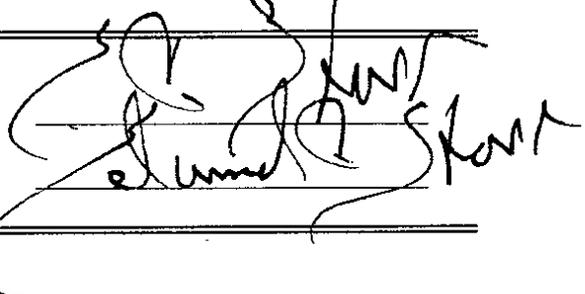
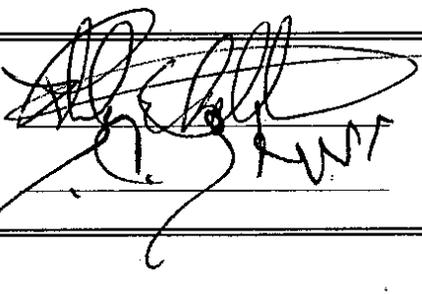
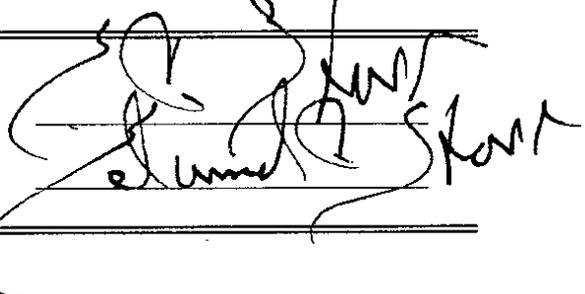
**REASON FOR CONSIDERATION:** The Montclair Housing Corporation Board of Directors is requested to consider receiving and filing the Warrant Register for the month ending May 31, 2011, pursuant to state law.

**BACKGROUND:** Vice Chairperson Raft has examined the Warrant Register dated 05.01.11-05.31.11 in the amount of \$68,350.48 for the Montclair Housing Corporation and finds it to be in order.

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

**RECOMMENDATION:** Vice Chairperson Raft recommends the Montclair Housing Corporation Board of Directors approve the Warrant Register for the period ending May 31, 2011.

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

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## AGENDA REPORT

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**SUBJECT:** CONSIDER SETTING A PUBLIC HEARING TO CONSIDER ADOPTION OF RESOLUTION NO. 11-12, A RESOLUTION OF THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY APPROVING AGREEMENT NO. 11-79, A DISPOSITION AND DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY AND NATIONAL COMMUNITY RENAISSANCE OF CALIFORNIA (NATIONAL CORE) REGARDING PROPERTY LOCATED AT 4113 KINGSLEY STREET

**DATE:** June 20, 2011  
**SECTION:** ADMIN. REPORTS  
**ITEM NO.:** 7  
**FILE I.D.:** RDA720  
**DEPT.:** REDEVELOPMENT

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**REASON FOR CONSIDERATION:** Section 33433 of the California Health and Safety Code requires that a public hearing be conducted prior to the disposition of Agency-owned property. Proposed Agreement No. 11-79 between the City of Montclair Redevelopment Agency and National Community Renaissance of California (National CORE) involves the sale and transfer of property owned by the Redevelopment Agency to National CORE for the purpose of construction of an 18-unit affordable special needs housing project. The Agency-owned property subject to the proposed transfer and sale is located at 4113 Kingsley Street.

**BACKGROUND:** As the Redevelopment Agency Board of Directors is aware, in 2003, the Housing Improvement Task Force identified the area generally located between Mills Avenue, Kingsley Street, Amherst Avenue, and Holt Boulevard as San Antonio Gateway. The Housing Improvement Task Force proposed various housing types and densities for the area. As a result of the City Council's approval of the recommendations of the Housing Improvement Task Force, San Antonio Gateway included land use planning for multifamily housing, senior housing, and single-family housing. To date, the City has seen many of the proposed housing developments come to fruition. A 106-unit single-family housing project has been developed by Taylor Morrison. The Redevelopment Agency participated with National CORE in development of the 75-unit San Antonio Vista Apartment project. National CORE completed the 85-unit San Marino Senior Apartment project in February 2010; and on June 2, 2011, the City and Redevelopment Agency celebrated the grand opening of the 50-unit affordable Vista Del Cielo family apartment project with National CORE and tenants of the building.

The property, located at 4113 Kingsley Street, is located in San Antonio Gateway at the southwest corner of Kingsley Street and Pradera Avenue. The property serves as an entry corner for the Montclair Meadows Foundation Area and the San Antonio Vista Apartments. Furthermore, the property lies directly east of the Vista Del Cielo project. The Redevelopment Agency Board of Directors authorized the acquisition of the one-half acre property at 4113 Kingsley Street on January 20, 2009. At the time the property was acquired, staff

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Prepared by: M. STRAAS  
Proofed by: [Signature]

Reviewed and Approved by: M. STRAAS  
Presented by: [Signature]

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held preliminary discussions with National CORE to determine its interest in considering the site for special needs housing. Development of a Special Needs Housing Project was of interest to National CORE. National CORE has developed similar projects in the past and has partnered with nonprofit social service providers regarding tenancy and social service needs. On September 8, 2009, the Redevelopment Agency Board of Directors approved an Exclusive Right to Negotiate Agreement between the City of Montclair Redevelopment Agency and National CORE regarding the 4113 Kingsley Street site.

Option Agreement No. 09-97 regarding purchase of 4113 Kingsley Street was approved by the Redevelopment Agency Board of Directors and National CORE on October 19, 2009. The Option Agreement provided National CORE with the ability to apply for United States Department of Housing and Urban Development Section 811 funding to finance the development of affordable housing for developmentally disabled persons. National CORE has received a commitment for funding from the Section 811 Program in 2010. However, National CORE still finds itself in need of additional funding for the project and wants to apply for tax credits. In order to apply for tax credits through the California Low-Income Housing Tax Credit Program, all other financial assistance must be secured including the assistance to be provided by the Redevelopment Agency. Therefore, the Redevelopment Agency Board of Directors is requested to consider setting a public hearing for July 5, 2011, at 7:00 p.m. regarding consideration of a Disposition and Development Agreement by and between the City of Montclair Redevelopment Agency and National CORE.

**FISCAL IMPACT:** The cost to publish a Notice of Public Hearing regarding this matter is not expected to exceed \$3,000.

**RECOMMENDATION:** Staff recommends the Redevelopment Agency Board of Directors consider setting July 5, 2011, at 7:00 p.m. as the date and time for a public hearing to consider adoption of Resolution No. 11-12, a Resolution of the City of Montclair Redevelopment Agency approving Agreement No. 11-79, a Disposition and Development Agreement by and between the City of Montclair Redevelopment Agency and National Community Renaissance of California (National CORE) regarding the property located at 4113 Kingsley Street.

NOTICE OF PUBLIC HEARING ON PROPOSED AGREEMENT NO. 11-79, A DISPOSITION AND DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY AND NATIONAL COMMUNITY RENAISSANCE OF CALIFORNIA (NATIONAL CORE) REGARDING 4113 KINGSLEY STREET, MONTCLAIR, CA

**NOTICE IS HEREBY GIVEN** that the City of Montclair Redevelopment Agency and City Council will conduct a public hearing on Tuesday, July 5, 2011, at 7:00 p.m. in the City of Montclair City Council Chambers, 5111 Benito Street, Montclair, California, to consider Agreement No. 11-79, a Disposition and Development Agreement by and between the City of Montclair Redevelopment Agency and National Community Renaissance of California (National CORE) concerning property located at 4113 Kingsley Street. The Agreement involves disposition of the property and a financial contribution from the Redevelopment Agency for the purposes of constructing an 18-unit affordable multifamily project for special needs individuals. The Agency's financial contribution would be a loan to be repaid through residual receipts.

Any person interested in the above proceeding may appear at the time and place listed above to testify in favor of or in opposition to this item. Any written correspondence regarding this matter must be sent to the attention of the City Clerk/Agency Secretary, 5111 Benito Street, Montclair, California, 91763. A copy of proposed Agreement No. 05-01 may be inspected at the Office of the City Clerk/Agency Secretary located at the City of Montclair City Hall, 5111 Benito Street, Montclair, California, before the public hearing.

If you contest the item listed above in court, you may be limited to challenging only those issues you or someone else cited during the public hearing described in this Notice or documented in written correspondence delivered to the City of Montclair Redevelopment Agency at, or prior to, the public hearing. Furthermore, you must exhaust any administrative remedies prior to litigating the City of Montclair Redevelopment Agency's action.

Date: June 21, 2011

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Deputy City Clerk/Agency Secretary  
City of Montclair/City of Montclair  
Redevelopment Agency

**PUBLISH THIS NOTICE ON: June 24, 2011  
July 1, 2011**

## AGENDA REPORT

**SUBJECT:** CONSIDER SETTING A PUBLIC HEARING TO CONSIDER ADOPTION OF RESOLUTION NO. 11-2910 AMENDING THE MASTER USER FEE SCHEDULE RELATED TO VEHICLE IMPOUND SERVICE FEES

**DATE:** June 20, 2011  
**SECTION:** ADMIN. REPORTS  
**ITEM NO.:** 8  
**FILE I.D.:** FLP170  
**DEPT.:** POLICE

**REASON FOR CONSIDERATION:** The City Council is requested to consider setting a public hearing to consider adoption of Resolution No. 11-2910, succeeding Resolution No. 11-2896, which would amend the Master User Fee Schedule for vehicle impound service fees.

**BACKGROUND:** The City Council adopted Resolution No. 11-2896 on May 2, 2011, establishing impounded vehicle towing fees pursuant to California Vehicle Code Section 14602.6, the 30-day impound law. The City would collect the tow fees and pay the tow companies the full amount collected on a monthly basis if the vehicles were released back to the registered or legal owners. If the impounded vehicles were released through a lien sale, the City would only collect 55 percent of the established tow fees and pay that full amount to the tow companies.

Dietz Towing and Pacific Truck and Auto Towing, Inc., were provided with the option of the bifurcated fee schedule described above or a reduced single-rate fee schedule for their towing services, regardless of how the vehicles were released. Neither company selected a preferred fee schedule, and the Police Department decided to move forward with the bifurcated fee schedule.

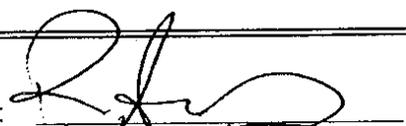
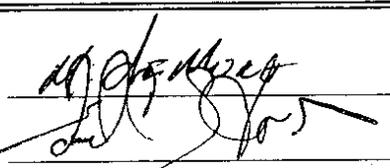
On June 8, 2011, the Police Department met with representatives of Dietz Towing and Pacific Truck and Auto Towing, Inc., to review the new tow contracts. At that time, both towing companies decided they would prefer to establish a reduced single-rate fee for their services.

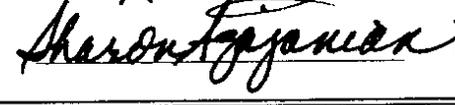
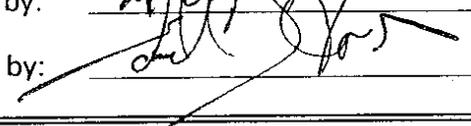
Establishing a single-rate fee for impounded vehicle towing services would simplify the process and reduce the overall costs paid by registered or legal owners. The existing and proposed impounded vehicle towing fees are as follows:

### *Existing Police Department Fee Schedule*

<i>Description</i>	<i>Fees</i>
Impounded Vehicle Towing	\$193 for vehicles with a gross vehicle weight rating under 14,000 pounds

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Prepared by:  Reviewed and Approved by: 

Proofed by:  Presented by: 

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Impounded Vehicle Towing	\$218 for vehicles with a gross vehicle weight rating of 14,001 to 19,501 pounds
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*Proposed Police Department Fee Schedule Changes*

<i>Description</i>	<i>Proposed Fees</i>
Impounded Vehicle Towing	\$150 for vehicles with a gross vehicle weight rating under 14,000 pounds
Impounded Vehicle Towing	\$170 for vehicles with a gross vehicle weight rating of 14,001 to 19,501 pounds

**FISCAL IMPACT:** The cost to publish a Notice of Public Hearing related to proposed Resolution No. 11-2910 is not expected to exceed \$400.

**RECOMMENDATION:** Staff recommends the City Council set a public hearing for Tuesday, July 5, 2011, at 7:00 p.m. in the City Council Chambers to consider adoption of Resolution No. 11-2910 amending the Master User Fee Schedule related to vehicle impound service fees.

**RESOLUTION NO. 11-2910**

**A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MONTCLAIR AMEND-  
ING THE MASTER USER FEE SCHEDULE  
FOR VEHICLE IMPOUND SERVICE FEES**

**WHEREAS**, the City of Montclair has the statutory authority to impose fees, charges, and rates under its regulatory and Police power as authorized pursuant to California Government Code Section 37112; and

**WHEREAS**, user fees are imposed for services rendered by the City of Montclair that will benefit a specific individual or group of individuals; and

**WHEREAS**, there is a need for the City of Montclair to recoup costs related to the provision of specified services; and

**WHEREAS**, user fees are imposed to assign the cost of providing services to the specific individual or group of individuals receiving the benefits of said services, rather than funding said services from General Fund revenues; and

**WHEREAS**, California Vehicle Code Section 22850.5(a) authorizes cities to administer vehicle impound facilities; and

**WHEREAS**, the City Council of the City of Montclair has determined that fees equal to costs related to the towing of vehicles be set by City Resolution; and

**WHEREAS**, the City has heretofore conducted an analysis of the costs incurred in connection with vehicle towing, and the fees established herein were determined to not exceed actual costs; and

**WHEREAS**, the City Council has duly noticed and conducted a public hearing on July 5, 2011, at which time the public was invited to give oral and/or written testimony as part of the regularly scheduled City Council meeting prior to the City Council's consideration of adoption of this Resolution.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair does hereby find and determine that the Police Department shall impose the following impounded vehicle towing service fees:

Impounded Vehicle Towing	\$150 for vehicles with a gross vehicle weight rating under 14,000 pounds
Impounded Vehicle Towing	\$170 for vehicles with a gross vehicle weight rating of 14,001 to 19,501 pounds

**BE IT FURTHER RESOLVED** that this Resolution shall be in full force and effect thirty (30) days after passage.

**APPROVED AND ADOPTED** this XX day of XX, 2011.

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
Deputy City Clerk

I, Yvonne L. Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 11-2896 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, 2011, and that it was adopted by the following vote, to-wit:

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

\_\_\_\_\_  
Yvonne L. Smith  
Deputy City Clerk

## AGENDA REPORT

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**SUBJECT:** CONSIDER SETTING A PUBLIC HEARING TO CONSIDER ORDINANCE NO. 11-924 REPLACING SECTION 11.72.270 OF THE MONTCLAIR MUNICIPAL CODE RELATED TO TEMPORARY AND SPECIAL EVENT SIGN PERMITS

**DATE:** June 20, 2011  
**SECTION:** ADMIN. REPORTS  
**ITEM NO.:** 9  
**FILE I.D.:** SIG180  
**DEPT.:** COMMUNITY DEV.

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**REASON FOR CONSIDERATION:** The City Council is requested to consider setting a public hearing to consider Ordinance No. 11-924 replacing Section 11.72.270 of the Montclair Municipal Code related to temporary and special event sign permits.

**BACKGROUND:** The City Council approved a temporary policy in July 2009 extending the maximum amount of time that businesses could display promotional banners from 48 to 90 days per calendar year in response to a business owner's concern about the local and regional economic impacts of the recession on Montclair businesses. At the Council's direction, the temporary policy will sunset on June 30, 2011.

While a handful of Montclair businesses continue to abuse the temporary banner policy, staff believes that allowing businesses to display promotional banners for 90 days per year is reasonable and is proposing a code amendment to make the temporary policy permanent.

**FISCAL IMPACT:** The cost to publish a Notice of Public Hearing in the *Inland Valley Daily Bulletin* related to proposed Ordinance No. 11-924 should not exceed \$400.

**RECOMMENDATION:** Staff recommends the City Council set a public hearing for Tuesday, July 5, 2011, at 7:00 p.m. in the City Council Chambers to consider Ordinance No. 11-924 replacing Section 11.72.270 of the Montclair Municipal Code related to temporary and special event sign permits.

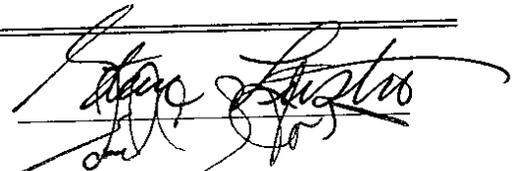
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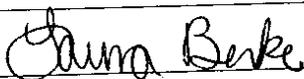
Prepared by:



Reviewed and  
Approved by:



Proofed by:



Presented by:

**ORDINANCE NO. 11-924**

**AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF MONTCLAIR AMENDING SECTION 11.72.270  
OF THE MONTCLAIR MUNICIPAL CODE (TEMPORARY  
AND SPECIAL EVENT SIGN PERMITS)**

**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**, the Montclair Municipal Code (MMC) makes provisions for businesses and institutions to display banners on a temporary basis to announce grand openings and to advertise promotional events; and

**WHEREAS**, the Code currently allows new businesses, as defined in Chapter 11.02 MMC, to obtain a permit and display a "Grand Opening" banner for a maximum of 45 days; and

**WHEREAS**, the Code also allows businesses and institutions to obtain a permit or permits to display promotional banners for a maximum of 48 days per calendar year, either consecutively or in increments of 12 days or 24 days; and

**WHEREAS**, on July 20, 2009, in response to a business owner's concern about the local and regional economic impacts of the recession on Montclair businesses, the City Council approved a policy directive temporarily modifying the Code section governing promotional banners. The revisions increased the amount of time that businesses could display promotional banners from 48 to 90 calendar days per year, and required that businesses pay the adopted application fee (\$20.00) only for the first permit obtained in the calendar year, with subsequent permits to be issued at no charge; and

**WHEREAS**, the policy directive included a sunset date of June 30, 2011; and

**WHEREAS**, staff believes that the Council policy increasing the maximum amount of days that businesses may display promotional banners is reasonable and, therefore, should be made permanent; and

**WHEREAS**, the proposed Code amendment also adds language to address criteria for promotional banners for "big box" retailers and also removes obsolete language regarding political signs; and

**WHEREAS**, the City Council finds that the proposed Ordinance is consistent with the General Plan's goals and policies of protecting community aesthetics through regulated signage and promoting the viability of a variety of commercial land uses; 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 proposed code amendment revises a section of the Zoning Ordinance that addresses on-premise signs that would be considered exempt as "minor structures accessory to existing commercial, industrial, or institutional facilities..." under Section 15311(a) 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 temporary banners on commercial, industrial, and institutional 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 11.72.270 ("Temporary and special event sign permits") of Title 11 ("Zoning and Development") of the Montclair Municipal Code is hereby repealed and replaced in its entirety as follows:

**11.72.270 Temporary and special event sign permits.**

A. A temporary sign permit may be issued by the Director of Community Development for a temporary period of time, as specified in this Section, for various special and promotional events. The signs may be used to promote the sale of new products, a special promotion or event, new management, new hours of operation, a service, or to promote a special sale. In addition, grand openings, carnivals, festivals, special educational, cultural, civic, charitable, and religious programs, seasonal crops or tree sales and other similar special events may be specifically granted the use of such temporary signs in accordance with the provisions of this Chapter. The time periods granted under temporary sign permits shall refer to calendar days unless otherwise indicated.

B. To apply for a temporary sign permit, the applicant shall submit to the Planning Division for review and approval a completed application along with the necessary drawings and filing fees as set forth by resolution of the City Council. The use of each sign shall be subject to the following limitations:

1. Each business shall be allowed one (1) 45-day temporary sign permit for the sole purpose of announcing the grand opening of a new business or significantly new use as defined in Chapter 11.02 of this Title, provided that the privilege of utilizing such sign permit shall occur no later than 60 days from the initial occupancy of such business location.

2. Each business, nonprofit, or civic organization shall be allowed to display a temporary promotional banner for a maximum of 90 days per calendar year. Businesses and organizations may obtain a single permit for 90 consecutive days, or multiple permits for display periods of less than 90 days, except that permits shall not be issued for periods of less than 10 consecutive days.

3. Temporary banners shall be made of durable materials and attached only to a building on the property upon which the advertised activity is located. The Director of Community Development may allow alternative placement of temporary banners in cases where their placement on a building would not be plainly visible to passersby. In no case shall a banner be placed higher than the roof line of the building to which it is attached.

4. No more than one temporary banner shall be permitted per street frontage on any property, up to a maximum of three signs. If a business with multiple street frontages is entitled to, and chooses to display multiple banners, they shall not be combined on the same building elevation, but displayed one per eligible frontage. The Director of Community Development may allow a temporary banner to be placed on a building elevation with no street frontage provided that the elevation faces an internal customer parking lot with a capacity of 100 vehicles or more.

5. The maximum allowable size of each banner shall be 50 square feet, except that businesses occupying a gross leasable area (GLA) of 50,000 to 100,000 square feet shall be allowed a banner up to 100 square feet in size, and that businesses occupying in excess of 100,000 square feet of GLA shall be allowed a banner up to 200 square feet in size.

6. Provisions for special sign permits and advertising devices for new and used automobile, motorcycle, and watercraft dealerships shall be in accordance with Section 11.72.280 of this Chapter.

**SECTION II. 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 III. Effective Date.**

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

**Section IV. 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, 2011.

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Mayor

**ATTEST:**

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Deputy City Clerk

I, Yvonne L. Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. 11-924 of said City, which was introduced at a regular meeting of the City Council held on the XX day of XX, 2011, and finally passed not less than five (5) days thereafter on the XX day of XX, 2011, by the following vote, to-wit:

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

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Yvonne L. Smith  
Deputy City Clerk

## AGENDA REPORT

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**SUBJECT:** CONSIDER PROVIDING CONCURRENCE WITH THE METRO GOLD LINE FOOTHILL EXTENSION CONSTRUCTION AUTHORITY'S INCLUSION OF THE PROPOSED CONCEPT FOR THE MONTCLAIR STATION AND PARKING LOCATIONS AS PART OF THE PROJECT DESCRIPTION FOR THE EIS/EIR AND UPDATED PROJECT DEFINITION REPORT FOR THE AZUSA TO MONTCLAIR PROJECT, WITH THE UNDERSTANDING THAT FURTHER ANALYSIS WILL TAKE PLACE REGARDING THESE LOCATIONS THROUGH THE ENVIRONMENTAL REVIEW PROCESS

**DATE:** June 20, 2011  
**SECTION:** ADMIN. REPORTS  
**ITEM NO.:** 10  
**FILE I.D.:** TRN256  
**DEPT.:** PUBLIC WORKS

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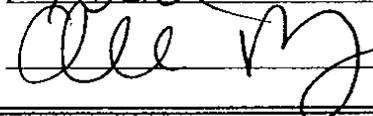
**REASON FOR CONSIDERATION:** The Metro Gold Line Foothill Extension Construction Authority has asked the City Council to provide concurrence with its inclusion of the Montclair station and parking locations as part of the project description for the Environmental Impact Statement (federal) and Environmental Impact Report (state) (EIS/EIR).

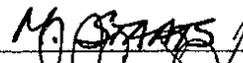
**BACKGROUND:** Gold Line service from Union Station to Pasadena (Segment 1) began on July 26, 2003, with the intention that the Gold Line would eventually be extended to Claremont as Segment 2. By 2005, the proposed Segment 2 terminus had been extended to Montclair; and San Bernardino Associated Governments had joined the Joint Powers Authority. The ability to fund Segment 2 work was questionable until, with the passage of Measure I in Los Angeles County on November 8, 2008, sufficient funds became available for partial construction. Segment 2 work was split into two phases, Segment 2A from Pasadena to Azusa and Segment 2B from Azusa to Montclair. A future Segment 3 would extend the Gold Line to LA/Ontario International Airport.

Segment 2A work is currently under construction with the development of a bridge structure at the westerly end of Arcadia to lift the light rail alignment out of the Interstate 210 median and over the eastbound lanes. Within the next three months, a second design build contract will be awarded to construct the mainline from the east end of Pasadena to Azusa. Service on Segment 2A is expected by 2015.

Funding was also available for the environmental clearance of Segment 2B work from Azusa to Montclair. A joint National Environmental Policy Act/California Environmental Quality Act (NEPA/CEQA) document is currently being prepared. Several public and council workshops have been held since the beginning of the year, with the expectation of CEQA clearance by November and NEPA clearance by next April. Service on Segment 2B would not be expected until 2017 at the earliest.

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Prepared by:   
Proofed by: 

Reviewed and Approved by:   
Presented by: 

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Metro Gold Line Foothill Extension Construction Authority (Authority) staff made a presentation to the City Council in a workshop held June 6, 2011. The Authority's presentation included the proposed Montclair station concept. The Montclair Gold Line stop will be located at the Transcenter and will make use of the existing 1,600-plus parking lot. Even with the addition of Gold Line passengers, the Authority believes ample parking is available.

The Authority's presentation identified several challenges and constraints. It was noted that although the proposed bridge clearance over Monte Vista Avenue would be tight, minimum clearances would be met. According to the Authority, there will be no need to reprofile Monte Vista Avenue.

Because the Gold Line platform will be opposite the existing Metrolink platforms, the Gold Line rails and platform will not fit within the existing Metrolink right-of-way. Consequently, additional right-of-way will have to be acquired. It was also noted the encroachment would impact existing bus operations and the bus loop will have to be relocated. A meeting with all three bus lines will be set to discuss options.

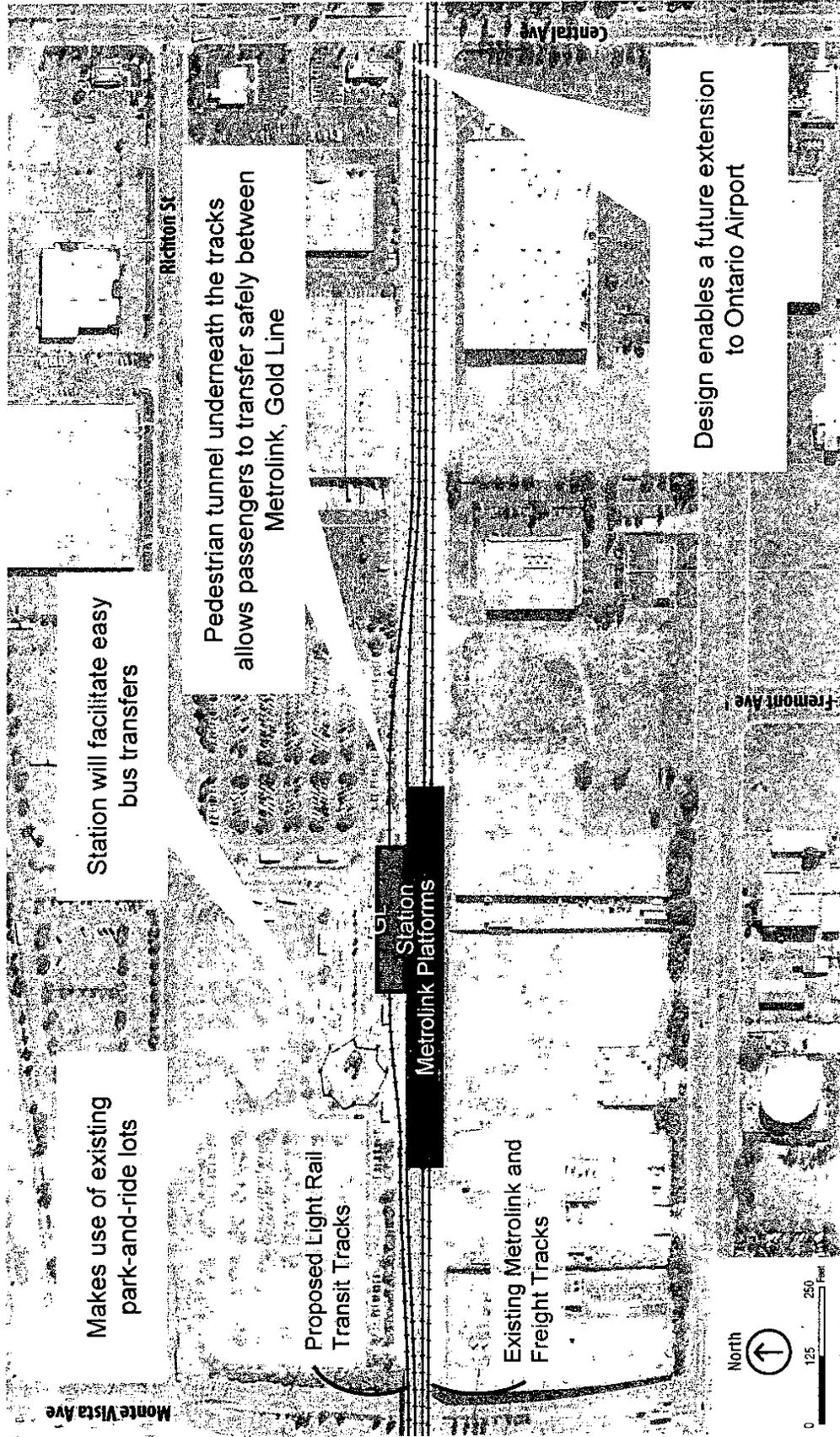
As part of the environmental review process, the Authority would like the City to concur with the Authority's inclusion of the proposed Montclair station concept as part of the Project Description for the EIS/EIR and updated Project Definition Report. The recommended City Council action also includes the understanding that further analysis will continue as part of the environmental review process.

All Segment 2B cities have been asked to take this action. To date, three cities—Claremont, La Verne, and San Dimas—have taken such an action.

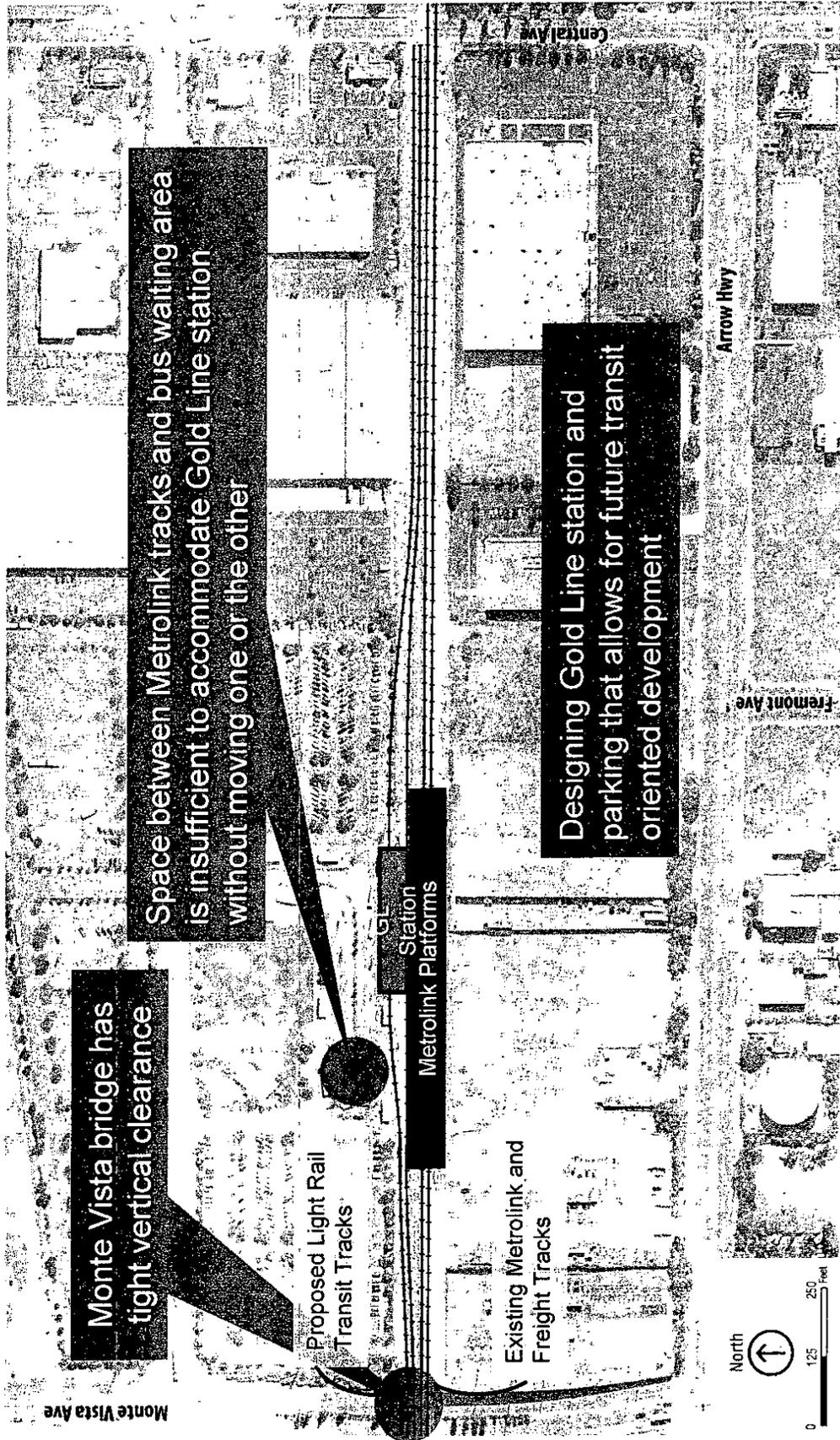
**FISCAL IMPACT:** There would be no immediate fiscal impact should the City Council take the recommended action. The City will continue to have input through the environmental process and in the design process at a later date. It is assumed that some Measure R money may be available for Segment 2B construction but only for that portion within Los Angeles County. At some point, the extension of the Gold Line into San Bernardino County will require local funding or federal funding with a possible local match.

**RECOMMENDATION:** Staff recommends the City Council provide concurrence with the Metro Gold Line Foothill Extension Construction Authority's inclusion of the proposed concept for the Montclair station and parking locations as part of the Project Description for the EIS/EIR and updated Project Definition Report for the Azusa to Montclair project, with the understanding that further analysis will take place regarding these locations through the environmental review process.

# Proposed Station Concept



# Challenges and Constraints



## AGENDA REPORT

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**SUBJECT:** CONSIDER APPROVAL OF THE FILING OF A NOTICE OF COMPLETION FOR THE ALMA HOFMAN PARK LIGHTING AND LANDSCAPE IMPROVEMENT PROJECT; REDUCTION OF FAITHFUL PERFORMANCE BOND TO 10 PERCENT; AND RETENTION OF PAYMENT BOND FOR SIX MONTHS

**DATE:** June 20, 2011  
**SECTION:** ADMIN. REPORTS  
**ITEM NO.:** 11  
**FILE I.D.:** PRK200  
**DEPT.:** PUBLIC WORKS

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

CONSIDER AUTHORIZATION OF A \$40,855.66 TRANSFER FROM 2005 LEASE REVENUE BOND PROCEEDS REMAINING FROM THE MONTCLAIR SENIOR CENTER CONSTRUCTION CONTINGENCY TO THE ALMA HOFMAN PARK LIGHTING AND LANDSCAPE IMPROVEMENT PROJECT

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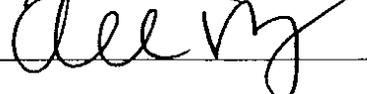
**REASON FOR CONSIDERATION:** State law requires Notices of Completion to be recorded with the County Recorder upon acceptance of a public works project. Notices of Completion require City Council approval.

**BACKGROUND:** On February 17, 2011, the City Manager awarded a contract to Southern California Landscape, Inc., for the Alma Hofman Park Lighting and Landscape Improvement Project and entered into Agreement No. 11-23. All work required pursuant to Agreement No. 11-23 has been satisfactorily completed. Work under this contract included new landscape irrigation and landscape throughout Alma Hofman Park. Additional landscape irrigation and landscape improvements were added to the project by way of change order. Originally, that additional work was going to be completed by Public Works maintenance crews. The decision to add the work to this contract was based on lack of staffing availability as well as exceptional costs. The additional improvements provided landscaping and irrigation around the new parking lot at the Recreation Building and an environmental bioswale along the southerly block wall that was required as part of the Senior Center project.

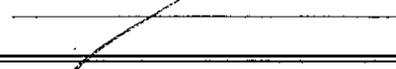
**FISCAL IMPACT:** The City received funding for various Alma Hofman Park improvements through two separate State Department of Parks and Recreation grants. The combined grants totaled \$311,000. Over the past year, \$182,212.71 of the funding was used to construct a new playground at Alma Hofman Park, leaving \$128,787.29 to be used for the Alma Hofman Lighting and Landscape Improvement Project.

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Prepared by:

Reviewed and Approved by:

Proofed by:

Presented by:

The Alma Hofman Park Lighting and Landscape Improvement Project was awarded for \$144,225.00. With the additional landscaping and irrigation around the Recreation building parking lot and bioswale, the final construction cost was \$169,642.95, \$40,855.66 more than the funds remaining in the two grants. Staff is requesting that \$40,855.66 of the \$98,182.53 funds remaining from the Montclair Senior Center Project be transferred to the Alma Hofman Park Project to offset the shortfall in grant funding.

**RECOMMENDATION:** Staff recommends the City Council take the following actions related to the Alma Hofman Park Lighting and Landscape Improvement Project:

1. Approve the filing of a Notice of Completion.
2. Approve reduction of the Faithful Performance Bond to 10 percent.
3. Approve retention of the Payment Bond for six months.
4. Approve release of retention 30 days after recordation of Notice of Completion.
5. Authorize the transfer of \$40,855.66 from the 2005 Lease Revenue Bond proceeds remaining from the Montclair Senior Center construction contingency to the Alma Hofman Park Lighting and Landscape Improvement Project.

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

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

APN NO. : N/A

(Space above this line for Recorder's Use)

## NOTICE OF COMPLETION

NOTICE is hereby given that:

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

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

The work was completed on that certain work known as Alma Hofman Park Landscape and Lighting  
Improvement Project

for the undersigned City of Montclair, a Municipal Corporation, on the 27th day of May, 2011

The City accepted the job on the 20th day of June, 2011

The Contractor on said job was Southern California Landscape, Inc.  
8636 Banana Avenue  
Fontana, Ca, 92335

The improvement consisted of Landscape Irrigation and Landscape

The property upon which said work of improvement was completed is described as: 5200 Benito Street

### VERIFICATION

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

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

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

Executed on: \_\_\_\_\_ at 5111 Benito Street, Montclair, California

\_\_\_\_\_  
City Engineer, City of Montclair

## AGENDA REPORT

**SUBJECT:** CONSIDER REDEVELOPEMENT AGENCY  
BOARD OF DIRECTORS' APPROVAL OF  
AGREEMENT NO. 11-59 WITH R. RICHARD  
FLEENER FOR PLANNING SERVICES

**DATE:** June 20, 2011

**SECTION:** AGREEMENTS

**ITEM NO.:** 1

**FILE I.D.:** HIT050/RDA720

**DEPT.:** REDEVELOPMENT

**REASON FOR CONSIDERATION:** The Redevelopment Agency Board of Directors is requested to retain the services of Mr. R. Richard Fleener, doing business as Fleener Associates, to provide technical assistance to the Housing Improvement Task Force. A copy of proposed Agreement No. 11-59 is attached for consideration by the Agency Board.

**BACKGROUND:** The Housing Improvement Task Force has retained the services of Fleener Associates since 2004. Mr. Fleener, a former principal at L.D. King, Inc., has assisted the Housing Improvement Task Force since 1986. Mr. Fleener established Fleener Associates in 2004 after L.D. King, Inc., ceased providing land use planning and design services to public agencies.

Proposed Agreement No. 11-59 identifies the scope of services that Fleener Associates proposes to undertake including the continuation of efforts to identify and implement multifamily Foundation Areas. Fleener Associates would continue to assist in the preparation of the *Foundations* newsletters and the annual Action Plan.

**FISCAL IMPACT:** As proposed, the cost to retain the consulting services of Fleener Associates shall not exceed \$35,000 and would be paid with Redevelopment Agency funds. The Redevelopment Agency would reimburse the consulting firm for services based on hourly rates not to exceed a total of \$35,000 and for reimbursable expenses not to exceed \$5,000. The term of the Agreement would extend until June 30, 2012.

The Agency Board appropriated funds to retain consulting services for the Housing Improvement Task Force in the Fiscal Year 2010-11 Housing and Capital Projects Budget for Redevelopment Project Area V. Funding for the portion of the consulting services that extend into the next fiscal year has been proposed in the Fiscal Year 2011-12 Redevelopment Agency Budget. The Agency Board is provided with a right to terminate without cause upon 15 days written notice to the consultant.

**RECOMMENDATION:** Staff recommends the Redevelopment Agency Board of Directors approve Agreement No. 11-59 with Mr. R. Richard Fleener for planning services.

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Prepared by: <u>Christine O. Kadawell</u>	Reviewed and Approved by: <u>M. J. [Signature]</u>
Proofed by: <u>Yonice G. Smith</u>	Presented by: <u>[Signature]</u>

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**AGREEMENT  
FOR  
PLANNING SERVICES**

**ACTION PLAN  
HOUSING IMPROVEMENT TASK FORCE  
IN THE CITY OF MONTCLAIR**

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**THIS AGREEMENT** is made and entered into this 20th day of June, 2011, by and between the **CITY OF MONTCLAIR REDEVELOPMENT AGENCY**, a public body, corporate and politic, (hereinafter referred to as “**AGENCY**”), and **R. RICHARD FLEENER**, doing business as **FLEENER ASSOCIATES** (hereinafter referred to as “**CONSULTANT**”).

**A. RECITALS**

1. **CONSULTANT** has now submitted a proposal for the continued performance of services in connection with the preparation of an Action Plan to assist the Agency’s Housing Improvement Task Force;
2. **AGENCY** desires to retain **CONSULTANT** to perform professional services necessary to render advice and assistance to the Community Development Department, the Redevelopment Agency Board of Directors, the City Council, and staff in preparation of the Project (as defined below); and
3. **CONSULTANT** represents that it is qualified to perform such services and is willing to perform such professional services hereinafter defined.

**NOW, THEREFORE, IT IS AGREED** by and between **AGENCY** and **CONSULTANT** as follows:

**B. AGREEMENT**

1. **Definitions:** The following definitions shall apply to the following terms except where the context of this Agreement otherwise requires:

**a. Project:** The preparation of all the necessary maps, plans, surveys, reports and documents with respect to the Project as outlined in the Scope of Services described in Exhibit “A” hereto;

**b. Services:** Such professional services as are necessary to be performed by **CONSULTANT** in order to complete the Project; and

**c. Completion of Project:** The date of completion of all phases of the Project, including any and all procedures, development plans, maps, surveys, plan documents, technical reports, meetings, oral presentations, and attendance by **CONSULTANT** at public hearings regarding the Project acceptance for construction is set forth in Exhibit “B”, Project Schedule, attached hereto.

**2. CONSULTANT agrees as follows:**

a. **CONSULTANT** shall forthwith undertake and complete the Project in accordance with Exhibit "A" and applicable Federal, State, and City statutes, regulations, ordinances, and guidelines, all to the reasonable satisfaction of the **AGENCY**. **CONSULTANT** warrants that all services provided hereunder will be performed in a competent, professional and satisfactory manner in accordance with the standards prevalent in the industry for such services.

b. **CONSULTANT** shall supply copies of all maps, surveys, reports, plans, and documents (hereinafter collectively referred to as "documents"), including all supplemental technical documents, as described in Exhibit "A" to **AGENCY** within the time specified in the Project Schedule, Exhibit "B", hereto. Copies of the documents shall be in such numbers as are required by Exhibit "A". **AGENCY** may thereafter review and forward to **CONSULTANT** comments regarding said documents, and **CONSULTANT** shall thereafter make such revisions to said documents as are deemed necessary. **AGENCY** shall receive revised documents in such form and in the quantities determined necessary by **AGENCY**.

c. **CONSULTANT** shall, at **CONSULTANT**'s sole cost and expense, secure and hire such other persons as may, in the opinion of **CONSULTANT**, be necessary to comply with the terms of this Agreement. In the event any such other persons are retained by **CONSULTANT**, **CONSULTANT** hereby warrants that such other persons shall be fully qualified to perform services required hereunder. **CONSULTANT** further agrees that no subcontractor shall be retained by **CONSULTANT** except upon the prior written approval of **AGENCY**.

d. **CONSULTANT** shall, at **CONSULTANT**'s sole cost and expense, secure the required issuance of a City Business License as a condition precedent to being engaged as a **CONSULTANT** within the City.

**3. AGENCY agrees as follows:**

a. To pay **CONSULTANT** the fees determined in accordance with the Project Payment Schedule attached hereto as Exhibit "C", up to a maximum of \$35,000, for the performance of the services required hereunder. This sum shall cover the cost of all staff time, mileage, telephone charges, postage, delivery charges, copying and duplication charges, printing fees, and all other direct and indirect costs or fees, including the work of employees, consultants, and subcontractors to **CONSULTANT**.

b. Payments to **CONSULTANT** shall be made by **AGENCY** in accordance with the invoices submitted by **CONSULTANT** on a monthly basis, and such invoices shall be paid within a reasonable time after said invoices are received by **AGENCY**. All charges shall be detailed in Exhibit "C" either with respect to hourly rates or lump sum amounts for individual tasks.

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

d. **Additional Services:** Payments for additional services requested in writing by **AGENCY** and not included in the Scope of Services as set forth in Exhibit "A" hereof shall be paid on a reimbursement basis in accordance with the fee schedule set forth in Exhibit "C". Charges for additional services shall be invoiced

on a monthly basis and shall be paid by **AGENCY** within a reasonable time after said invoices are received by **AGENCY**.

**4. AGENCY agrees to provide CONSULTANT:**

- a. Information and assistance as set forth in Exhibit "A" hereto;
- b. Photographically reproducible copies of maps and other information, if available, which **CONSULTANT** considers necessary in order to complete the Project;
- c. Such information as is generally available from **AGENCY** files applicable to the Project; and
- d. Assistance, if necessary, in obtaining information from other governmental agencies and/or private parties. However, it shall be **CONSULTANT**'s responsibility to make all initial contact with respect to the gathering of such information.

**5. Ownership of Documents:** All documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by **CONSULTANT** pursuant to this Agreement shall be considered the property of the **AGENCY** and, upon payment for services performed by **CONSULTANT**, such documents and other identified materials shall be delivered to **AGENCY** by **CONSULTANT**. **CONSULTANT** may, however, make and retain such copies of said documents and materials as **CONSULTANT** may desire.

Any use or reuse of the plans and specifications, except at the selected multifamily Foundation Areas or Support Areas, or any alterations or revision of the plans or specifications by the **AGENCY**, its staff, or authorized agents without specific written consent of the **CONSULTANT** shall be at the sole risk of the **AGENCY**. The **AGENCY** agrees to hold harmless and indemnify the **CONSULTANT** against all damages, claims, and losses, including defense costs arising out of any such alteration or revision or reuse at sites other than the selected multifamily Foundation Areas or Support Areas by **AGENCY**, its staff, or authorized agents.

**6. Termination:** This Agreement may be terminated by **AGENCY** upon the giving of written "Notice of Termination" to **CONSULTANT** at least fifteen (15) days prior to the date of termination specified in said Notice. In the event this Agreement is so terminated, **CONSULTANT** shall be compensated at **CONSULTANT**'s applicable hourly rates as set forth in Exhibit "C". In no event, however, shall **CONSULTANT** receive more than the maximum specified in paragraph 3a above. **CONSULTANT** shall provide **AGENCY** any and all documents, data, studies, surveys, drawings, maps, models, photographs, and reports, whether in draft or final form, prepared by **CONSULTANT** as of the date of termination. **CONSULTANT** may not terminate this Agreement except for cause.

**7. Notices and Designated Representatives:** Any and all notices, demands, invoices, and written communications between the parties hereto shall be addressed as set forth in paragraph 7. The below-named individuals, furthermore, shall be those persons primarily responsible for the performance by the parties under this Agreement:

**AGENCY:**

**CITY OF MONTCLAIR REDEVELOPMENT AGENCY**

Name: Marilyn Staats  
Title: Director of Redevelopment/Public Works  
5111 Benito Street, Montclair, California 91763

**CONSULTANT:**

Name: R. Richard Fleener  
Title: Owner  
Fleener Associates  
4520 Sharpsville Road  
Murfreesboro, TN 37130

Any such notices, demands, invoices, or written communications, by mail, shall be deemed to have been received by the addressee forty-eight (48) hours after deposit thereof in the United States mail, postage prepaid, and properly addressed as set forth above.

**8. Insurance:** CONSULTANT shall not commence work under this Agreement until it has obtained all insurance required hereunder in a company or companies acceptable to AGENCY, nor shall CONSULTANT allow any subcontractor to commence work on a subcontract until all insurance required of the subcontractor has been obtained. CONSULTANT shall take out and maintain at all times during the term of this Agreement, the following policy of insurance:

**a. Worker's Compensation Insurance:** CONSULTANT, is a Sole Proprietor and does not have any employees whose employment requires CONSULTANT to carry workers' compensation insurance. Therefore, CONSULTANT does not carry worker's compensation insurance coverage. In the event that CONSULTANT hires any employees, CONSULTANT shall maintain worker's compensation insurance as required by law.

**9. Indemnification:** CONSULTANT shall defend, indemnify, and save harmless City, AGENCY, and their elected and appointed officials, officers, agents, and employees from all liability from loss, damage, or injury to persons or property, including the payment by CONSULTANT of any and all legal costs and attorneys' fees, in any manner arising out of any negligent or intentional or willful acts or omissions of CONSULTANT in the performance of this Agreement, but not limited to, all consequential damages to the maximum extent permitted by law.

**10. Assignment:** This is a personal services contract. No assignment of this Agreement or of any part or obligation of performance hereunder shall be made, either in whole or in part, by CONSULTANT without the prior written consent of AGENCY, which may be given or withheld in Agency's sole and absolute discretion.

**11. Independent Contractor:** The parties hereto agree that CONSULTANT and its employees, officers, and agents are independent contractors under this Agreement and shall not be construed for any purpose to be employees of AGENCY.

**12. Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of California.

**13. Attorney's Fees:** In the event any legal proceeding is instituted to enforce any term or provision of this Agreement, the prevailing party in said legal proceeding shall be entitled to recover attorneys' fees and costs from the opposing party in an amount determined by the Court to be reasonable.

**14. Entire Agreement:** This Agreement supersedes any and all other agreements, either oral or in writing, between the parties with respect to the subject matter herein. Each party to this Agreement acknowledges that no representation by any party which is not embodied herein or any other agreement, statement, or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement shall be effective only if it is in writing, signed by all parties.

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

**CONSULTANT:**

**R. Richard Fleener, doing business as Fleener Associates**

By: \_\_\_\_\_  
R. Richard Fleener

**AGENCY:**

**CITY OF MONTCLAIR REDEVELOPMENT AGENCY, a public body, corporate and politic**

By: \_\_\_\_\_  
Redevelopment Agency Chairman

**ATTEST:**

\_\_\_\_\_  
Agency Secretary

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Agency Attorney

# **EXHIBIT "A"**

## **SCOPE OF SERVICES**

Under the terms of the Agreement, **CONSULTANT** is to provide planning and engineering services to assist the Housing Improvement Task Force.

### **I. SERVICES BY AGENCY**

The AGENCY shall provide existing crime statistics, maps, and other pertinent information in the areas, attend meetings, and participate with the **CONSULTANT** in developing the Action Plan.

The Director of Community Development of the City of Montclair will direct the activities of the **CONSULTANT** on this Project.

### **II. SERVICES BY CONSULTANT**

#### **A. GENERAL**

The **CONSULTANT** team will consist of the following professional expertise:

Planner - familiar with the City of Montclair Housing Improvement Task Force, Planning process, low-cost housing, redevelopment projects, and blighted housing/neighborhood elimination procedures.

The **CONSULTANT** team will work with the Housing Improvement Task Force to sort, compile, and map relevant existing information on the study areas. It is understood and agreed that sufficient data is available for study, and the urgency is such that significant additional research and data are not needed.

B. The **CONSULTANT** team will continue to survey and research similar housing-related problems or innovative solutions to those problems experienced by other suburban communities in the Southern California area. Those cities with the most similar situations and successful solutions will be interviewed and visited for more detailed analysis.

C. Identification, selection, and implementation of new Multifamily Foundation Areas. Prepare Specific Action recommendations for Design Study Areas in the Study Area. Such recommendations could include the following:

- ◆ Declare as a Foundation Area and schedule for future action.
- ◆ Declare as a Support Area. Such an area would be one which needs no major attention. Its improvement would come from the spin-off of neighboring Foundation Area Improvements. Support actions would be available from the Task Force but not on an in-depth or regular basis and no financial assistance.
- ◆ Recommendations or additional actions on each existing Foundation Area would be included.

D. The **CONSULTANT** will assist the Task Force with its Public Relations Program (coordinated with the Montclair Chamber of Commerce) to renew and modify the Montclair image with special emphasis on the Residential Community.

E. The **CONSULTANT** will assist City Staff with improvement efforts in commercial areas which serve residents of existing or proposed Foundation Areas.

F. The **CONSULTANT** will continue to assist City Staff with on-site visitations and design consultations with property owners.

G. The **CONSULTANT** will prepare Multifamily Foundation Area design studies as needed, each on reproducible Mylar or similar material and including mounted color presentation prints as necessary.

H. The **CONSULTANT** will prepare individual design studies for property owners as need dictates and budget allows.

I. A newsletter, *FOUNDATIONS*, will be used as the primary reporting document to the **AGENCY** and the owners in Foundation Areas. The progress of the Task Force during the year will be summarized. Two hundred fifty (250) copies of *FOUNDATIONS* will be provided four times per year.

The *Action Plan 2012*, will be presented to the Redevelopment Agency no later than June 2012. This report will contain two main sections described as follows:

1. Review summary of activities during 2011, and
2. Recommendations for Task Force activities in 2012.

Forty (40) copies of *Action Plan 2012* will be provided.

J. A total of not to exceed twelve (12) **CONSULTANT**/Task Force meetings are scheduled (excluding owners' meetings). In addition, one (1) Redevelopment Agency Board meeting is anticipated.

K. The **CONSULTANT** team will assist the Task Force with the Montclair Chamber of Commerce to provide ample news releases and other public relations tools to create a positive Montclair image.

L. The **CONSULTANT** shall function as technical representative of **AGENCY**, and all of his activities under this Agreement shall be carried on under the general provision of the Director of Community Development. All official communications and directives from the **AGENCY** to **CONSULTANT** shall be made only through the Director of Community Development.

**EXHIBIT "B"**  
**PROJECT SCHEDULE**

**I. SCHEDULE**

The anticipated schedule is as follows:

<b>ACTION</b>	<b>DATE</b>
Consultant Contract Approved	June 2011
Monthly Meetings with Task Force	As needed from June 2011 through June 2012.
Selections of Multifamily Foundation Areas and Action on existing Multifamily Foundation Areas	On an as needed basis.
Public Relations Program	Ongoing
"Foundations" Reports	July/October 2011 February/June 2012
Prepare Action Plan 2012	June 2012

**II. TIME OF COMPLETION**

All work to be performed under this Agreement shall be completed by June 30, 2012, unless a time extension is mutually agreed to by AGENCY and CONSULTANT.

**EXHIBIT "C"**  
**PROJECT PAYMENT SCHEDULE**

**I. COMPENSATION**

The **AGENCY** shall reimburse the **CONSULTANT** for services performed based on the hourly rates pursuant to Section II of Exhibit "C" and reimbursable expenses submitted to the **AGENCY** but not to exceed a total fee of Thirty Five Thousand Dollars (\$35,000.00) plus Five Thousand Dollars (\$5,000.00) in reimbursable expenses.

A. The above fee shall include incidental expenses as well as equipment, the use of office space, and minor materials and supplies. Work to be done outside the scope of the Agreement shall not be done without written authorization from the **AGENCY**. Compensation for any additional work shall be determined at the mutual consent of the **AGENCY** and **CONSULTANT**. If an expanded project is authorized, a not-to-exceed budget and a more specific Scope of Services for the optional tasks identified herein will be determined at the mutual consent of **AGENCY** and **CONSULTANT**.

B. The **CONSULTANT** shall bill the **AGENCY** monthly. The billing shall be on an hourly, plus expenses, basis in accordance with the attached rate schedule. Billing will show total approved budget, amount billed to date, and remaining budget.

## Rate Schedule

June 2011

<u>Position.....</u>	<u>Hourly Rate</u>
Principal.....	\$125
Professional Property Manager.....	\$115
Organizational Facilitator.....	\$115
Urban Planner.....	\$ 85
Planning Assistant.....	\$ 65
CAD Technical Designer.....	\$ 85
CAD Draftsperson.....	\$ 65
Graphic Artist.....	\$ 75
Administrative Assistant.....	\$ 50

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER APPROVAL OF AGREEMENT NO. 11-66 WITH DIETZ TOWING AND AGREEMENT NO. 11-67 WITH PACIFIC TRUCK AND AUTO TOWING, INC., FOR VEHICLES TOWED AND STORED AT THE CITY IMPOUND LOT PURSUANT TO CALIFORNIA VEHICLE CODE SECTION 14602.6, THE 30-DAY IMPOUND LAW	<b>DATE:</b> June 20, 2011
	<b>SECTION:</b> AGREEMENTS
	<b>ITEM NO.:</b> 2
	<b>FILE I.D.:</b> TOW050
	<b>DEPT.:</b> POLICE

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**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 11-66 with Dietz Towing and Agreement No. 11-67 with Pacific Truck and Auto Towing, Inc., for all vehicles towed and stored at the City impound lot pursuant to California Vehicle Code Section 14602.6, the 30-day impound law. Proposed Agreement Nos. 11-66 and 11-67 have been reviewed and approved by the City Attorney and are attached for the City Council's review and consideration.

**BACKGROUND:** The City's current Agreements with Dietz Towing and Pacific Truck and Auto Towing, Inc., govern cost-recovery funds for vehicles towed pursuant to California Vehicle Code Section 14602.6, the 30-day impound law. Under the terms of the current contracts, which are on a month-to-month basis, the City receives one half of the funds for vehicles that are impounded pursuant to the 30-day impound law including vehicles released prior to 30 days of storage or for lien vehicles sold after the 30-day impoundment period.

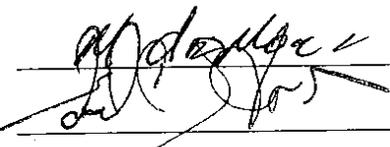
Under the terms of the proposed Agreements, the City is requesting the tow companies to transport vehicles towed pursuant to California Vehicle Code Section 14602.6 to the City impound lot for storage. The tow fees collected by the City for those vehicles would be paid to the tow companies on a monthly basis.

If approved, Agreement No. 11-66 with Dietz Towing and Agreement No. 11-67 with Pacific Truck and Auto Towing, Inc., would become effective August 1, 2011, and would remain in effect until terminated by either party, with or without cause, upon written notice to each party at least 30 days prior to the date specified for such termination.

**FISCAL IMPACT:** The City currently receives approximately \$82,288 annually from the tow companies. Should the City Council approve the proposed Agreements, annual revenue from the tow companies would be approximately \$158,053.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 11-66 with Dietz Towing and Agreement No. 11-67 with Pacific Truck and Auto Towing, Inc., for vehicles towed and stored at the City impound lot pursuant to California Vehicle Code Section 14602.6, the 30-day impound law.

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

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CITY OF MONTCLAIR

AGREEMENT FOR TOWING SERVICES

THIS AGREEMENT is made and effective as of August 1<sup>st</sup>, 2011, between the City of Montclair, a municipal corporation (hereinafter "City") and Dietz Towing, Inc., a California corporation (hereinafter the "Official Police Tow Service" or "OPTS"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

RECITALS

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

AGREEMENT

1. TERM

This Agreement shall commence upon execution of this Agreement by both parties and continue in effect until terminated pursuant to the provisions of this Agreement.

2. SERVICES

OPTS shall perform the tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full.

3. PERFORMANCE

OPTS shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all tasks described herein. OPTS shall employ, at a minimum, generally

accepted standards and practices utilized by persons engaged in providing similar services as are required of OPTS hereunder in meeting its obligations under this Agreement.

4. CITY MANAGEMENT

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

5. PAYMENT

(a) OPTS shall be compensated in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full.

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

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

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

(b) In the event this Agreement is terminated pursuant to this Section, the City shall pay to OPTS on a pro-rata basis the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the OPTS will submit an invoice to the City pursuant to Section 5(b).

(c) OPTS may terminate this Agreement upon at least thirty (30) days written notice to City.

7. DEFAULT OF OPTS

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

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

8. OWNERSHIP OF DOCUMENTS

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

(b) Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, claims, applications, computer files, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused, or otherwise disposed of by the City without the permission of the OPTS. With respect to computer files, OPTS shall make available to the City, at the OPTS's office and upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

9. INDEMNIFICATION

(a) Indemnification for Professional Liability. When the law establishes a professional standard of care for OPTS's services, to the fullest extent permitted by law, OPTS

shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents (“Indemnified Parties”) from and against any and all losses, liabilities, damages, costs and expenses, including attorney’s fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of OPTS, its officers, agents, employees or subcontractors (or any entity or individual that OPTS shall bear the legal liability thereof) in the performance of professional services under this Agreement.

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

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

## 10. INSURANCE

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

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

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

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

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

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

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

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

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

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

## 11. INDEPENDENT OPTS

(a) OPTS is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of OPTS

shall at all times be under OPTS's exclusive direction and control and shall not be construed to be employees of City for any purpose, including eligibility under Public Employees Retirement Law. Neither City nor any of its officers, employees, or agents shall have control over the conduct of OPTS or any of OPTS's officers, employees, or agents, except as set forth in this Agreement. OPTS shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the City. OPTS shall not incur or have the power to incur any debt, obligation, or liability whatever against City, or bind City in any manner.

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

## 12. LEGAL RESPONSIBILITIES

The OPTS shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. The OPTS shall at all times observe and comply with all such laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the OPTS to comply with this Section.

## 13. UNDUE INFLUENCE

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

## 14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

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

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

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

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

(c) OPTS covenants that neither he/she/it nor any office or principal of their firm have any interest in, or shall acquire any interest, directly or indirectly, which will conflict in any manner or degree with the performance of their services hereunder. OPTS further covenants that in the performance of this Agreement, no person having such interest shall be employed by them as an officer, employee, agent or subcontractor.

16. NOTICES

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

To City: City of Montclair  
5111 Benito  
Montclair, CA 91763  
Attention: City Manager

To OPTS: Dietz Towing, Inc.  
1300 East Holt Boulevard  
Ontario, CA 91761  
Attention: Terry JORDAN

17. ASSIGNMENT

The OPTS shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City.

18. LICENSES

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

19. ATTORNEY'S FEES

(a) Each party to this agreement shall bear all attorney's fees and costs, if any, arising from that party's own counsel in connection with this matter. However, in the event this Agreement is amended or otherwise modified at the request of Contractor, then Contractor shall pay to City an administrative fee of \$250.00 plus an additional sum to compensate City for legal services rendered in connection with the preparation and/or review of the amendment or modification.

(b) Notwithstanding the foregoing paragraph, in the event any legal proceeding is instituted to enforce any term or provision of this agreement, the prevailing party in said legal proceeding shall be entitled to recover attorneys' fees and costs from the opposing party in an amount determined by the court to be reasonable.

20. GOVERNING LAW

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

21. ENTIRE AGREEMENT

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

22. CONFIDENTIALITY

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

23. DISCRIMINATION

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

24. AUTHORITY TO EXECUTE THIS AGREEMENT

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

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

CITY OF MONTCLAIR

DIETZ TOWING, INC.

By: \_\_\_\_\_  
Mayor

By: Terry Jordan  
(signature)

Attest: \_\_\_\_\_  
City Clerk

Terry JORDAN  
(typed name)  
CEO  
(title)

Approved as to Form: \_\_\_\_\_  
City Attorney

By: \_\_\_\_\_  
(signature)  
\_\_\_\_\_  
(typed name)  
\_\_\_\_\_  
(title)

## EXHIBIT A

### SCOPE OF SERVICES

1. OPTS shall conduct business in an ethical orderly manner, endeavoring to obtain and keep the confidence of the community. Responses to calls for towing and/or service from the City shall be provided in a prompt and professional manner.
2. OPTS shall comply with all applicable laws and ordinances that regulate tow units and impounds, towing, illegally parked vehicles, and impounding vehicles.
3. Tow operators shall abide by the decisions of Police Officers and shall cooperate in removing hazards, illegally parked vehicles, and in impounding vehicles.
4. OPTS shall have capability of receiving calls from Police communications and dispatch tow units 24 hours per day, 365 days per year. Priority shall be given to calls from Police communication facilities. This priority service does not include nonhazardous citizen service calls made through Police communication facilities.
5. OPTS shall keep its storage lot(s) open Monday through Friday (excepting holidays) for releasing vehicles from 8:00 a.m. to 5:00 p.m. OPTS may, at its discretion, release vehicles between 5:00 p.m. and 8:00 a.m.
6. Storage lots must be fenced or otherwise secured for maximum security and reasonably lighted during the hours of darkness. It is the responsibility of OPTS to protect Police-stored/impounded vehicles under their control or within their facilities until the vehicles have either been properly released to their owners or disposed of through the legal process.
7. OPTS has the responsibility of safeguarding all articles left in impounded vehicles while under their control or within their facilities. All property left in vehicles shall be listed on the vehicle Impound/Storage Inventory Receipt. Any article removed for any reason shall be properly identified on the OPTS copy of the Impound/Storage Report.  
  
The Impound/Storage Report shall be signed by the involved Officer. The tow operator shall also sign the report. Unless directed by a Police Department supervisor, OPTS shall not tow a vehicle without a signed Impound/Storage Report.
8. OPTS shall abide by all applicable ordinances and statutes when disposing of unclaimed vehicles and property.
9. Any employee of OPTS who operates tow trucks and towing equipment shall be appropriately licensed and certified to operate such vehicles and equipment as required by California law.
10. OPTS shall maintain a storage facility within the geographic boundaries of the City and shall abide by all the laws that govern a business within the City, and shall meet and satisfy all business licensing requirements on a timely basis.

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

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

12. When a vehicle is to be impounded for 30 days at the City's Police Impound Lot as determined by a Police Officer or other City employee, OPTS is to provide the towing service of the vehicle to the Police Impound Lot. Towing services will include the delivery and parking of towed vehicles in said Impound Lot, and shall follow the procedures established by the Montclair Police Department. The City will administer, process, and conduct the lien sale of vehicles stored at the Police Impound Lot, and will collect and retain all sale proceeds.

13. In the event that more than one tow service operates as an OPTS for the City, each OPTS shall accept the decision of the Chief of Police as it relates to the assignment of calls. The City will make a reasonable attempt to equally distribute the calls-for-service on a "rotation" basis; however, the City retains the right to assign calls at its discretion when it determines a particular service or equipment is required or an OPTS is convenient to the particular call for service. If the OPTS assigned a call for service is not on scene with the necessary equipment or service within 30 minutes from the time of call to OPTS (unless a delayed response is agreed upon by the City), the next OPTS on the rotation will be assigned the call, and the previous OPTS forfeits the call. In the event that the City and/or the general public experience displays of unprofessional, unqualified, unresponsive, and/or other questionable service by an OPTS, and such displays of inadequate service are reported to the City and found to be legitimate, the City, at its discretion, may elect to direct any or all calls for towing and/or service to a designated OPTS, and may maintain such designation until such time the competing OPTS can demonstrate to the City's satisfaction that it can appropriately serve the City and the general public.

14. Any changes in ownership, location, or form of doing business of OPTS shall be reported to the Chief of Police within 24 hours.

15. The City Manager or his designee shall have the authority to settle any claim or dispute involving the City and OPTS.

16. This Agreement may be suspended at any time by the Chief of Police or his designee upon determination by the Chief of Police or his designee that cause exists for termination of the Agreement or that OPTS has breached any provision of this Agreement.

**EXHIBIT B**

**SCHEDULE OF RATES AND CHARGES**

1. OPTS shall provide, without charge or fee, towing and service calls for City-owned vehicles.

2. In the event a vehicle is towed and/or stored at the request of the City and it is later determined by City staff that the vehicle should not have been towed, OPTS shall not charge the City or third party for the towing or storage of said vehicle.

3. City shall pay to OPTS for towing services to the Police Impound Lot the following sums:

Vehicles requiring a Class A Tow Truck (GVWR less than 14,000 lbs.)	\$150.00
Vehicles requiring a Class B Tow Truck (GVWR of 14,001 – 19,501 lbs.)	\$170.00

Towing services will include the delivery and parking of towed vehicles in the Police Impound Lot and shall follow the procedures established by City staff.

OPTS shall not bill for the above towing services until 35 days after the vehicle is towed to the Police Impound Lot. City shall pay OPTS on a monthly basis.

The City will administer, process, and conduct the lien sale of vehicles stored at the Police Impound Lot and shall collect and retain all such fees and sale proceeds.

4. Rates and charges for all other towing and storage of vehicles resulting from police activity or otherwise in the performance of duties as an OPTS shall not exceed those rates known as "CHP" rates for the local area. In addition, OPTS shall not charge for a class of tow truck which has a higher rate than the class of tow truck required. For example, if a vehicle can be towed by a Class A Tow Truck, but OPTS chooses to tow the vehicle with a Class B Tow Truck, OPTS can only charge the rate for a Class A Tow Truck.

Rates and charges shall be posted in the office of OPTS, visible to the public, and all bills shall be itemized; provided, however, that any changes to the schedule of rates, fees, and charges for administrative and/or service related costs, including the towing and storage of vehicles, shall be approved by resolution of the City Council of the City; and further provided that prior to execution of this Agreement a fee resolution for services defined herein shall be attached to this Agreement as Exhibit 1, and by reference incorporated herein and submitted for approval by the City Council.

5. Unless otherwise provided herein, including paragraph 11 of Exhibit A, OPTS shall collect and retain all towing and storage fees for any vehicles towed to its facilities. In addition, and as authorized by state and local laws, or court of competent jurisdiction, OPTS shall administer, process, and conduct the lien sale of vehicles in storage at its facilities pursuant

to the applicable provisions of the California Vehicle Code and to the provisions of this Agreement, and shall collect and retain all such fees and sale proceeds.

**CITY OF MONTCLAIR**

**AGREEMENT FOR TOWING SERVICES**

THIS AGREEMENT is made and effective as of August 1<sup>st</sup>, 2011, between the City of Montclair, a municipal corporation (hereinafter "City") and Pacific Truck & Auto Towing, Inc., a California corporation (hereinafter the "Official Police Tow Service" or "OPTS"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

**RECITALS**

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

**AGREEMENT**

1. TERM

This Agreement shall commence upon execution of this Agreement by both parties and continue in effect until terminated pursuant to the provisions of this Agreement.

2. SERVICES

OPTS shall perform the tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full.

3. PERFORMANCE

OPTS shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all tasks described herein. OPTS shall employ, at a minimum, generally

accepted standards and practices utilized by persons engaged in providing similar services as are required of OPTS hereunder in meeting its obligations under this Agreement.

4. CITY MANAGEMENT

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

5. PAYMENT

(a) OPTS shall be compensated in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full.

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

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

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

(b) In the event this Agreement is terminated pursuant to this Section, the City shall pay to OPTS on a pro-rata basis the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the OPTS will submit an invoice to the City pursuant to Section 5(b).

(c) OPTS may terminate this Agreement upon at least thirty (30) days written notice to City.

## 7. DEFAULT OF OPTS

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

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

## 8. OWNERSHIP OF DOCUMENTS

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

(b) Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, claims, applications, computer files, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused, or otherwise disposed of by the City without the permission of the OPTS. With respect to computer files, OPTS shall make available to the City, at the OPTS's office and upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

## 9. INDEMNIFICATION

(a) Indemnification for Professional Liability. When the law establishes a professional standard of care for OPTS's services, to the fullest extent permitted by law, OPTS

shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents (“Indemnified Parties”) from and against any and all losses, liabilities, damages, costs and expenses, including attorney’s fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of OPTS, its officers, agents, employees or subcontractors (or any entity or individual that OPTS shall bear the legal liability thereof) in the performance of professional services under this Agreement.

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

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

## 10. INSURANCE

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

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

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

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

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

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

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

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

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

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

## 11. INDEPENDENT OPTS

(a) OPTS is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of OPTS

shall at all times be under OPTS's exclusive direction and control and shall not be construed to be employees of City for any purpose, including eligibility under Public Employees Retirement Law. Neither City nor any of its officers, employees, or agents shall have control over the conduct of OPTS or any of OPTS's officers, employees, or agents, except as set forth in this Agreement. OPTS shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the City. OPTS shall not incur or have the power to incur any debt, obligation, or liability whatever against City, or bind City in any manner.

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

## 12. LEGAL RESPONSIBILITIES

The OPTS shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. The OPTS shall at all times observe and comply with all such laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the OPTS to comply with this Section.

## 13. UNDUE INFLUENCE

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

## 14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

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

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

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

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

(c) OPTS covenants that neither he/she/it nor any office or principal of their firm have any interest in, or shall acquire any interest, directly or indirectly, which will conflict in any manner or degree with the performance of their services hereunder. OPTS further covenants that in the performance of this Agreement, no person having such interest shall be employed by them as an officer, employee, agent or subcontractor.

16. NOTICES

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

To City: City of Montclair  
5111 Benito  
Montclair, CA 91763  
Attention: City Manager

To OPTS: Pacific Truck & Auto Towing, Inc.  
5391 Brooks Street  
Montclair, CA 91763  
Attention: Jimmy & Rocky Hassan

17. ASSIGNMENT

The OPTS shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City.

18. LICENSES

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

19. ATTORNEY'S FEES

(a) Each party to this agreement shall bear all attorney's fees and costs, if any, arising from that party's own counsel in connection with this matter. However, in the event this Agreement is amended or otherwise modified at the request of Contractor, then Contractor shall pay to City an administrative fee of \$250.00 plus an additional sum to compensate City for legal services rendered in connection with the preparation and/or review of the amendment or modification.

(b) Notwithstanding the foregoing paragraph, in the event any legal proceeding is instituted to enforce any term or provision of this agreement, the prevailing party in said legal proceeding shall be entitled to recover attorneys' fees and costs from the opposing party in an amount determined by the court to be reasonable.

20. GOVERNING LAW

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

21. ENTIRE AGREEMENT

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

22. CONFIDENTIALITY

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

23. DISCRIMINATION

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

24. AUTHORITY TO EXECUTE THIS AGREEMENT

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

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

CITY OF MONTCLAIR

PACIFIC TRUCK & AUTO TOWING, INC.

By: \_\_\_\_\_  
Mayor

By: [Signature]  
(signature)

Attest:  
  
\_\_\_\_\_  
City Clerk

SAIFEDIN F HASSAN  
(typed name)

PRESIDENT  
(title)

Approved as to Form:  
  
\_\_\_\_\_  
City Attorney

By: [Signature]  
(signature)

Ahmed (Rocky) Hassan  
(typed name)

June 10 2011 - OWNER  
(title)

## EXHIBIT A

### SCOPE OF SERVICES

1. OPTS shall conduct business in an ethical orderly manner, endeavoring to obtain and keep the confidence of the community. Responses to calls for towing and/or service from the City shall be provided in a prompt and professional manner.
2. OPTS shall comply with all applicable laws and ordinances that regulate tow units and impounds, towing, illegally parked vehicles, and impounding vehicles.
3. Tow operators shall abide by the decisions of Police Officers and shall cooperate in removing hazards, illegally parked vehicles, and in impounding vehicles.
4. OPTS shall have capability of receiving calls from Police communications and dispatch tow units 24 hours per day, 365 days per year. Priority shall be given to calls from Police communication facilities. This priority service does not include nonhazardous citizen service calls made through Police communication facilities.
5. OPTS shall keep its storage lot(s) open Monday through Friday (excepting holidays) for releasing vehicles from 8:00 a.m. to 5:00 p.m. OPTS may, at its discretion, release vehicles between 5:00 p.m. and 8:00 a.m.
6. Storage lots must be fenced or otherwise secured for maximum security and reasonably lighted during the hours of darkness. It is the responsibility of OPTS to protect Police-stored/impounded vehicles under their control or within their facilities until the vehicles have either been properly released to their owners or disposed of through the legal process.
7. OPTS has the responsibility of safeguarding all articles left in impounded vehicles while under their control or within their facilities. All property left in vehicles shall be listed on the vehicle Impound/Storage Inventory Receipt. Any article removed for any reason shall be properly identified on the OPTS copy of the Impound/Storage Report.

The Impound/Storage Report shall be signed by the involved Officer. The tow operator shall also sign the report. Unless directed by a Police Department supervisor, OPTS shall not tow a vehicle without a signed Impound/Storage Report.
8. OPTS shall abide by all applicable ordinances and statutes when disposing of unclaimed vehicles and property.
9. Any employee of OPTS who operates tow trucks and towing equipment shall be appropriately licensed and certified to operate such vehicles and equipment as required by California law.
10. OPTS shall maintain a storage facility within the geographic boundaries of the City and shall abide by all the laws that govern a business within the City, and shall meet and satisfy all business licensing requirements on a timely basis.

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

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

12. When a vehicle is to be impounded for 30 days at the City's Police Impound Lot as determined by a Police Officer or other City employee, OPTS is to provide the towing service of the vehicle to the Police Impound Lot. Towing services will include the delivery and parking of towed vehicles in said Impound Lot, and shall follow the procedures established by the Montclair Police Department. The City will administer, process, and conduct the lien sale of vehicles stored at the Police Impound Lot, and will collect and retain all sale proceeds.

13. In the event that more than one tow service operates as an OPTS for the City, each OPTS shall accept the decision of the Chief of Police as it relates to the assignment of calls. The City will make a reasonable attempt to equally distribute the calls-for-service on a "rotation" basis; however, the City retains the right to assign calls at its discretion when it determines a particular service or equipment is required or an OPTS is convenient to the particular call for service. If the OPTS assigned a call for service is not on scene with the necessary equipment or service within 30 minutes from the time of call to OPTS (unless a delayed response is agreed upon by the City), the next OPTS on the rotation will be assigned the call, and the previous OPTS forfeits the call. In the event that the City and/or the general public experience displays of unprofessional, unqualified, unresponsive, and/or other questionable service by an OPTS, and such displays of inadequate service are reported to the City and found to be legitimate, the City, at its discretion, may elect to direct any or all calls for towing and/or service to a designated OPTS, and may maintain such designation until such time the competing OPTS can demonstrate to the City's satisfaction that it can appropriately serve the City and the general public.

14. Any changes in ownership, location, or form of doing business of OPTS shall be reported to the Chief of Police within 24 hours.

15. The City Manager or his designee shall have the authority to settle any claim or dispute involving the City and OPTS.

16. This Agreement may be suspended at any time by the Chief of Police or his designee upon determination by the Chief of Police or his designee that cause exists for termination of the Agreement or that OPTS has breached any provision of this Agreement.

**EXHIBIT B**

**SCHEDULE OF RATES AND CHARGES**

1. OPTS shall provide, without charge or fee, towing and service calls for City-owned vehicles.

2. In the event a vehicle is towed and/or stored at the request of the City and it is later determined by City staff that the vehicle should not have been towed, OPTS shall not charge the City or third party for the towing or storage of said vehicle.

3. City shall pay to OPTS for towing services to the Police Impound Lot the following sums:

Vehicles requiring a Class A Tow Truck (GVWR less than 14,000 lbs.)	\$150.00
Vehicles requiring a Class B Tow Truck (GVWR of 14,001 – 19,501 lbs.)	\$170.00

Towing services will include the delivery and parking of towed vehicles in the Police Impound Lot and shall follow the procedures established by City staff.

OPTS shall not bill for the above towing services until 35 days after the vehicle is towed to the Police Impound Lot. City shall pay OPTS on a monthly basis.

The City will administer, process, and conduct the lien sale of vehicles stored at the Police Impound Lot and shall collect and retain all such fees and sale proceeds.

4. Rates and charges for all other towing and storage of vehicles resulting from police activity or otherwise in the performance of duties as an OPTS shall not exceed those rates known as “CHP” rates for the local area. In addition, OPTS shall not charge for a class of tow truck which has a higher rate than the class of tow truck required. For example, if a vehicle can be towed by a Class A Tow Truck, but OPTS chooses to tow the vehicle with a Class B Tow Truck, OPTS can only charge the rate for a Class A Tow Truck.

Rates and charges shall be posted in the office of OPTS, visible to the public, and all bills shall be itemized; provided, however, that any changes to the schedule of rates, fees, and charges for administrative and/or service related costs, including the towing and storage of vehicles, shall be approved by resolution of the City Council of the City; and further provided that prior to execution of this Agreement a fee resolution for services defined herein shall be attached to this Agreement as Exhibit I, and by reference incorporated herein and submitted for approval by the City Council.

5. Unless otherwise provided herein, including paragraph 11 of Exhibit A, OPTS shall collect and retain all towing and storage fees for any vehicles towed to its facilities. In addition, and as authorized by state and local laws, or court of competent jurisdiction, OPTS shall administer, process, and conduct the lien sale of vehicles in storage at its facilities pursuant

to the applicable provisions of the California Vehicle Code and to the provisions of this Agreement, and shall collect and retain all such fees and sale proceeds.



# CERTIFICATE OF LIABILITY INSURANCE

DATE:MM/DD/YYYY

6/8/2011

<b>PRODUCER</b> Sea Crest Insurance Agency, Inc. 25255 Cabot Rd #206 Laguna Hills, CA 92653 (949) 951-5900		THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
<b>INSURED</b> Pacific Truck & Auto Towing, Inc.  5391 Brooks Street Montclair, CA 91763 909-621-9596		<b>INSURERS AFFORDING COVERAGE</b> INSURER A: State National Insurance Co INSURER B: INSURER C: INSURER D: INSURER E:	<b>NAIC#</b> 12831

### COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADELT LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMSMADE      OCCUR <input checked="" type="checkbox"/> Premises GEN L AGGREGATE LIMIT APPLIES PER <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	TIP 003405	08/03/10	08/03/11	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input checked="" type="checkbox"/> Uninsured Mtr <input checked="" type="checkbox"/> \$ 60,000	TIP 003405	08/03/10	08/03/11	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$ OTHER THAN EA ACC AGG \$
	EXCESS / UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMSMADE  <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE \$ AGGREGATE \$ \$ \$
	WORKERS COMPENSATION AND EMPLOYERS LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NM) If yes, describe under SPECIAL PROVISIONS below.    Y/N <input type="checkbox"/>				WC STATU TORY LIMITS    OTH ER E1 EACH ACCIDENT \$ E1 DISEASE EA EMPLOYEE \$ E1 DISEASE - POLICY LIMIT \$
A	OTHER    On Hook	TIP 003405	08/03/10	08/03/11	\$ 100,000 / 250,000
A	Garagekeepers	TIP 003405	08/03/10	08/03/11	\$ 250,000
A	Physical Damage	TIP 003405	08/03/10	08/03/11	Comp & Coll Ded 1,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

### CERTIFICATE HOLDER

Montclair Police Department  
 4870 Arrow Highway  
 Montclair, CA 91763  
  
 F: (909) 621-4413

### CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.  
 AUTHORIZED REPRESENTATIVE

ACORD 25 (2009/01)

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# AGENDA REPORT

**SUBJECT:** CONSIDER APPROVAL OF THE FILING OF A NOTICE OF COMPLETION FOR CONSTRUCTION OF THE MONTCLAIR SENIOR CENTER PROJECT; REDUCTION OF FAITHFUL PERFORMANCE BOND TO 10 PERCENT; AND RETENTION OF PAYMENT BOND FOR SIX MONTHS

**DATE:** June 20, 2011

**SECTION:** AGREEMENTS

**ITEM NO.:** 3

**FILE I.D.:** HSV151

**DEPT.:** PUBLIC WORKS

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

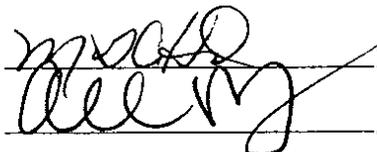
CONSIDER APPROVAL OF AGREEMENT NO. 11-68 AMENDING AGREEMENT NOS. 10-22 AND 10-140 WITH CAVALIER CONSTRUCTION FOR MISCELLANEOUS CONSTRUCTION WORK ASSOCIATED WITH MONTCLAIR YOUTH AND SENIOR CENTERS AND INCREASING COMPENSATION DUE UNDER AGREEMENT NOS. 10-22 AND 10-140 BY \$25,000

**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 and agreements require City Council approval.

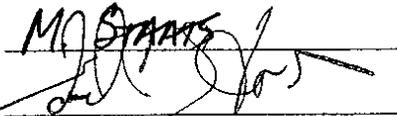
**BACKGROUND:** On July 20, 2009, KPRS Construction Services, Inc., was awarded a contract for the construction of the Montclair Senior Center Project and entered in Agreement No. 09-59 with the City. All improvements required under this Agreement have been satisfactorily completed. Although the City was able to occupy the facilities on November 1, 2010, not all construction work was actually completed at that time. Since November, City staff has been working with its architect, construction management team, and contractor to complete outstanding items of work and correct construction deficiencies. That work has now been completed. It is now appropriate to approve and record a Notice of Completion for this project.

Under separate contracts, KPRS Construction Services, Inc., also completed other work within the Civic Center area including the Youth Center and Bleacher Storage Projects. During the course of these various projects, it was found that additional work was required that was not covered within the scopes of the other contracts. On March 1, 2010, the City entered into Agreement No. 10-22 with Cavalier Construction for miscellaneous improvements at the Civic Center. The intent of the contract was to address the additional work found necessary that was not covered by the other KPRS contracts. The contract amount was \$50,000 but was amended by Agreement No. 10-140 to add more

Prepared by:

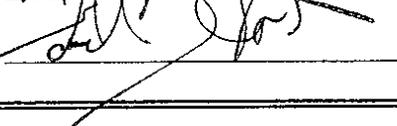


Reviewed and Approved by:



Proofed by:

Presented by:



work. The amended Agreement increased the compensation from the original \$50,000 to \$70,000.

Work completed to date under this Agreement includes:

- Painting the interior of the two new park restrooms
- Replacing various doors/door parts, fences, and gates
- Rerouting some storm drains
- Installing a canopy over an employee entry door
- Modifications to fireplace in the Senior Center to comply with Fire Code requirements and improve appearance

More additional work has been found necessary in order to complete improvements within the Civic Center. The Youth Center Project previously completed by KPRS Construction Services, Inc., included the construction of a new parking lot to serve the Recreation building employees. The parking lot design did not include any upgrades to an existing door or existing walkways. The door and the walkways will now be the primary point of ingress/egress for employees. Neither is compliant with current accessibility requirements. The door lacks the proper hardware for emergency egress, and the walkways are both too narrow and too steep. Modifications are necessary to comply with current accessibility requirements.

It has also been found that the new electrical room in the Senior Center has inadequate ventilation. There is no way to exhaust excess heat. The City's Building Division requires the installation of a ventilation fan.

Staff proposes a second amendment to the Agreement with Cavalier Construction to address these issues.

**FISCAL IMPACT:** The construction contract for the Montclair Senior Center Project as advertised included three additive items that the City Council could include, should that be its desire. The additive items were:

1. Installation of a new lighting system in the City Hall and Recreation building parking lots, consistent with the new Civic Center lighting theme, and resurfacing of those parking lots
2. New interior paint and carpeting in Library
3. Exterior painting of all Civic Center buildings to match Senior Center paint scheme

Based on the bids received, staff recommended including the three additive items with the award of the construction contract. The contract was awarded to KPRS Construction Services, Inc., for \$3,443,500, which also included a construction contingency of \$325,000.

The final construction cost for this project was \$3,345,317.47, leaving a contingency balance of \$98,182.53. Staff proposes using \$25,000 of the contingency balance to fund the increase to the contract with Cavalier Construction. The unused contingency balance would be returned to the 2005 Lease Revenue Bond Proceeds Fund. The total value of the Cavalier Construction contract would be \$95,000.

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

1. Approve the filing of a Notice of Completion for the Montclair Senior Center Project.
2. Reduce the Faithful Performance Bond to 10 percent.
3. Retain the Payment Bond for six months.
4. Release retention 30 days after recordation of Notice of Completion.
5. Approve Agreement No. 11-68 amending Agreement Nos. 10-22 and 10-140 with Cavalier Construction for miscellaneous construction work associated with the Montclair Youth and Senior Centers and increase compensation due under the terms of Agreement Nos. 10-22 and 10-140 by \$25,000.

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

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

APN NO. : 1010-301-20

(Space above this line for Recorder's Use)

## NOTICE OF COMPLETION

NOTICE is hereby given that:

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

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

The work was completed on that certain work known as the Montclair Senior Center Project

for the undersigned City of Montclair, a Municipal Corporation, on the 1st day of June, 2011

The City accepted the job on the 20th day of June, 2011

The Contractor on said job was KPRS Construction Services, Inc.  
2850 Saturn Street  
Brea, CA 92821

The improvement consisted of Construction of a new building

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

5111 Benito Street Montclair, CA 91763

### VERIFICATION

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

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

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

Executed on: \_\_\_\_\_

at 5111 Benito Street, Montclair, California, by: \_\_\_\_\_  
City Engineer, City of Montclair

**CITY OF MONTCLAIR**  
**AMENDMENT TO AGREEMENT NOS. 10-22 AND 10-140**  
**WITH CAVALIER CONSTRUCTION**  
**FOR**  
**MISCELLANEOUS CIVIC CENTER IMPROVEMENTS**

This agreement is made and entered into this 1st day of July, 2011, by and between the CITY OF MONTCLAIR, a municipal corporation ("City") and Cavalier Construction, a California Sole Proprietorship ("Contractor"), and collectively ("Parties").

**RECITALS**

WHEREAS, Parties have previously entered into Agreement No. 10-22 effective on March 1, 2010, for construction services in conjunction with the construction of Miscellaneous Civic Center Improvements; and

WHEREAS, Parties have entered into Agreement No. 10-140 amending Agreement No. 10-22; and

WHEREAS, Paragraph 3. CONTRACT PRICE AND PAYMENT of Agreement No. 10-22 specified that compensation for work was to be paid on a time and materials basis with the maximum compensation to be paid under Agreement No. 10-22 not to exceed Fifty Thousand Dollars and no cents (\$50,000.00); and

WHEREAS, Paragraph 1. of Agreement No. 10-140 specified that compensation for additional work was to be paid on a time and materials basis with the maximum compensation to be paid under Agreement No. 10-140 not to exceed Twenty Thousand Dollars and no cents (\$20,000.00); and

WHEREAS, the maximum compensation payable under Agreement Nos. 10-22 and 10-140 has been reached; and

WHEREAS, Parties mutually agree that there is additional work to be performed and a need to continue Contractor's services.

**NOW, THEREFORE, IT IS AGREED** by and between City and Contractor as follows:

**AGREEMENT**

1. **CONTRACT PRICE AND PAYMENT** is hereby modified to provide that CITY shall pay to CONTRACTOR an additional sum for doing additional prescribed work set forth by CITY on a "time and materials" basis for a total not to exceed the sum of \$25,000.00 (TWENTY FIVE THOUSAND DOLLARS AND NO CENTS). The combined total compensation payable under Agreement Nos. 10-22, 10-140 and this agreement shall not exceed \$95,000 (NINETY FIVE THOUSAND DOLLARS).
2. All other terms of Agreement Nos. 10-22 and 10-140 shall remain the same and be incorporated herein as though fully set forth.

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

**CONTRACTOR:**

**CITY:**

**CAVALIER CONSTRUCTION**

**CITY OF MONTCLAIR**

By \_\_\_\_\_  
Larry Way

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

Date \_\_\_\_\_

Date \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_   
Yvonne Smith/Deputy City Clerk

Date \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_   
Diane E. Robbins/City Attorney

## AGENDA REPORT

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**SUBJECT:** CONSIDER APPROVAL OF AGREEMENT NO. 11-69 WITH LIEN TEK SOLUTIONS, INC., FOR LIEN PROCESSING OF VEHICLES STORED AT THE CITY IMPOUND LOT PURSUANT TO CALIFORNIA VEHICLE CODE SECTION 14602.6, THE 30-DAY IMPOUND LAW

**DATE:** June 20, 2011  
**SECTION:** AGREEMENTS  
**ITEM NO.:** 4  
**FILE I.D.:** FLP170  
**DEPT.:** POLICE

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**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 11-69 with Lientek Solutions, Inc., for lien processing of all vehicles stored at the City impound lot pursuant to California Vehicle Code Section 14602.6, the 30-day impound law. Proposed Agreement No. 11-69 has been reviewed and approved by the City Attorney and is attached for the City Council's review and consideration.

**BACKGROUND:** Recently, the City Council determined that a City-operated impound lot for vehicles impounded pursuant to California Vehicle Code Section 14602.6, the 30-day impound law, would be beneficial to the City and the public. Having a City-operated impound lot would require the Police Department to administer, process, and conduct the lien sale of vehicles stored at the lot. The Police Department does have the ability to and would perform some of the lien-sale processing; however, there are some specific legal documents and requirements that must be filed to comply with California Law.

The Police Department has considered the time involved with the lien process, as well as the legal requirements, and concludes it would be financially beneficial to contract with an experienced company to handle the majority of the lien process. The Police Department researched surrounding cities that operate their own impound lots and contract with a company to provide lien-sale services. Lientek Solutions, Inc., and Clear Choice Lien Service, Inc., were chosen to provide presentations of their services. Lientek Solutions, Inc., provided a more comprehensive proposal and presentation; and the Police Department determined the services provided by Lientek Solutions, Inc., were better suited for the City's operation.

Proposed Agreement No. 11-69 with Lientek Solutions, Inc., would become effective August 1, 2011, and would remain in effect until terminated by either party, with or without cause, upon written notice to each party at least 30 days prior to the date specified for such termination.

**FISCAL IMPACT:** Should the City Council approve proposed Agreement No. 11-69, the City will pay Lientek Solutions, Inc., \$17.50 per vehicle for a standard lien and \$68.50 per vehicle for a long lien. These expenditures would be recouped with the lien fees collected by the City.

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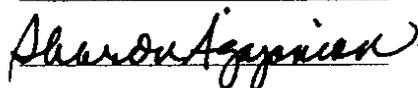
Prepared by:



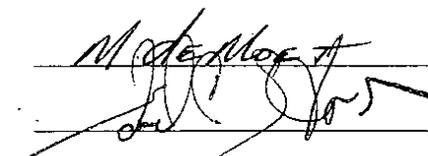
Reviewed and  
Approved by:



Proofed by:



Presented by:



**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 11-69 with Lientek Solutions, Inc., for lien processing of vehicles stored at the City impound lot pursuant to California Vehicle Code Section 14602.6, the 30-day impound law.

CITY OF MONTCLAIR

AGREEMENT FOR VEHICLE LIEN SALE SERVICES

THIS AGREEMENT is made and effective as of \_\_\_\_\_, 2011, between the City of Montclair, a municipal corporation ("City") and Lientek Solutions, Inc., a California corporation ("Contractor"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

RECITALS

1. City has determined that there is a need for vehicle lien sale services for all towed, stored, and impounded vehicles that are taken to the City's vehicle impound lot.
2. Contractor has submitted to City a proposal to provide lien sale services to City pursuant to the terms of this Agreement.
3. Contractor is qualified by virtue of its experience, training, education, reputation, and expertise to provide these services and has agreed to provide such services as provided herein.
4. City desires to retain contractor to provide such services.

AGREEMENT

1. TERM

This Agreement shall commence upon execution of this Agreement by both parties and continue in effect until terminated pursuant to the provisions of this Agreement.

2. SERVICES

Contractor shall perform the tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full.

3. PERFORMANCE

Contractor shall at all times faithfully, competently and to the best of his/her/its ability, experience and talent, perform all tasks described herein. Contractor shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Contractor hereunder in meeting its obligations under this Agreement. Contractor shall be available to respond to City staff at least once per week on a regular business day as determined by mutual agreement.

#### 4. CITY MANAGEMENT

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

#### 5. PAYMENT

(a) The City agrees to pay Contractor monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit A, attached hereto and incorporated herein by this reference as though set forth in full.

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

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

#### 6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

(a) The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Contractor at least thirty [30] days prior written notice to Contractor. Upon receipt of said notice, the Contractor shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement, such suspension or termination shall not make void or invalidate the remainder of this Agreement.

(b) In the event this Agreement is terminated pursuant to this Section, the City shall pay to Contractor on a pro rata basis the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Contractor will submit an invoice to the City pursuant to Section 5(c).

(c) Contractor may terminate this Agreement upon at least thirty (30) days written notice to City.

## 7. DEFAULT OF CONTRACTOR

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

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

## 8. OWNERSHIP OF DOCUMENTS

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

(b) Upon completion of, or in the event of termination or suspension of this agreement, copies of all documents, claims, applications, and notes used in the course of providing lien services to the City pursuant to this Agreement shall become available to the City at their request. The City will have full access to all documents prepared using computer files obtained from California Department of Motor Vehicles (DMV), but due to DMV regulations, such computer files and software must remain in control of the Contractor.

## 9. INDEMNIFICATION

(a) Indemnification for Professional Liability. When the law establishes a professional standard of care for Contractor's services, to the fullest extent permitted by law, Contractor shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses,

liabilities, damages, costs and expenses, including attorney's fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Contractor, its officers, agents, employees or subcontractors (or any entity or individual that Contractor shall bear the legal liability thereof) in the performance of professional services under this Agreement.

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

Provided, however, it is understood that within the performance of providing lien sale services, denial of lien may arise and the rectification of such denial is the responsibility of the City. Once the denial is rectified, Contractor shall process the necessary documents to continue the lien.

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

## 10. INSURANCE

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

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

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

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

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

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

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

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

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

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

## 11. INDEPENDENT CONTRACTOR

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

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

## 12. LEGAL RESPONSIBILITIES

The Contractor shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. The Contractor shall at all times observe and comply with all such laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Contractor to comply with this Section.

## 13. UNDUE INFLUENCE

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

## 14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

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

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

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

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

(c) Contractor covenants that neither he/she nor any officer or principal of their firm have any interest in, or shall acquire any interest, directly or indirectly, which will conflict in any manner or degree with the performance of their services hereunder. Contractor further covenants that in the performance of this Agreement, no person having such interest shall be employed by them as an officer, employee, agent or subcontractor.

16. NOTICES

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

To City:	City Manager City of Montclair P.O. Box 2308 Montclair, CA 91763
To Contractor:	Ms. Sharyl Gove Lientek Solutions, Inc. P.O. Box 443 Bonita, CA 91908

17. ASSIGNMENT

The Contractor shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City.

18. LICENSES

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

19. ATTORNEY'S FEES

(a) Each party to this agreement shall bear all attorney's fees and costs, if any, arising from that party's own counsel in connection with this matter. However, in the event this Agreement is amended or otherwise modified at the request of Contractor, then Contractor shall pay to City an administrative fee of \$250.00 plus an additional sum to compensate City for legal services rendered in connection with the preparation and/or review of the amendment or modification.

(b) Notwithstanding the foregoing paragraph, in the event any legal proceeding is instituted to enforce any term or provision of this agreement, the prevailing party in said legal proceeding shall be entitled to recover attorney's fees and costs from the opposing party in an amount determined by the court to be reasonable.

20. GOVERNING LAW

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

21. ENTIRE AGREEMENT

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

22. CONFIDENTIALITY

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

23. DISCRIMINATION

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

24. AUTHORITY TO EXECUTE THIS AGREEMENT

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

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

**CITY OF MONTCLAIR**

**LIENTEK SOLUTIONS, INC.**

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

By: \_\_\_\_\_  
Signature

**ATTEST:**

\_\_\_\_\_  
Typed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Yvonne L. Smith, Deputy City Clerk

**APPROVED AS TO FORM:**

By: \_\_\_\_\_

\_\_\_\_\_  
Typed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
City Attorney

## EXHIBIT A

### Scope of Services and Fee Schedule

Standard Lien (Vehicle valued between \$500-\$4,000 and Vessels valued under \$1500): \$17.50  
Low Value Lien (Vehicle valued less than \$500): \$17.50  
Long Lien (Vehicle valued over \$4000 and Vessels valued over \$1500): \$53.00  
Same Day Cancellation of any Lien (before 5:00 p.m.): No charge  
Legal Owner Notices (Long Lien Only): \$15.50  
Long Lien Cancellation (after day written): \$26.50  
Duplicate Lien Sale Documents: No charge  
Web Services including 7/24 access to lien information: No charge  
Email Notification of Completed Liens: No charge

Above fees include the following services:

- Provide complete and accurate lien sale documents for all eligible items in the possession of Montclair Police Department
- California DMV printout
- All required postage to process the lien
- All required DMV lien sale forms
- All required notifications/applications to DMV including fees for such
- All Legal Advertising for long liens
- Delivery of all documents to Montclair Police Department including an itemized invoice
- Retention and storage of all lien sale related documents for a minimum of 3 years
- Processing of lien after a denial has been received

## AGENDA REPORT

**SUBJECT:** CONSIDER APPROVAL OF AGREEMENT NO. 11-70 WITH CATERING SYSTEMS, INC., TO PROVIDE MEALS FOR THE CITY'S SENIOR CITIZEN NUTRITION PROGRAM

**DATE:** June 20, 2011  
**SECTION:** AGREEMENTS  
**ITEM NO.:** 5  
**FILE I.D.:** HSV105  
**DEPT.:** COMMUNITY DEV.

**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 11-70 with Catering Systems, Inc., to provide meals for the City's Senior Citizen Nutrition Program for a term of one year beginning July 1, 2011.

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

The Human Services Division would like to continue subcontracting with Catering Systems, Inc., for nutrition program meal service. The company has been providing meals for the program since December 1999. Program participants and staff have been pleased with the catering service's performance. Catering Systems, Inc., continues to provide an enhanced menu at a reasonable cost. Catering Systems, Inc., is one of the few approved vendors qualified to provide nutritious meals funded under the Older Americans Act that delivers to San Bernardino County DAAS programs. DAAS recently conducted a facility audit at Catering Systems, Inc., and reported it was the cleanest kitchen in the entire program.

Should the Council approve Agreement No. 11-70, Catering Systems, Inc., would continue to deliver prepared meals every weekday. Catering Systems, Inc., would keep the meal cost at \$3.70 per meal, which is the same as Fiscal Year 2010-11. The following chart shows the suggested donation for meals in surrounding cities. The cities of Claremont and Pomona receive subsidies from their respective General Funds and the Los Angeles County Area Agency on Aging.

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

Prepared by: M. Richter  
 Proofed by: Christine Smiderly

Reviewed and Approved by:  
 Presented by:

*[Handwritten Signature]*

Montclair's current suggested donation is \$1.75 per meal, which is one of the lowest in the surrounding communities. The funding for the meal cost would be paid through participant donations and funding from Agreement No. 11-53 with the San Bernardino County Department of Aging and Adult Services that was approved by the City Council on May 16, 2011.

The term of proposed Agreement No. 11-70 is July 1, 2011, through June 30, 2012.

**FISCAL IMPACT:** There would be no cost to the General Fund to provide the estimated 17,517 meals that would be served during Fiscal Year 2011-12.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 11-70 with Catering Systems, Inc., to provide meals for the City's Senior Citizen Nutrition Program.

## FOOD SERVICE AGREEMENT

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

**WHEREAS**, the Contractor and the County of San Bernardino Department of Aging and Adult Services, hereinafter referred to as "County," have entered into an Agreement which authorizes the Contractor to provide certain services, said City Agreement being No. 11-70 dated June 20, 2011; and

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

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

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

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

### AGREEMENT

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

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

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

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

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

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

B. The representative of the Subcontractor shall be:

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

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

The Contractor shall pay to the Subcontractor an amount not to exceed \$3.70 per meal for approximately 70 meals per day for complete and satisfactory performance of the terms of this Agreement. The Subcontractor shall be paid for providing services set forth in this Agreement. Payment shall be made on a bimonthly basis.

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

The term of this Agreement shall commence July 1, 2011, and terminate June 30, 2012, provided that said term is subject to the provisions of Section 14, "Indemnity, Liability, and Insurance Requirements," and Section 18, "Termination," and the availability of Federal funds through the County.

There are 251 serving days during Fiscal Year 2011-12 including the following holidays and special occasions:

Independence Day - July 4, 2011  
Labor Day - September 5, 2011  
Veterans Day - November 11, 2011  
Thanksgiving (two days) - November 24 and 25, 2011  
Christmas Eve and Day - December 23 and 26, 2011  
New Year's Eve and Day - December 30, and January 2, 2012  
Martin Luther King's Birthday - January 16, 2012  
Presidents Day - February 20, 2012  
Memorial Day - May 28, 2012

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

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

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

1. For the Contractor:

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

2. For the Subcontractor:

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

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

**Section 6. Audit Records and Bonding**

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

## **Section 7. Amendments to Agreement**

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

## **Section 8. Permit and Licenses**

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

## **Section 9. Conflict of Interest**

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

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

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

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

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

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

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

## **Section 13. Discrimination Prohibited**

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

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

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

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

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

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

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

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

## **Section 17. Renewal Options**

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

## **Section 18. Termination**

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

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

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

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

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

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

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

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

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

## **Section 22. Citizenship Laws**

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

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

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

The Subcontractor shall hire a part-time Registered Dietitian (minimum 20 hours a week) who possesses a Bachelor's degree and/or Master's degree in Nutrition/Dietetics with an institutional food service management emphasis from an accredited college or university for supervision of the food services operation within the catering company and/or central kitchen. The Dietitian shall be both qualified as specified in sections 2585 and 2586, Business and Professions Code, and registered by the Commission on Dietetic Registration.

**Or**

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

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

**Section 24. Date of Execution**

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

**Section 25. Complete Agreement**

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

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

**Subcontractor:**

**CATERING SYSTEMS, INC.**

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

\_\_\_\_\_  
Date

\_\_\_\_\_

\_\_\_\_\_  
Date

**City:**

**CITY OF MONTCLAIR**

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

\_\_\_\_\_  
Date

**ATTEST:**

\_\_\_\_\_  
Yvonne Smith  
Deputy City Clerk

\_\_\_\_\_  
Date

## ADDENDUM

### OTHER REQUIREMENTS (Contractor's Option)

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

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

## AGENDA REPORT

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**SUBJECT:** CONSIDER APPROVAL OF AGREEMENT  
NO. 11-71 WITH ONTARIO-MONTCLAIR  
SCHOOL DISTRICT TO PROVIDE AFTER-  
SCHOOL PROGRAMS

**DATE:** June 20, 2011

**SECTION:** AGREEMENTS

**ITEM NO.:** 6

**FILE I.D.:** HSV030

**DEPT.:** COMMUNITY DEV.

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**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 11-71 with the Ontario-Montclair School District (OMSD) to provide after-school programs using funds provided by the After-School Education and Safety Program (ASES) grant.

**BACKGROUND:** The Montclair Community Collaborative (MCC), organized in 1996, is a partnership between the City, OMSD, and community organizations having the core objective of improving quality-of-life outcomes for children and youth. Through the ongoing strategic planning process, MCC identifies resources and develops services for children, youth, and adults.

The goal of the ASES grant is to promote after-school learning modules to enhance children's educational and learning capabilities. Such grants made available to local education authorities such as OMSD provide communities with enhanced community-based school services in an effort to strengthen healthy child development.

Proposed Agreement No. 11-71 would provide funding through the ASES grant for after-school programs at the following 11 school sites: El Camino, Howard, Kingsley, Lehigh, Mission, Monte Vista, Montera, Moreno, Ramona, Serrano, and Vernon. The total amount of funding for these 11 school sites is \$1,336,076 and would be used to support academic, recreational, and enrichment activities for children in after-school programs.

The term of proposed Agreement No. 11-71 is July 1, 2011, through June 30, 2012.

**FISCAL IMPACT:** Should the City Council approve Agreement No. 11-71, OMSD would pay the City of Montclair \$1,336,076 to fund personnel, supplies, training, and grant oversight.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 11-71 with the Ontario-Montclair School District to provide after-school programs.

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Prepared by:

*M. Richter*

Reviewed and  
Approved by:

*Tom Russo*

Proofed by:

*Christine Smudely*

Presented by:

Contract No. B-112-03

**ONTARIO-MONTCLAIR SCHOOL DISTRICT  
950 WEST "D" STREET  
ONTARIO, CALIFORNIA 91762  
(909) 459-2500**

**AGREEMENT FOR CONSULTANT SERVICES**

**THIS AGREEMENT** is made and entered into this 19 day of May, by and between the Ontario-Montclair School District, hereinafter referred to as the "**DISTRICT**", and **City of Montclair**, hereinafter referred to as the "**CONSULTANT**".

**1. Services To Be Performed By Consultant.**

- (a) **CONSULTANT** agrees to perform the following services on the dates and times herein stated in accordance with directions stipulated to by **DISTRICT**.

Consultant will provide staff and materials to operate the after school program services at the following sites: El Camino, Howard, Kingsley, Lehigh, Mission, Monte Vista, Moreno, Montera and Ramona elementary schools and Serrano and Vernon middle schools. Services rendered beginning July 1, 2011 and ending June 30, 2012. Funding sources is the After School Education and Safety Program (ASES) Core (Mgmt. 0834; Resource 6010). Administrative costs may not exceed the 15% of the annual total grant award amount. (OMSD – 7.5% and **City of Montclair** – 7.5%). **City of Montclair** will be paid 92.5% of the grant award from CDE for services rendered at contracted school sites.

(b) **CONSULTANT** may, at **CONSULTANT's** own expense, employ such assistants as **CONSULTANT** deems necessary to perform the services required of **CONSULTANT** by this Agreement. **DISTRICT** will not train, control, direct, or supervise **CONSULTANT's** assistants or employees in the performance of those services.

**CONSULTANT** will have the following responsibilities in support of the ASES programs:

- (1) Coordinate the academic assistance, homework support, and enrichment portions of the ASES program at each School Site.
- (2) Hire, train, and supervise site staff, including the site coordinators and program leaders.
- (3) Seek regular input from principals regarding performance evaluations, including recommendations for retraining and terminating a site coordinator and/or other site staff.
- (4) Participate in all cross training for site coordinators and site staff.
- (5) Maintain ongoing communication between City of Montclair staff and school staff regarding student needs and progress, including but not limited to attendance at school-day meetings and/or one-on-one meetings with teachers.

- (6) Coordinate ASES activities with school staff to assure program supports current academic goals of teachers and administrators.
- (7) Provide academic assistance and other activities specifically supporting (but not duplicating) daytime curriculum and academic goals.
- (8) Foster communication with and involvement of parent through parent orientations, parent handbook, development and distribution of periodic newsletters, and hosting, at a minimum, one parent night.
- (9) Regularly attend and participate in regular scheduled governance and operation meetings.

(c) **CONSULTANT** is, and shall at all times be deemed to be an independent contractor, and shall be responsible for determining the sequence, method, details and manner in which it performs those services required under the terms of this Agreement. Nothing herein contained shall be construed as creating a relationship of employer and employee, or principal and agent, between **DISTRICT** and **CONSULTANT** or any of **CONSULTANT's** agents or employees. **CONSULTANT** assumes exclusively the responsibility for the acts of its employees or agents as they relate to services to be provided during the course and scope of their employment. **CONSULTANT**, its agents and employees, shall not be entitled to any rights and/or privileges of **DISTRICT's** employees and shall not be considered in any manner to be **DISTRICT's** employees.

(d) If **CONSULTANT** is a regular employee of a public entity, all services which **CONSULTANT** renders under this Agreement will be performed at times other than **CONSULTANT's** regular assigned work day for said entity, or during periods of vacation or leave of absence from said entity.

## 2. Compensation.

(a) Except as otherwise provided in this Agreement, **DISTRICT** agrees to compensate **CONSULTANT** for services rendered under this Agreement.

- (1) **CONSULTANT** will be paid 92.5% of grant award from CDE according to schedule A, attached hereto.
- (2) If **DISTRICT** fails to receive 2011-2012 ASES grant funding, **CONSULTANT** will hold **DISTRICT** harmless for any financial liabilities or obligations it has incurred.
- (3) Timing and amounts of payment will be made according to Schedule A, attached hereto. If the funds received from CDE change, a pro rate adjustment to the maximum amount available for payment to **CONSULTANT** will be made.
- (4) **CONSULTANT** fee will only be paid out of funds received by the **DISTRICT** from the State and only up to the limits of this agreement.
- (5) **CONSULTANT** is to provide documentation necessary for annual independent audits, in accordance with CDE requirements. Any additional audit cost billed to **DISTRICT** due to lack of documentation will be billed to **CONSULTANT** for payment.

(b) **DISTRICT** will pay no additional amount for travel or other expenses of **CONSULTANT** under this Agreement unless specified below. Should travel or other expenses be specified below, **CONSULTANT** shall be entitled to the lesser amount of (1) the not to exceed amount stated, or (2) the actual amount expended. Supporting documentation for the authorized travel or other expenses shall be attached to the Request for Payment form when submitted. N/A

c) **CONSULTANT** will send monthly itemized invoices to **DISTRICT** for payment under this agreement.

(d) If this Agreement is with an individual consultant, **CONSULTANT** will complete the certification block on the "Request For Payment" form which shows whether or not **CONSULTANT** is a retired member of the California State Teacher's Retirement System (STRS) or the California Public Employees Retirement System (PERS).

(e) **DISTRICT** will not withhold any federal or state income tax for payment made pursuant to this Agreement, but will provide **CONSULTANT** with a statement of earnings at the end of each calendar year. **CONSULTANT** is hereby advised that such statement of earnings shall, if required, be provided to the Internal Revenue Service and the State Franchise Tax Board.

### **3. Term of Agreement.**

The term of this Agreement is from July 1, 2011, through June 30, 2012, unless sooner terminated pursuant to the provisions of Section 6 of this Agreement. **DISTRICT** and **CONSULTANT** may mutually agree in writing to extend the term of this Agreement provided, however, **DISTRICT** shall not be obligated to pay **CONSULTANT** any additional consideration unless **CONSULTANT** undertakes additional services, in which instance the consideration shall be increased as **DISTRICT** and **CONSULTANT** shall agree in writing.

### **4. Obligations of Consultant.**

(a) During the term of this Agreement, **CONSULTANT** agrees to diligently prosecute the work specified in the "Description of Services" to completion. **CONSULTANT** may represent, perform services for, and be employed by such additional clients, persons, or companies as **CONSULTANT**, in **CONSULTANT's** sole discretion, sees fit.

(b) **CONSULTANT** will provide all materials, tools, and instrumentalities required to perform the services under this Agreement.

(c) At all times during the term of this Agreement, **CONSULTANT** agrees to provide workers' compensation insurance for **CONSULTANT's** employees and agents as required by law. **CONSULTANT** shall comply with all federal, state and local laws and ordinances applicable to the work to be performed under this Agreement.

(d) **CONSULTANT** shall comply with the requirements of Education Code Section 45125.1 with respect to fingerprinting of employees who may have contact with the **DISTRICT'S** pupils. If at any time during the term of this Agreement **CONSULTANT** is either

notified by the Department of Justice or otherwise becomes aware that any employee of **CONSULTANT** performing services under this Agreement has been arrested or convicted of a violent or serious felony listed in Penal Code section 667.5(c) or Penal Code section 1192.7, respectively, **CONSULTANT** agrees to immediately notify the **DISTRICT** and remove said employee from performing services on this Agreement.

(e) **CONSULTANT** shall indemnify, pay for the defense of, and hold harmless **DISTRICT** and its officers, agents and employees of and from any and all liabilities, claims, debts, damages, demands, suits, actions and causes of actions of whatsoever kind, nature or sort which may be incurred by reason of **CONSULTANT's** negligent or willful acts and/or omissions in rendering any services hereunder. **CONSULTANT** shall assume full responsibility for payments of federal, state and local taxes or contributions imposed or required under the social security, workers' compensation or income tax law, or any disability or unemployment law, or retirement contribution of any sort whatever, concerning **CONSULTANT** or any employee and shall further indemnify, pay for the defense of, and hold harmless **DISTRICT** of and from any such payment or liability arising out of or in any manner connected with **CONSULTANT's** performance under this Agreement.

(f) Neither this Agreement nor any duties or obligations under this Agreement may be assigned by **CONSULTANT** without the prior written consent of **DISTRICT**.

#### **5. Obligations of District.**

**DISTRICT** agrees to comply with all reasonable requests by **CONSULTANT** and to provide access to all documents reasonably necessary for the performance of **CONSULTANT's** duties under this Agreement.

**DISTRICT** shall indemnify, pay for the defense of, and hold harmless **CONSULTANT** and its officers, agents and employees of and from any and all liabilities, claims, debts, damages, suits, actions and causes of actions of whatsoever kind, nature or sort which may be incurred by reason of **DISTRICT's** negligent or willful acts and/or omissions in rendering any services hereunder.

#### **6. Termination of Agreement.**

(a) Unless otherwise terminated as provided below, this Agreement shall continue in force during the term of the Agreement, or until the services provided for herein have been fully and completely performed, whichever shall occur first, and shall thereupon terminate.

(b) Should **CONSULTANT** default in the performance of this Agreement or breach any of its provisions, **DISTRICT** may terminate this Agreement by giving written notification to **CONSULTANT**.

(c) If at any time during the performance of this Agreement **DISTRICT**

determines, at its sole discretion, to suspend indefinitely or abandon the work under this Agreement, **DISTRICT** shall have the right to terminate the performance of **CONSULTANT's** services hereunder by giving written notification to **CONSULTANT** of its intention to terminate.

(d) In the event that **DISTRICT** terminates this Agreement under paragraph (b) or (c) of this Section, **CONSULTANT** shall only be paid for those services rendered to the date of termination. All cash deposits made by **DISTRICT** to **CONSULTANT**, if any, shall be refundable to **DISTRICT** in full upon termination of this Agreement unless specified to the contrary below.

**N/A**

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## **7. General Provisions.**

(a) Any notices to be given hereunder by either party to the other may be effected either by personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested. Notices shall be deemed given and served upon delivery personally, or three (3) days after depositing in the United States Mail. Mailed notices shall be addressed to the parties at the addresses set forth in this Agreement for **DISTRICT** and **CONSULTANT**. The foregoing addresses may be changed by written notice to the other party as provided herein.

(b) This Agreement supersedes any and all agreements either oral or written, between the parties hereto with respect to the rendering of services by **CONSULTANT** and contains all of the covenants and agreements between the parties with respect to the rendering of such services in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement will be effective only if it is in writing, signed by both parties, except **DISTRICT** may unilaterally amend the Agreement to accomplish the changes listed below:

1. Increase dollar amounts;
2. Administrative changes; and
3. Changes as required by law / ASES grant provisions

(c) If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

(d) This Agreement shall be governed by and construed in accordance with the laws of the State of California.

(e) Pursuant to and in accordance with the provisions of Government Code Section 8546.7 or any amendments thereto, all books, records and files of **DISTRICT**, **CONSULTANT**, or any subcontractor connected with the performance of this Agreement involving the expenditure of public funds in excess of Ten Thousand Dollars (\$10,000), including, but not limited to the administration thereof, shall be subject to the examination and

audit of the State Auditor General of the State of California, at the request of **DISTRICT** or as a part of any audit of **DISTRICT**, for a period of three (3) years after final payment is made under this Agreement. **CONSULTANT** shall preserve and cause to be preserved such books, records and files for the audit period.

(f) Each person executing this Agreement warrants that he or she has the authority to so execute this Agreement and that no further approval of any kind is necessary to bind the parties hereto.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the day and year first written.

**"DISTRICT"**

**"CONSULTANT"**

By:   
Signature

By: \_\_\_\_\_  
Signatures

Kim Stallings  
Printed Name

Paul Eaton  
Printed Name

Deputy Superintendent, Administrative Services  
Title

Mayor, City of Montclair  
Title  
City of Montclair

5111 Benito Street  
Address  
Montclair, CA 91763  
City State Zip

(909) 626-8571  
Telephone Number

By: \_\_\_\_\_  
Signatures

Yvonne Smith, Deputy City Clerk  
Title

Date: 6-8-11

Date: \_\_\_\_\_

Date of Governing Board's Approval: May 19, 2011

END OF AGREEMENT FOR CONSULTANT SERVICES

Schedule A  
Payment Schedule  
City of Montclair

Ten monthly payments, due on the 1<sup>st</sup> of each month from September 1<sup>st</sup> through June 1<sup>st</sup>, according to the following:

School Name	Components	Award Amount	District Administrative Cost 7.5%	Total Payment to City of Montclair 92.5%	Monthly Payment Amount (x10)
El Camino Elementary	ASES Afterschool Base	\$112,500.00	\$8,437.00	\$104,063.00	\$10,406.00
Howard Elementary	ASES Afterschool Base	112,500.00	8,437.00	104,063.00	10,406.00
Kingsley Elementary	ASES Afterschool Base	147,695.00	11,077.00	136,618.00	13,661.00
Lehigh Elementary	ASES Afterschool Base	159,705.00	11,978.00	147,727.00	14,772.00
Mission Elementary	ASES Afterschool Base	184,275.00	13,821.00	170,454.00	17,045.00
Monte Vista Elementary	ASES Afterschool Base	190,716.00	14,304.00	176,713.00	17,671.00
Moreno Elementary	ASES Afterschool Base	112,500.00	8,437.00	104,063.00	10,406.00
Montera Elementary	ASES Afterschool Base	98,550.00	7,391.00	91,159.00	9,116.00
Ramona Elementary	ASES Afterschool Base	112,500.00	8,437.00	104,063.00	10,406.00
Serrano Middle School	ASES Afterschool Base	121,338.00	9,100.00	112,238.00	11,224.00
Vernon Middle School	ASES Afterschool Base	91,800.00	6,885.00	84,915.00	8,492.00
		\$1,444,079.00	\$108,304.00	\$1,336,076.00	\$133,607.00

- Any changes to funding from CDE will be adjusted accordingly.

## AGENDA REPORT

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**SUBJECT:** CONSIDER APPROVAL OF AGREEMENT  
NO. 11-72 WITH NUTRITION INK TO  
PROVIDE NUTRITION-EDUCATION SERVICES  
FOR THE CITY'S SENIOR CITIZEN NUTRITION  
PROGRAM

**DATE:** June 20, 2011

**SECTION:** AGREEMENTS

**ITEM NO.:** 7

**FILE I.D.:** HSV105

**DEPT.:** COMMUNITY DEV.

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**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 11-72 with Nutrition Ink to provide nutrition-education services for the City's Senior Citizen Nutrition Program. A copy of proposed Agreement No. 11-72 is attached for the City Council's review and consideration.

**BACKGROUND:** At its meeting of May 16, 2011, the City Council approved Agreement No. 11-53 with the San Bernardino County Department of Aging and Adult Services to provide a Senior Citizen Nutrition Program for participants aged 60 and over. Agreement No. 11-53 requires that the City of Montclair provide nutrition-education services to program participants, volunteers, and staff. Agreement No. 11-72 proposes that Nutrition Ink would perform the following services on a quarterly basis:

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

In addition, Nutrition Ink would review and analyze menus monthly or as needed and develop, maintain, and use pertinent record systems in relation to the needs of the program. The term of proposed Agreement No. 11-72 is July 1, 2011, through June 30, 2012.

**FISCAL IMPACT:** The annual fee of \$2,000 would be paid with funds that have already been allocated in Agreement No. 11-53.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 11-72 with Nutrition Ink to provide nutrition-education services for the City's Senior Citizen Nutrition Program.

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Prepared by: *M. Richter*

Reviewed and  
Approved by:

Proofed by: *Christine Smidaly*

Presented by:

*Steve Luster*  
*[Signature]*

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## NUTRITION INK AGREEMENT

**I. OBJECTIVE:**

To provide consultation to City of Montclair Senior Citizen's Program (Agency/Contractor) regarding nutrition provider requirements as outlined in Title 22, Division 1.8 of the California Department of Aging Regulations, including, but not limited to, the following:

- A. Give preference to older individuals in greatest economic or social need with particular attention to low-income minority individuals.
- B. Promote good health behaviors through nutrition education and nutrition screening of participants.
- C. Promote or maintain coordination with other nutrition-related supportive services for older individuals.

**PROGRAM DESCRIPTION:**

- A. Purpose – The purpose of the Elderly Nutrition Program (ENP) is to provide nutrition services as described in the Older Americans Act (OAA) of 1965, as amended, and to assist older individuals in California to live independently, by promoting better health through improved nutrition, and reduced isolation through programs coordinated with nutrition-related supportive services.
- B. Definition – Nutrition services means the procurement, preparation, transport, and service of meals, nutrition education, nutrition screening, and nutrition counseling, to eligible individuals at congregate sites or in their homes.
- C. Goals – to maintain or improve the physical, psychological, and social well being of older individuals, by providing or securing appropriate nutrition services.
- D. Target Population – The ENP Provider (City of Montclair) shall target individuals who are sixty (60) years of age or older, minorities, low income and living in rural areas of the County of San Bernardino.

**2. TERMS OF AGREEMENT:**

This is to certify that City of Montclair Senior Citizen's Program has engaged the services of *NUTRITION INK* (Sub-Contractor) for its Nutrition consultation to one (1) site. This service is effective July 1, 2011 through June 30, 2012

**3. RESPONSIBILITIES OF SUB-CONTRACTOR:**

- A. At a minimum, quarterly monitor site for safe food handling and sanitation practices of facilities.
- B. Provide input, review, and approve the Nutrition Education Plan for staff and participants prior to presentation.
- C. Develop, or review and approve the cycle menus unless provided and signed by RD of approved caterer.
- D. Provide technical support and assistance as needed.
- E. Plans, organizes and conducts Nutrition Education a minimum of four (4) times per year for food service staff (paid and volunteers) and participants in congregate meal programs. Nutrition Education for congregate sites is defined as demonstrations, presentations, lectures or small group discussions, all of which may be augmented with printed materials. Training sessions shall be evaluated by those receiving the training.
- F. Nutrition Education shall be based on the particular need of congregate meal participants. An annual Needs Assessment shall be performed by the ENP Provider to make this determination.
- G. The Nutrition Education Plan and annual Needs Assessment must be submitted to DAAS by September 1<sup>st</sup> of the FY it is being provided in.
- H. Nutrition Education sessions must be reported monthly to DAAS using the Nutrition Education Monthly Service Unit Report.

Nutrition Education Units of Service:

Program: C-1 (Congregate Meals)	Program: C-2 (Home-Delivered Meals)
# of Units to be Provided: 583	# of Units to be Provided: N/A
# of Sites to be Presented at: 1	# of Participants to be Presented to: N/A

#### 4. RESPONSIBILITIES OF AGENCY/CONTRACTOR

- A. Identify person designated as supervisor or designee.
- B. Provide a general orientation for the dietitian to the Agency including its staff, policies, recording systems.
- C. Provide suitable space, equipment and materials.
- D. Make records available and if necessary send monthly menus to dietitian for review, analysis, and approval.
- E. Maintain documentation of each training session including sign-in sheets, agendas, handouts, and completed evaluations.
- F. An annual Needs Assessment shall be performed by the ENP Provider to determine the particular Nutrition Education need of congregate meal participants.
- G. Will send Nutrition Education Service Unit Report monthly to DAAS.
- H. Agrees not to hire or contract with a Nutrition InK Dietitian for a period of one year from termination of this contract unless facility pays RD's annual salary as buyout fee.

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

6. The Sub-Contractor shall provide the following:

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

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

8. Sub-Contractor shall maintain all records and books pertaining to the delivery of services under this Contract and demonstrate accountability for Contract performance. Said records shall be kept and maintained at 3164 W. Ramsey St., Banning, Ca. 92220.

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

10. HIPAA Law:

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

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

Costs:

Nutrition Education and materials plus yearly plan .....	\$600
Site Monitoring quarterly.....	\$600
Staff Training quarterly.....	\$600
Mileage.....	\$200
Total.....	\$2000

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

**NUTRITION INK**

By:

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

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

**CITY**

**CITY OF MONTCLAIR**

By:

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

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

**ATTEST:**

\_\_\_\_\_  
Yvonne Smith  
Deputy City Clerk

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

## AGENDA REPORT

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**SUBJECT:** CONSIDER APPROVAL OF AGREEMENT NO. 11-73, THE THIRD AMENDMENT TO AGREEMENT NO. 07-122, A FUNDING AND ADMINISTRATIVE SERVICES AGREEMENT BY AND BETWEEN THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY AND NEIGHBORHOOD PARTNERSHIP HOUSING SERVICES

**DATE:** June 20, 2011

**SECTION:** AGREEMENTS

**ITEM NO.:** 8

**FILE I.D.:** NPM300

**DEPT.:** REDEVELOPMENT

CONSIDER APPROVAL OF AGREEMENT NO. 11-74, THE THIRD AMENDMENT TO AGREEMENT NO. 07-123, A TRUST AGREEMENT BY AND BETWEEN THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY AND NEIGHBORHOOD PARTNERSHIP HOUSING SERVICES

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**REASON FOR CONSIDERATION:** The Funding and Administrative Services Agreement and Trust Agreement between the City of Montclair Redevelopment Agency and Neighborhood Partnership Housing Services (NPHS) expire on June 30, 2011. Redevelopment Agency and NPHS staff are requesting the Redevelopment Agency Board of Directors consider amending the Agreements to extend their terms. Proposed Agreement Nos. 11-73 and 11-74 are included in the agenda packet for the Agency Board's review and consideration. Agreement Nos. 07-122 and 07-123 and the First Amendment, Agreement No. 09-54, and Second Amendment, Agreement No. 10-72, are included in the agenda packet for reference.

**BACKGROUND:** The Redevelopment Agency Board of Directors approved Agreement Nos. 07-122 and 07-123 related to funding, administrative services, and trust services between the Redevelopment Agency and NPHS on November 5, 2007. On July 6, 2009, Agreement No. 09-54, the First Amendment to the Funding, Administrative Services and Trust Agreement was approved by the Redevelopment Agency Board of Directors. The Second Amendment to the Funding, Administrative Services, and Trust Agreement was approved on July 6, 2011. The Agreements detail the services to be provided by NPHS related to administration of a rehabilitation loan program for single-family homeowners, including the owners of mobile homes, and the administration of a grant program for minor repairs to the homes of senior residents. The Agreements also document the fee amounts paid by the Agency to NPHS to administer the programs and establish how bank accounts between the Redevelopment Agency and NPHS must be established and maintained. During the 2010-11 fiscal year, NPHS completed no rehabilitation loans. However, eight Safe Homes for Seniors grants were completed; and three are in the process of completion.

The Rehabilitation Loan Program administered by NPHS provides low interest rate or deferred loans to income-qualifying homeowners desiring to make eligible home improvements. Loan amounts can be provided up to \$35,000. NPHS charges the Redevelopment

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Prepared by: M. STAATS  
Proofed by: Gunter L. Smith

Reviewed and Approved by: M. STAATS  
Presented by: [Signature]

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Agency a fee for each loan made consisting of 15 percent of the loan amount not to exceed \$5,000. NPHS also administers the Safe Homes for Seniors Grant Program on behalf of the Redevelopment Agency. This Program currently provides income-qualifying seniors (aged 65 and up) or income-qualifying residents with physical disabilities with a \$1,500 grant for minor home repairs. NPHS charges the Redevelopment Agency an administrative fee of \$300 per grant.

NPHS and Redevelopment Agency staff have discussed the status of the loan and grant programs. In administration of the programs, NPHS has noted that current economic conditions have created reluctance among residents to obtain loans to improve their properties. Residents prefer not to accrue additional debt. However, there is still a fair amount of interest in the Safe Homes for Seniors Grant Program.

Based on discussion regarding the programs, Redevelopment Agency and NPHS staff are requesting the Redevelopment Agency Board of Directors amend Agreement Nos. 07-122, 07-123, 09-54, and 10-72. Proposed amended Agreements Nos. 11-73 and 11-74 would extend the terms of the Funding and Administrative Services Agreement and the Trust Agreement until June 30, 2012. All other terms of the Agreements would remain the same.

**FISCAL IMPACT:** Proposed Agreement Nos. 11-73 and 11-74 would not increase the costs of implementing the Rehabilitation Loan Program or the Safe Homes for Seniors Grant Program. The Redevelopment Agency Fiscal Year 2011-12 Budget contains \$75,000 for the Safe Homes for Seniors Grant Program and \$270,000 for the Rehabilitation Loan Program. Funds related to the administrative fees of these programs have also been included in the Budget.

**RECOMMENDATION:** Staff recommends the Redevelopment Agency Board of Directors approve Agreement No. 11-73, the Third Amendment to Agreement No. 07-122, a Funding and Administrative Services Agreement by and between the City of Montclair Redevelopment Agency and Neighborhood Partnership Housing Services. In addition, staff recommends the Redevelopment Agency Board of Directors approve Agreement No. 11-74, the Third Amendment to Agreement No. 07-123, a Trust Agreement by and between the City of Montclair Redevelopment Agency and Neighborhood Partnership Housing Services.

## AGENDA REPORT

**SUBJECT:** CONSIDER APPROVAL OF AGREEMENT  
NO. 11-75 WITH THE COUNTY OF  
SAN BERNARDINO FOR ALLOCATION  
AND EXPENDITURE OF JUSTICE ASSIS-  
TANCE GRANT PROGRAM FUNDS

**DATE:** June 20, 2011

**SECTION:** AGREEMENTS

**ITEM NO.:** 9

**FILE I.D.:** PDT362

**DEPT.:** POLICE

**REASON FOR CONSIDERATION:** The City Council is requested to consider approval of Agreement No. 11-75 with the County of San Bernardino for the reallocation and expenditure of Justice Assistance Grant (JAG) Program funds.

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

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

The Police Chief is requesting the following appropriation of current funding:

Range ammunition and projectiles	\$ 7,500
Foregrip and flashlight assembly	6,980
Report tray system	2,500
Flashlights and chargers (10)	1,500
Dynamic entry pick and ram	<u>600</u>

TOTAL \$19,080

**FISCAL IMPACT:** The City Council's approval of proposed Agreement No. 11-75 would result in a \$19,080 JAG Program fund allocation to the Police Department's Fiscal Year 2011-12 Budget. The San Bernardino County Board of Supervisors, acting in its capacity as JAG Program Administrator, would retain a 5 percent administrative fee of \$1,004.

**RECOMMENDATION:** Staff recommends the City Council approve Agreement No. 11-75 with the County of San Bernardino for the allocation and expenditure of Justice Assistance Grant Program funds.

Prepared by: Judy B. Reviewed and Approved by: M. DeLeon  
Proofed by: Sharon Aguiar Presented by: [Signature]

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

**CONCERNING DISTRIBUTION OF THE  
2011 JUSTICE ASSISTANCE GRANT AWARD**

This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by and between THE COUNTY OF SAN BERNARDINO, acting by and through its governing body, the Board of Supervisors (hereinafter referred to as "COUNTY"), and the aforementioned TOWN (hereinafter referred to as "TOWN") and named CITIES (hereinafter referred to as "CITIES"), acting by and through their respective governing bodies, the Town Council and City Councils, all of whom are situated within the County of San Bernardino, State of California, as follows:

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

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

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

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

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

**Section 1.**

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

**Section 2.**

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

**Section 3.**

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

**Section 4.**

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

**Section 5.**

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

**Section 6.**

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

**Section 7.**

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

**Section 8.**

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

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

TOWN OF APPLE VALLEY, CA

COUNTY OF SAN BERNARDINO, CA

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Josie Gonzales  
Chair, County Board of Supervisors

ATTEST:

ATTEST:

\_\_\_\_\_  
City Clerk

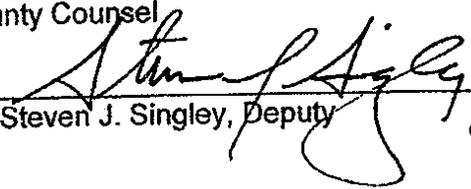
\_\_\_\_\_  
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

APPROVED AS TO FORM:

\*Jean-Rene Basle  
County Counsel

by:   
Steven J. Singley, Deputy 6/6/11

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

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

CITY OF ADELANTO, CA

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

CITY OF BARSTOW, CA

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

CITY OF CHINO, CA

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

CITY OF COLTON, CA

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

CITY OF FONTANA, CA

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

CITY OF HESPERIA, CA

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

CITY OF HIGHLAND, CA

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

CITY OF MONTCLAIR, CA

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
Deputy City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

CITY OF ONTARIO, CA

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

CITY OF RANCHO CUCAMONGA, CA

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

CITY OF REDLANDS, CA

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

CITY OF RIALTO, CA

\_\_\_\_\_  
City Administrator

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

CITY OF SAN BERNARDINO, CA

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

CITY OF UPLAND, CA

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

CITY OF VICTORVILLE, CA

\_\_\_\_\_  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney



## AGENDA REPORT

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**SUBJECT:** CONSIDER AWARD OF CONTRACT TO  
GENTRY BROTHERS, INC., IN THE AMOUNT  
OF \$925,111.00

CONSIDER APPROVAL OF AGREEMENT  
NO. 11-76 WITH GENTRY BROTHERS,  
INC., FOR CONSTRUCTION OF THE  
MISSION BOULEVARD IMPROVEMENT  
PHASE 9 PROJECT

CONSIDER AUTHORIZATION OF A  
\$95,000 CONSTRUCTION CONTINGENCY

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**DATE:** June 20, 2011

**SECTION:** AGREEMENTS

**ITEM NO.:** 10

**FILE I.D.:** SSP178

**DEPT.:** PUBLIC WORKS

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

**BACKGROUND:** The City Council, at its meeting of April 11, 2010, authorized staff to advertise for bids for construction of the Mission Boulevard Improvement Phase 9 Project. This project is the final phase of a multiphase project to rehabilitate and beautify the Mission Boulevard Corridor from the County line at San Antonio Channel to Benson Avenue.

Phase 9 work for the Mission Boulevard Corridor Improvement Project will extend westerly from Pipeline Avenue and terminate at the County line at the San Antonio Channel. The project will include new median islands; landscaping and irrigation; pavement reconstruction; curb, gutter, and sidewalk construction; and restriping.

On Thursday, April 14, 2011, the Deputy City Clerk received and opened 15 bid proposals for the Mission Boulevard Improvement Phase 9 Project. The bid results are shown on the following page.

Following the bid opening, all bid proposals were reviewed for completeness and accuracy. This project will use federal funding and, as such, requires that the contractor meet the Underutilized Disadvantaged Business Enterprises goal of 6 percent or show that a good faith effort has been made to meet the goal. Gentry Brothers, Inc., has provided all the necessary documents to show that it has met the goal. Gentry Brothers, Inc., was deemed to be the lowest responsible, responsive bidder for the project.

Gentry Brothers, Inc., has previously done work for the City including the recently completed Mission Boulevard Phase 8 and Phase 10 Improvement Projects. Based on past projects with the City, Gentry Brothers, Inc., is known to have the personnel, equipment, and job experience necessary to complete this contract in accordance with the plans and specifications.

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Prepared by:

*M. SCHR*  
*Clery*

Reviewed and  
Approved by:

*M. STATS*

Proofed by:

Presented by:

*[Signature]*

---

## BID RESULTS

<i>Contractor</i>	<i>Bid Amount</i>
Gentry Brothers, Inc.	\$ 925,111.00
Cooley Construction, Inc.	\$ 1,045,414.80
GMC Engineering, Inc.	\$ 1,048,450.50
KASA Construction	\$ 1,067,766.50
Sully-Miller Contracting Co.	\$ 1,079,995.00
<b>Engineer's Estimate</b>	<b>\$ 1,110,000.00</b>
Sequel Contractors, Inc.	\$ 1,105,110.00
Hillcrest Contracting, Inc.	\$ 1,107,158.40
Excel Paving Company	\$ 1,112,662.50
All American Asphalt, Inc.	\$ 1,112,741.60
Laird Construction Co., Inc.	\$ 1,138,318.00
Rancho Pacific Engineering, Inc.	\$ 1,162,577.73
EBS General Engineering Inc.	\$ 1,197,261.00
Anchor Construction & Engineering, Inc.	\$ 1,222,133.42
Vance Corporation	\$ 1,230,372.00
Yaka	\$ 1,304,791.10

**FISCAL IMPACT:** Project funding sources include approximately \$600,000 of federal transportation funds through Transportation Enhancements. The funds were made available through the San Bernardino Associated Governments, with the remaining funds coming from Redevelopment Agency Tax Allocation Notes for the Mission Boulevard Joint Redevelopment Project Area and Measure I.

**RECOMMENDATION:** Staff recommends the City Council take the following actions related to the Mission Boulevard Improvement Phase 9 Project:

1. Award contract to Gentry Brothers Inc., in the amount of \$925,111.00.
2. Approve Agreement No. 11-76 with Gentry Brothers, Inc.
3. Authorize a \$95,000 construction contingency.

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

**A. Recitals.**

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

**MISSION BOULEVARD CORRIDOR IMPROVEMENT PHASE 9 PROJECT**

"PROJECT" hereinafter.

**B. Resolution.**

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

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

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

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

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

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

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

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

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

- (5) Automobile - Bodily Injury \$1,000,000 each person; \$2,000,000 each accident.
  - (6) Automobile - Property Damage \$500,000 each accident.
- c. The policy of insurance provided for in subparagraph a. shall contain an endorsement which:
- (1) Waives all right of subrogation against all persons and entities specified in subparagraph 4.d.(2) hereof to be listed as additional insureds in the policy of insurance provided for in paragraph b. by reason of any claim arising out of or connected with the operations of CONTRACTOR or any subcontractor in performing the work provided for herein;
  - (2) Provides it shall not be canceled or altered without thirty (30) days' written notice thereof given to CITY by registered mail.
- d. Each such policy of insurance provided for in paragraph b. shall:
- (1) Be issued by an insurance company approved in writing by CITY, which is qualified to do business in the State of California;
  - (2) Name as additional insureds the CITY, its officers, agents and employees, and any other parties specified in the bid documents to be so included;
  - (3) Specify it acts as primary insurance and that no insurance held or owned by the designated additional insureds shall be called upon to cover a loss under said policy;
  - (4) Contain a clause substantially in the following words:  
  
"It is hereby understood and agreed that this policy may not be canceled nor the amount of the coverage thereof reduced until thirty (30) days after receipt by CITY of a written notice of such cancellation or reduction of coverage as evidenced by receipt of a registered letter."
  - (5) Otherwise be in form satisfactory to CITY.
- e. The CONTRACTOR shall at the time of the execution of the contract present the original policies of insurance required in paragraphs a. and b., hereof, or present an endorsement of the insurance company, showing the issuance of such insurance, and the additional insureds and other provisions required herein.

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

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

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

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

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

8. **CONTRACT PRICE AND PAYMENT**: CITY shall pay to the CONTRACTOR for furnishing the material and doing the prescribed work the unit prices set forth in accordance with CONTRACTOR's Proposal dated **May 12, 2011**

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

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

CITY OF MONTCLAIR, CALIFORNIA

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

Attest: \_\_\_\_\_  
Yvonne L. Smith, Deputy City Clerk

CONTRACTOR:

\_\_\_\_\_ **Gentry Brothers, Inc.**

\_\_\_\_\_ 384 Live Oak

\_\_\_\_\_ Irwindale, CA 91706

By: \_\_\_\_\_  
Title

By: \_\_\_\_\_  
Title

By: \_\_\_\_\_  
Title

## AGENDA REPORT

**SUBJECT:** CONSIDER AWARD OF CONTRACT TO EARTH TEK ENGINEERING CORP. IN THE AMOUNT OF \$396,635.00

CONSIDER APPROVAL OF AGREEMENT NO. 11-77 WITH EARTH TEK ENGINEERING CORP. FOR CONSTRUCTION OF THE ALMA HOFMAN PARK IMPROVEMENT PROJECT

CONSIDER AUTHORIZATION OF A \$40,000 CONSTRUCTION CONTINGENCY

**DATE:** June 20, 2011

**SECTION:** AGREEMENTS (JT)

**ITEM NO.:** 11

**FILE I.D.:** PRK200

**DEPT.:** PUBLIC WORKS/RDA

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

**BACKGROUND:** The City Council, at its meeting of March 21, 2011, authorized staff to advertise for bids for the Alma Hofman Park Improvement Project. This project is intended to add another recreational feature to the park, improve lighting, and increase parking. Construction includes the addition of a new shade structure/gazebo, installation of new park lighting and tennis court lighting, and expansion of the existing parking lot, doubling its size.

On Thursday, May 5, 2011, the Deputy City Clerk received and opened seven bid proposals for this project. The bid results are as follows:

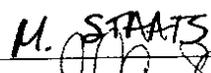
<i>Contractor</i>	<i>Bid Amount</i>
Earth Tek Engineering Corp.	\$396,635.00
KASA Construction	\$407,838.00
Nile International, Inc.	\$433,066.62
Gentry Brothers, Inc.	\$437,908.00
Fleming Environmental Inc.	\$463,800.00
Vido Samarzich, Inc.	\$468,000.00
R.C. Construction Services, Inc.	\$470,815.20
<b>Engineer's Estimate</b>	<b>\$515,000.00</b>

Following the bid opening, all bid proposals were reviewed for completeness and accuracy.

Earth Tek Engineering Corp., the low bidder, initially appeared to have some irregularities with its proposal. A listed subcontractor was found to have a suspended contractor's

Prepared by: 

Proofed by: 

Reviewed and Approved by: 

Presented by: 

license, and a listing of all subcontractors appeared to indicate that the general contractor would be performing less than 50 percent of the total project. The bid documents state that the general contractor submitting the bid must perform at least 50 percent of the work.

Suspended Contractor's License. The City's bid documents require that any contractor submitting a bid shall have a valid contractor's license at the time of bid submittal and that any subcontractors listed as part of the construction team be licensed at that time as well. After opening bids, it was determined that Earth Tek Engineering Corp. had included a subcontractor whose license has been suspended, technically rendering the bid as non-responsive. However, the Public Contract Code allows the substitution of another subcontractor if the listed subcontractor is unwilling or unable to sign a contract to perform the required work. Lacking a valid contractor's license, the subcontractor would have been unable to sign a contract with the general contractor. After reviewing the matter with City Attorney Robbins, it was determined that the Earth Tek Engineering Corp. bid should not be rejected as nonresponsive over this issue.

50 Percent Requirement. The City's bid documents, through its reference to the Standard Specifications for Public Works Construction, require a general contractor bidding a City project perform at least 50 percent of the work with its own forces. The 50 percent requirement is based on the dollar value of the various items of work. The bid documents ask the bidders to state what line items the listed subcontractors would be performing but not what percent of any one line item the subcontractor would actually perform. In reviewing Earth Tek Engineering Corp.'s bid proposal, it appears that more than 50 percent of the work was being given to subcontractors. After reviewing the bid with City Attorney Robbins, it was determined that such a conclusion could not be made based on the documents submitted. Therefore, the bid should not be rejected as nonresponsive over this issue.

Earth Tek Engineering Corp. has provided all the required documents and was deemed to be the lowest responsible, responsive bidder for the project. Earth Tek Engineering Corp. has no previous work experience with the City of Montclair. However, a reference check of its work history indicates the company is known to have the personnel, equipment, and job experience necessary to complete the contract in accordance with the plans and specifications.

**FISCAL IMPACT:** This project is funded through various sources including the Park Development Fund, Montclair Redevelopment Agency, and a Department of Energy grant.

**RECOMMENDATION:** Staff recommends the City Council take the following actions related to the Alma Hofman Park Improvement Project:

1. Award a contract to Earth Tek Engineering Corp. in the amount of \$396,635.00.
2. Approve Agreement No. 11-77 with Earth Tek Engineering Corp.
3. Authorize a \$40,000 construction contingency.

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

**A. Recitals.**

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

**ALMA HOFMAN PARK IMPROVEMENT PROJECT**

"PROJECT" hereinafter.

**B. Resolution.**

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

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

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

3. TERMS OF CONTRACT: The CONTRACTOR agrees to execute the contract within ten (10) calendar days from the date of notice of award of the contract and to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8. **CONTRACT PRICE AND PAYMENT**: CITY shall pay to the CONTRACTOR for furnishing the material and doing the prescribed work the unit prices set forth in accordance with CONTRACTOR's Proposal dated **May 5, 2011**

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

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

CITY OF MONTCLAIR, CALIFORNIA

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

Attest: \_\_\_\_\_  
Yvonne L. Smith, Deputy City Clerk

CONTRACTOR:

\_\_\_\_\_ **Earth Tek Engineering Corp.**

\_\_\_\_\_ 15350 Fairfield Ranch Rd. #K

\_\_\_\_\_ Chino Hills, CA 91709

By: \_\_\_\_\_  
Title

By: \_\_\_\_\_  
Title

By: \_\_\_\_\_  
Title

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER APPROVAL OF AGREEMENT NO. 11-78, A REIMBURSEMENT AGREEMENT WITH ARROW STATION, L.P., REGARDING PROPERTY LOCATED ON THE NORTH SIDE OF ARROW HIGHWAY, EAST OF MONTE VISTA AVENUE	<b>DATE:</b> June 20, 2011 <b>SECTION:</b> AGREEMENTS <b>ITEM NO.:</b> 12 <b>FILE I.D.:</b> LDU460 <b>DEPT.:</b> ADMIN. SVCS./ PUBLIC WORKS
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**REASON FOR CONSIDERATION:** Arrow Station, L.P., is the owner of the property located on the north side of Arrow Highway approximately 213 feet east of Monte Vista Avenue. The property is located within the boundaries of the North Montclair Downtown Specific Plan. The Specific Plan calls for the development of public streets, public parks, and other public amenities. Given the current economic situation, the City does not have the financial resources to pay for the maintenance costs of such public improvements. Staff has proposed the establishment of Community Facilities Districts (CFDs) as a method to recover maintenance costs and some public safety costs in the North Montclair Downtown Specific Plan area.

Developers within in the North Montclair Downtown Specific Plan area have been requested to enter into a Reimbursement Agreement with the City whereby the developer provides the City with a deposit of funds to offset consultant and legal fees associated with development of the CFD and preparation of other legal documents. Agreement No. 11-78 is the proposed Reimbursement Agreement with Arrow Station, L.P., a copy of which is included in the agenda packets for the City Council's review and consideration.

**BACKGROUND:** The City Council adopted the North Montclair Downtown Specific Plan on May 16, 2006. The intent of the Specific Plan was to encourage pedestrian, transit-oriented, mixed-use development. The North Montclair Downtown Plan also included areas for parks and other public open space. The Specific Plan requires public streets and open space in order to allow access by the entire community and give the area the quality of a city center. However, as a land use document, the Specific Plan did not provide guidance on how the City should deal with legal, environmental, and maintenance issues involved with build-out of the Specific Plan.

The Arrow Station Project consists of 6.94 acres on the north side of Arrow Highway, east of Monte Vista Avenue. As proposed and entitled, the project consists of 99 rental units, which may be converted to condominiums at some future time, and 30 single-family homes. Overall, the project contains 258 parking spaces. The Arrow Station Project Tentative Tract Map and Precise Plan of Design were approved by the Planning Commission on November 20, 2010, and subsequently approved by the City Council on December 6,

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Prepared by: M. STAATS  
Proofed by: [Signature]

Reviewed and Approved by: M. STAATS  
Presented by: [Signature]

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2010. The project contains public streets and envisions a connection to the Montclair Transcenter at some point in the future. The City's approval process for the Arrow Station Project contained a condition regarding the establishment of a CFD as a method for the City to recover costs associated with maintenance of public improvements and some public safety costs. Reimbursement Agreement No. 11-78 is proposed to offset the legal costs associated with implementation of the CFD and other conditions of approval.

Proposed Agreement No. 11-78 contains the terms of the developer's reimbursement of the City's incurred costs associated with development of documents and implementation of procedures for the CFD and other conditions. A synopsis of the proposed Agreement includes the following points:

- The City would retain the services of certain consultants and have the right to amend the scope of work. The consultants would be contractors exclusively of the City and not of the developer. The work product produced by the consultants, which would be subject to reimbursement by the developer, would be photocopied for the information of the developers unless that work would be considered privileged or confidential under law.
- As a part of the review process of the proposed development, the City would retain the services of David Taussig & Associates regarding formation of a CFD to pay for items such as street maintenance and certain public safety costs. Best Best & Krieger LLP would be retained regarding legal services for the formation of the CFD; regulatory agreements; and/or covenants, conditions, and restrictions. If the City would choose to retain additional consultants, it would be required to inform the developer. The developer would have five days to review and approve or disapprove the retention of such consultants. In the event the developer objected to the retention of the consultants, the City and developer would communicate to resolve any objections. If the parties were unable to resolve objections and the City retained the disputed party, the developer would have the sole and exclusive right to terminate the Agreement and would reimburse the City for all costs incurred to the date of termination.
- The City has estimated the aggregate cost for all consultants to be \$75,000. By July 14, 2011, the developer would be required to submit the sum of \$25,000 to the City. This amount would be held by the City in a separate account as the "Project Deposit Account." When consultants invoice the City for fees, costs, and expenditures associated with the project, they would concurrently provide a duplicate invoice to the developer. The developer would have five days to approve or disapprove the invoice. In the event the developer disputes an invoice, the City and developer would communicate to resolve the objections. If the parties are unable to resolve the objections and the City pays the invoice, the developer could take action to terminate the Agreement and would reimburse the City for all costs incurred to the date of the termination. When the developer deposit drops below \$7,500, the City would make a written demand to the developer to replenish the deposit to the \$25,000 amount.
- The City would not exceed the estimated \$75,000 of costs without first informing the developer in writing regarding the need for additional services. The City would be required to provide the developer with appropriate documentation of the reason for the excess costs so the developer may reasonably evaluate such costs. The City would also be required to inform the developer in writing prior to amending the scope of

work for any consultant service and the estimated cost thereof. Once the City had provided such notice to the developer, the developer would be obligated to pay the excess cost in the same manner as the estimated costs. However, if the developer objected to the excess costs, the developer must provide the City with a written objection no later than five days after receipt of the City's written notice. The City and developer would communicate in an attempt to resolve the objection. If the parties were unable to resolve the objection, the developer would have the sole and exclusive right to terminate the Agreement and reimburse the City for all costs incurred to the date of termination.

- The City would be required to maintain accurate records of invoices received from, and payments made to, the consultants. The City would be required to provide a payment summary to the developer within a reasonable time upon request.
- The term of the Agreement would commence on the date the Agreement is approved by the City Council and would terminate when all services required for the project from the consultants were completed to the satisfaction of the City. The developer's obligation to reimburse the City would survive the termination of the Agreement.
- The City would be able to terminate the Agreement prior to the terms set forth above, without cost or liability, upon 30 days written notice to the developer in the event the developer fails to satisfy any material obligation of the Agreement or fails to prosecute its applications for the project. The developer would be able to terminate the Agreement upon 30 days prior written notice, provided the developer gives the City written notice withdrawing its application for the project; and the developer would be obligated to satisfy all of its obligations under the Agreement through the effective date of the termination.
- The Agreement would not be assignable by either party without the prior written consent of the other party.

**FISCAL IMPACT:** Through proposed Reimbursement Agreement No. 11-78, the City would be able to retain legal counsel and consulting services related to the City's implementation of a CFD and development of other legal documents. The developer would provide the funds to the City for such needed legal and consulting services. At this time, the estimated cost to the developer would not exceed \$75,000.

In proposing the Reimbursement Agreement, staff is attempting to see that the City's planning and legal fees related to the North Montclair Downtown Plan development remain revenue neutral to the General Fund. Furthermore, in expending the funds on planning and legal fees now, staff hopes to see that the development and maintenance costs related to public facilities within the North Montclair Downtown Plan area also largely remain revenue neutral.

**RECOMMENDATION:** Staff recommends that the City Council approve Agreement No. 11-78, a Reimbursement Agreement with Arrow Station, L.P. regarding property located on the north side of Arrow Highway, east of Monte Vista Avenue.

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER ADOPTION OF RESOLUTION NO. 11-2903 AUTHORIZING APPROVAL OF THE CHANGE IN POPULATION IN THE CITY OF MONTCLAIR DURING 2010 FOR THE PURPOSE OF CALCULATING THE GANN SPENDING LIMIT FOR FISCAL YEAR 2011-12	<b>DATE:</b> June 20, 2011 <b>SECTION:</b> RESOLUTIONS. <b>ITEM NO.:</b> 1 <b>FILE I.D.:</b> FIN225 <b>DEPT.:</b> ADMIN. SVCS.
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**REASON FOR CONSIDERATION:** The City Council is requested to consider adoption of Resolution No. 11-2903 pursuant to Government Code Section 7901, which requires cities to annual adopt resolutions selecting a change in population factor for purposes of calculating the Gann Spending Limit.

A copy of proposed Resolution No. 11-2903 is attached for the City Council's review and consideration.

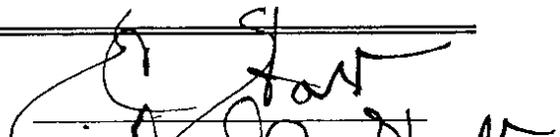
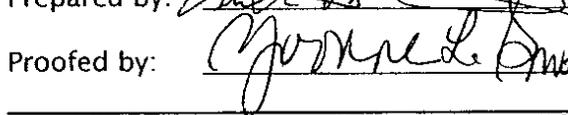
**BACKGROUND:** The passage of Proposition 111 in June 1990 requires cities to annually select a change-in-population factor for the purpose of calculating the Gann Spending Limit. For this purpose, Government Code Section 7901 permits cities to select either the change in population within their jurisdictions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

The change in population in the City of Montclair during 2010 was 1.11 percent compared to a 1.05 percent change for San Bernardino County. Because it is in the City's best interest to establish the highest possible Gann Spending Limit, staff suggests the City Council choose the percentage change in population in the City of Montclair during 2010 as the change-in-population factor to be used in calculating the limit.

**FISCAL IMPACT:** There would be no fiscal impact to the City's General Fund should the City Council adopt proposed Resolution No. 11-2903 authorizing approval of the change in population in the City of Montclair during 2010 for the purpose of calculating the Gann Spending Limit for Fiscal Year 2011-12.

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 11-2903 authorizing approval of the change in population in the City of Montclair during 2010 for the purpose of calculating the Gann Spending Limit for Fiscal Year 2011-12.

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

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**RESOLUTION NO. 11-2903**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AUTHORIZING APPROVAL OF THE CHANGE IN POPULATION IN THE CITY OF MONTCLAIR DURING 2010 FOR THE PURPOSE OF CALCULATING THE GANN SPENDING LIMIT FOR FISCAL YEAR 2011-12**

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

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

**WHEREAS**, the change in population in the City of Montclair during 2010 was 1.11 percent compared to a 1.05 percent change in population in San Bernardino County; and

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

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair hereby approves the change in population in the City of Montclair during 2010 as its change in population factor to be used in calculating the Gann Spending Limit for Fiscal Year 2011-12.

**APPROVED AND ADOPTED** this XX day of XX, 2011.

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
Deputy City Clerk

I, Yvonne L. Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 11-2903 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, 2011, and that it was adopted by the following vote, to-wit:

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

\_\_\_\_\_  
Yvonne L. Smith  
Deputy City Clerk

# AGENDA REPORT

**SUBJECT:** CONSIDER ADOPTION OF RESOLUTION NO. 11-2904 AUTHORIZING APPROVAL OF THE PERCENTAGE CHANGE IN CALIFORNIA PER CAPITA PERSONAL INCOME DURING FISCAL YEAR 2009-10 AS THE FINAL FISCAL YEAR 2009-10 CHANGE IN THE COST-OF-LIVING FACTOR FOR USE IN CALCULATING THE GANN SPENDING LIMIT FOR FISCAL YEAR 2010-11 AND PROVISIONAL ADOPTION OF THE PERCENTAGE CHANGE IN CALIFORNIA PER CAPITA PERSONAL INCOME DURING CALENDAR YEAR 2010 AS THE CHANGE IN THE COST-OF-LIVING FACTOR FOR FISCAL YEAR 2010-11 FOR USE IN CALCULATING THE GANN SPENDING LIMIT FOR FISCAL YEAR 2011-12

**DATE:** June 20, 2011  
**SECTION:** RESOLUTIONS  
**ITEM NO.:** 2  
**FILE I.D.:** FIN225  
**DEPT.:** ADMIN. SVCS.

**REASON FOR CONSIDERATION:** The City Council is requested to consider adoption of Resolution No. 11-2904 pursuant to Article 13-B of the California Constitution, which requires cities to annually adopt a resolution selecting a change in the cost-of-living factor for purposes of calculating the Gann Spending Limit.

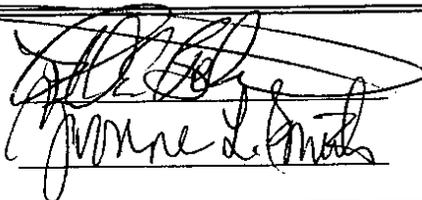
A copy of proposed Resolution No. 11-2904 is attached for the City Council's review and consideration.

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

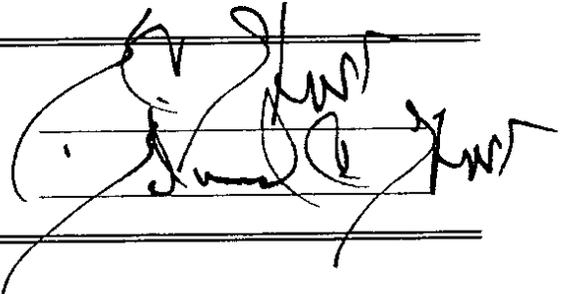
1. The percentage change in California per capita personal income from the preceding year
2. The percentage change in the local assessment roll attributable to nonresidential new construction

*Gann Spending Limit - Fiscal Year 2010-11.* The Gann Spending Limit for Fiscal Year 2010-11 was adopted last June on a provisional basis. This action was taken because San Bernardino County was unable to provide staff with the information necessary to calculate the limit based upon the change in the local assessment roll attributable to nonresidential new construction. Therefore, the limit was based upon the percentage change in California per capita personal income which was -2.54 percent. During May 2011, San Bernardino County informed staff that the percentage change in nonresidential new construction within Montclair during Fiscal Year 2009-10 was

Prepared by:



Reviewed and Approved by:



Proofed by:

Presented by:

-7.2144 percent. Since it is to the City's advantage to set as high a spending limit as possible, staff suggests the Council adopt the percentage change in California per capita personal income during Fiscal Year 2009-10 as the final Fiscal Year 2009-10 change in the cost-of-living factor to be used in calculating the Gann Spending Limit for 2011-12.

*Gann Spending Limit – Fiscal Year 2011-12.* The County will not be able to provide current assessment roll information until well into next fiscal year; and because the limit must be adopted prior to June 30, 2011, staff suggests the Council provisionally adopt the percentage change in California per capita personal income during Calendar Year 2010 as the change in the cost-of-living factor for Fiscal Year 2010-11, which will be used in calculating the Gann Spending Limit for Fiscal Year 2011-12.

The Council's adoption of the change in the cost-of-living factors suggested above would result in a Gann Spending Limit for Fiscal Year 2011-12 of \$292,377,259. Proposed Resolution No. 11-2904 adopting the limit will be considered by the Council in the next agenda item.

**FISCAL IMPACT:** There would be no fiscal impact to the City's General Fund should the City Council adopt proposed Resolution No. 11-2904.

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 11-2904 authorizing approval of the percentage change in California per capita personal income during Fiscal Year 2009-10 as the final Fiscal Year 2009-10 change in the cost-of-living factor for use in calculating the Gann Spending Limit for Fiscal Year 2010-11 and provisional adoption of the percentage change in California per capita personal income during Calendar Year 2010 as the change in the cost-of-living factor for Fiscal Year 2010-11 for use in calculating the Gann Spending Limit for Fiscal Year 2011-12.

**RESOLUTION NO. 11-2904**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR AUTHORIZING APPROVAL OF THE PERCENTAGE CHANGE IN CALIFORNIA PER CAPITA PERSONAL INCOME DURING FISCAL YEAR 2009-10 AS THE FINAL FISCAL YEAR 2009-10 CHANGE IN THE COST-OF-LIVING FACTOR FOR USE IN CALCULATING THE GANN SPENDING LIMIT FOR FISCAL YEAR 2010-11 AND PROVISIONAL ADOPTION OF THE PERCENTAGE CHANGE IN CALIFORNIA PER CAPITA PERSONAL INCOME DURING CALENDAR YEAR 2010 AS THE CHANGE IN THE COST-OF-LIVING FACTOR FOR FISCAL YEAR 2010-11 FOR USE IN CALCULATING THE GANN SPENDING LIMIT FOR FISCAL YEAR 2011-12**

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

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

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

**WHEREAS**, the City believes that selecting the final change in the Fiscal Year 2009-10 cost-of-living factor based upon the percentage change in California per capita income during Fiscal Year 2009-10 would result in a Gann Spending Limit more favorable to the City; and

**WHEREAS**, the County of San Bernardino is currently unable to provide the City with information necessary to determine the change in the local assessment roll attributable to the addition of nonresidential new construction for Fiscal Year 2010-11; and

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

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair hereby approves the percentage change in California per capita income during Fiscal Year 2009-10 as the final Fiscal Year 2009-10 change in the cost-of-living factor used in calculating the Gann Spending Limit for Fiscal Year 2010-11 and provisionally adopts the percentage change in California per capita personal income during Calendar Year 2010 as the change in the cost-of-living factor for Fiscal Year 2010-11 for use in calculating the Gann Spending Limit for Fiscal Year 2011-12.

**APPROVED AND ADOPTED** this XX day of XX, 2011.

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Mayor

**ATTEST:**

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Deputy City Clerk

I, Yvonne L. Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 11-2904 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, 2011, and that it was adopted by the following vote, to-wit:

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

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Yvonne L. Smith  
Deputy City Clerk

## AGENDA REPORT

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**SUBJECT:** CONSIDER ADOPTION OF RESOLUTION NO. 11-2905 ESTABLISHING AN APPROPRIATIONS LIMIT FOR FISCAL YEAR 2011-12 PURSUANT TO ARTICLE 13-B OF THE CALIFORNIA CONSTITUTION AND TO SECTION 7910 OF THE GOVERNMENT CODE

**DATE:** June 20, 2011  
**SECTION:** RESOLUTIONS  
**ITEM NO.:** 3  
**FILE I.D.:** FIN225  
**DEPT.:** ADMIN. SVCS.

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**REASON FOR CONSIDERATION:** The City Council is requested to consider adoption of Resolution No. 11-2905 establishing an appropriations limit for Fiscal Year 2011-12.

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

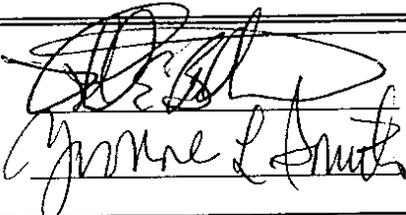
The passage of Proposition 111 in June 1990 requires each city to choose either the percentage change in population within its jurisdiction as its change-in-population factor or the percentage change in population within the county in which it is located. Cities must also now select either the percentage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

Earlier this evening, the City Council adopted Resolution No. 11-2903 approving the change in population in the City of Montclair during 2010 as the change-in-population factor to be used in calculating the Fiscal Year 2011-12 appropriations limit. The Council also adopted Resolution No. 11-2904 establishing the change in California per capita personal income during Fiscal Year 2009-10 as the final change in the cost-of-living factor for Fiscal Year 2009-10 for use in calculating the final appropriations limit for Fiscal Year 2010-11. Concurrently, the Council provisionally selected the change in California per capita personal income during 2010 as the change in cost-of-living factor for Fiscal Year 2010-11 for use in calculating the appropriations limit for Fiscal Year 2011-12. The Council was requested to consider selecting the change in California per capita personal income because the appropriations limit must be adopted prior to the beginning of the fiscal year and information necessary for selecting the change in the local assessment roll attributable to nonresidential new construction for Fiscal Year 2010-11 is currently unavailable.

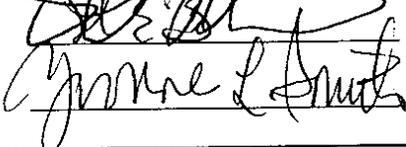
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Prepared by:

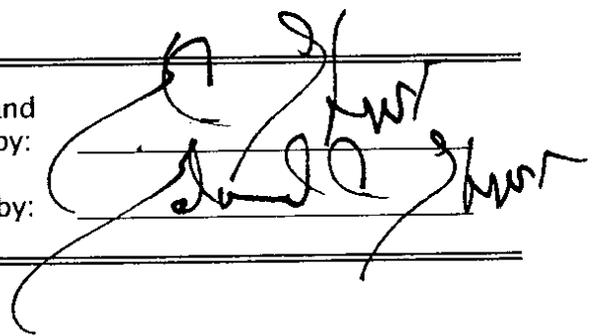


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Reviewed and  
Approved by:

Presented by:



The change in population within San Bernardino County during 2010 was 1.71 percent. The change in Montclair nonresidential new construction during Fiscal Year 2009-10 was 7.2144 percent. The change in California per capita personal income during 2010 was 2.51 percent. Based on these adjustment factors, the City's appropriations limit for Fiscal Year 2011-12 is \$292,377,259 as established by proposed Resolution No. 11-2905.

**FISCAL IMPACT:** The City would be authorized to spend all tax revenues received up to \$292,377,259 should the City Council adopt proposed Resolution No. 11-2905.

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 11-2905 establishing an appropriations limit for Fiscal Year 2011-12 pursuant to Article 13-B of the California Constitution and to Section 7910 of the Government Code.

**RESOLUTION NO. 11-2905**

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

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

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

**WHEREAS**, at a meeting held on June 20, 2011, the City Council selected the change in cost of living and change in population factors to be used in determining the appropriations limit for Fiscal Year 2011-12; and

**WHEREAS**, the City of Montclair has determined that said appropriations limit for Fiscal Year 2011-12 is \$275,174,414, and documentation supporting calculation of the limit is available to the public as required by Government Code Section 7910.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair hereby establishes an appropriations limit in the amount of \$275,174,414 for Fiscal Year 2011-12 pursuant to Article 13-B of the Constitution of the State of California and Government Code Section 7910.

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

**APPROVED AND ADOPTED** this XX day of XX, 2011.

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
Deputy City Clerk

I, Yvonne L. Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 11-2905 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, 2011, and that it was adopted by the following vote, to-wit:

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

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Yvonne L. Smith  
Deputy City Clerk

## AGENDA REPORT

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<b>SUBJECT:</b> CONSIDER ADOPTION OF RESOLUTION NO. 11-2911, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR SUPPORTING ADOPTION OF ASSEMBLY BILL 1250 (ALEJO), WHICH INCREASES THE ACCOUNTABILITY AND EFFECTIVENESS OF REDEVELOPMENT IN CALIFORNIA	<b>DATE:</b> June 20, 2011
	<b>SECTION:</b> RESOLUTIONS
	<b>ITEM NO.:</b> 4
	<b>FILE I.D.:</b> STG200
	<b>DEPT.:</b> REDEVELOPMENT

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**REASON FOR CONSIDERATION:** Council Member Dutrey requested that staff prepare a Resolution in support of Assembly Bill 1250 (Alejo). AB 1250 is designed to address legislative concerns regarding redevelopment that have emerged after discussion of Governor Jerry Brown's proposal to eliminate redevelopment.

The City Council is requested to consider adoption of proposed Resolution No. 11-2911, a copy of which is attached for the City Council's review and consideration.

**BACKGROUND:** As the City Council knows, as part of its 2011-12 budget proposal, Governor Brown has proposed permanently abolishing California's more than 400 local redevelopment agencies. Throughout California, redevelopment activities support 301,000 jobs annually, including 170,600 construction jobs, and contribute over \$40 billion annually to California's economy in the generation of goods and services and generate more than \$2 billion in state and local taxes in a typical year.

The City of Montclair adopted Resolution No. 11-2878 on February 7, 2011, opposing the Governor's proposal. There is great concern because if redevelopment is eliminated, it would be impossible to recreate or reform, leaving communities with no means of eradicating blighted conditions, supporting job creation, and conducting neighborhood revitalization.

AB 1250 has been introduced by 15 coauthors in the State Legislature to address concerns that have been raised about redevelopment in the discussion ensuing over its elimination. AB 1250 would address abuses while preserving redevelopment as a critical tool for community development. A synopsis of AB 1250 is attached as Exhibit A.

**FISCAL IMPACT:** Adoption of proposed Resolution No. 11-2911 by the City Council would create no fiscal impact for the City.

**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 11-2911, a Resolution of the City Council of the City of Montclair supporting the adoption of Assembly Bill 1250 (Alejo), which increases the accountability and effectiveness of redevelopment in California.

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Prepared by: M. STAATS

Reviewed and  
Approved by:

M. STAATS

Proofed by:

Gymre L. Smith

Presented by:

[Signature]

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## **AB 1250 (Alejo and 14 Co-Authors): Increases Accountability and Effectiveness of Redevelopment in California**

### **Tighten Definition of Blight**

- Amends Health & Safety Code to require agencies to document fact-based and quantifiable evidence of blight based on evidentiary standards specified by the courts. Empirical and quantifiable evidence demonstrating prevalence of specific conditions of blight so substantial they prevent proper utilization of project area. Redevelopment prohibited on vacant (never developed) tracts of land of 20 acres or more, with an exception for military base conversions.

### **Limit Redevelopment Size**

- Cities in which 25% or more of the land area is in redevelopment project areas and counties in which 10% or more of unincorporated land is in project areas, cannot add any additional land area to redevelopment.

### **Prohibition on Using School Share of Property Tax and Increment**

- Beginning January 2012, any new redevelopment project area or addition to an existing project area would be prohibited from receiving the school share of local property tax or tax increment

### **Implement Strict, Performance-Based Standards**

- Agencies required to adopt specific, performance-based goals to ensure at least 50% of their non-housing expenditures address: job creation; transit-oriented development; remediating contaminated property; military base conversion; basic infrastructure needs; or affordable housing
- Agencies must establish local Project Area Committee (PAC) or equivalent community advisory board to review agency's 5-year implementation plan. Every 10 years, implementation plan must receive approval of PAC or community advisory board or it has to be approved by a 2/3 vote of the agency board.

### **Increase Accountability with Stringent Reporting and Performance Standards**

- The bill would appoint one State agency to develop a set of consistent performance standards that all agencies will use beginning in FY 2013, including: uniform method of calculating and reporting job creation and retention; standards for measuring and reducing poverty levels in project areas; standards for measuring and reducing crime in project areas; standards for reporting on brownfield clean-up and hazardous waste mitigation; standards for measuring the effectiveness of expenditures for affordable housing.
- Beginning in 2013, each agency's annual report must describe the agency's performance against the above metrics.

### **Prohibit the Use of Funds for Non-Redevelopment Expenses**

- Tax increment cannot be used for non-redevelopment operating expenses and non-redevelopment related costs, such as staff or elected official salaries (overhead) costs not directly attributed to redevelopment.

### **Reduce Redevelopment Footprint in California**

- By limiting the percent of a city/county land area that can be placed in redevelopment project areas, focusing redevelopment on already-developed areas, tightening the findings of blight, limiting the permitted uses of redevelopment, and significantly reducing the amount of tax increment in new project areas, this bill would ultimately reduce the size of redevelopment project areas and tax increment going to redevelopment in California, and free up more money for schools and other local entities.

## RESOLUTION NO. 11-2911

### A RESOLUTION OF THE CITY OF MONTCLAIR SUPPORTING THE ADOPTION OF ASSEMBLY BILL 1250 (ALEJO), WHICH INCREASES THE ACCOUNTABILITY AND EFFECTIVENESS OF REDEVELOPMENT IN CALIFORNIA

**WHEREAS**, as part of its 2011-12 budget proposal, Governor Edmund G. Brown Jr. has proposed permanently abolishing California's more than 400 local redevelopment agencies; and

**WHEREAS**, this proposal will destroy local economic development including hundreds of thousands of jobs and billions of dollars in local economic activity throughout California; and

**WHEREAS**, throughout California, redevelopment activities support 301,000 jobs annually, including 170,600 construction jobs, and contribute over \$40 billion annually to California's economy in the generation of goods and services and generate more than \$2 billion in state and local taxes in a typical year; and

**WHEREAS**, the City of Montclair adopted Resolution No. 11-2878 on February 7, 2011 opposing the Governor's proposal to eliminate redevelopment because it would cause substantial job-loss to both government and many direct and indirect private sector jobs per year including the 170,600 construction jobs; and

**WHEREAS**, once eliminated it would be impossible to recreate or reform redevelopment, leaving communities with no means of eradicating blight, supporting job creation, and conducting neighborhood revitalization; and

**WHEREAS**, Assembly Bill 1250 (Alejo) (AB 1250) has been introduced by 15 co-authors in the State Legislature to address the concerns that have been raised about redevelopment in the discussion ensuing over its elimination, and AB 1250 would address abuses while preserving redevelopment as a critical tool for communities; and

**WHEREAS**, some of the main provisions of AB 1250 include the following:

- Findings of blight are tightened to stop inappropriate uses of redevelopment and ensure it focuses on areas most in need.
- Limitations are imposed on the amount of a local jurisdiction's land area that can be included in project areas.
- School districts would retain all property taxes and tax increment in new or expanded redevelopment project areas.
- Performance-based standards focus on statewide priorities and increased oversight by local citizens.

**WHEREAS**, instead of eliminating redevelopment agencies, AB 1250 would preserve the benefits of redevelopment to local and state economies; and

**WHEREAS**, adoption of AB 1250 would ensure that redevelopment is used responsibly to maximize job creation, revitalize rundown communities, clean up contaminated properties, finance basic infrastructure improvements, build affordable housing, and institute new reporting and accountability standards.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair does hereby formally support the adoption of AB 1250 (Alejo) and call for its adoption by the State Legislature.

**BE IT FURTHER RESOLVED** that the City Council authorize staff to communicate its support of AB 1250 to the Governor, Legislature, business groups, and residents.

**APPROVED AND ADOPTED** this XX day of XX, 2011.

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Mayor

**ATTEST:**

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Deputy City Clerk

I, Yvonne L. Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 11-2911 was duly adopted by the City Council, at a regular meeting thereof held on the XX day of XX, 2011, and that it was adopted by the following vote, to-wit:

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

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Yvonne L. Smith  
Deputy City Clerk

## AGENDA REPORT

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**SUBJECT:** CONSIDER ADOPTION OF RESOLUTION  
NO. 11-2912 ADOPTING THE CITY OF  
MONTCLAIR FISCAL YEAR 2011-12  
ANNUAL BUDGET

**DATE:** June 20, 2011

**SECTION:** RESOLUTIONS

**ITEM NO.:** 5

**FILE I.D.:** FIN240

**DEPT.:** CITY MGR.

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**REASON FOR CONSIDERATION:** Pursuant to state law, the governing body of a local government agency is required to annually adopt an Operating Budget. The City Council is requested to consider adoption of Resolution No. 11-2912 to formally adopt the City of Montclair Fiscal Year 2011-12 Annual Budget.

A copy of proposed Resolution No. 11-2912 is attached for the City Council's review and consideration.

**BACKGROUND:** The City Council reviewed the Fiscal Year 2011-12 Preliminary Budget on June 16, 2011, at an adjourned joint meeting.

In addition to providing a formal means to adopt the Annual Budget, proposed Resolution No. 11-2912 includes the following fiscal-control provisions:

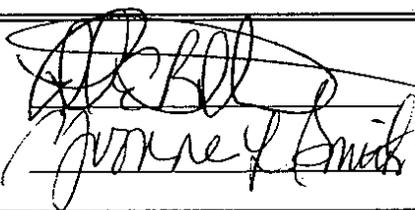
- The automatic reappropriation of funds into the Fiscal Year 2012-13 Budget to finance outstanding encumbrances as of June 30, 2012.
- The automatic reappropriation of funds into the Fiscal Year 2012-13 Budget to finance capital improvement projects and grants that were not completed during Fiscal Year 2011-12.

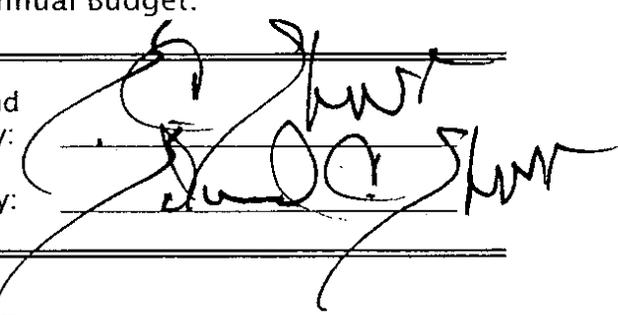
The Council's adoption of Resolution No. 11-2912 would provide for a total Estimated Revenue Budget, including transfers-in, of \$35,817,994, and a total Appropriations Budget, including transfers-out, of \$36,394,685.

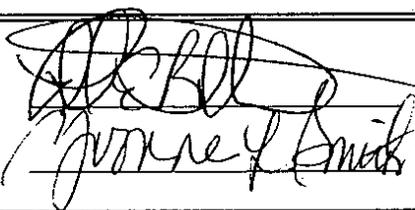
**FISCAL IMPACT:** It is estimated the Fiscal Year 2011-12 Preliminary Budget would provide for a decrease in total unreserved fund balances/retained earnings of \$576,691 during Fiscal Year 2011-12.

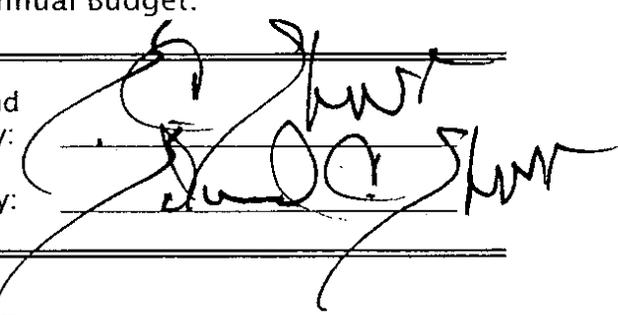
**RECOMMENDATION:** Staff recommends the City Council adopt Resolution No. 11-2912 adopting the City of Montclair Fiscal Year 2011-12 Annual Budget.

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Prepared by: 

Reviewed and  
Approved by: 

Proofed by: 

Presented by: 

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**RESOLUTION NO. 11-2912**

**A RESOLUTION OF THE CITY COUNCIL OF  
THE CITY OF MONTCLAIR ADOPTING THE  
FISCAL YEAR 2011-12 BUDGET**

**WHEREAS**, the City Manager has submitted to the City Council of the City of Montclair the proposed budget for Fiscal Year 2011-12 including all proposed expenditures, estimated revenues, and estimated fund balances; and

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

**WHEREAS**, the City Council has duly reviewed the proposed budget at a meeting open to the public on June 16, 2011.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Montclair hereby adopts the proposed budget as the Annual Budget for Fiscal Year 2011-12.

**BE IT FURTHER RESOLVED** that funds are automatically reappropriated into Fiscal Year 2012-13 for all outstanding purchase orders and unexecuted contracts as of June 30, 2012, for which a valid appropriation exists.

**BE IT FURTHER RESOLVED** that funds are automatically reappropriated into Fiscal Year 2012-13 for all capital improvement projects included in the adopted budget that have not been completed as of June 30, 2012.

**BE IT FURTHER RESOLVED** that funds are automatically reappropriated into Fiscal Year 2012-13 for all grants included in the adopted budget that have not been completed as of June 30, 2012.

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

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

**APPROVED AND ADOPTED** this 20th day of June, 2011

**ATTEST:**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Deputy City Clerk

I, Yvonne L. Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 11-2912 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, 2011, and that it was adopted by the following vote, to-wit:

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

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Yvonne L. Smith  
Deputy City Clerk

# AGENDA REPORT

**SUBJECT:** CONSIDER REDEVELOPMENT AGENCY BOARD OF DIRECTORS' ADOPTION OF RESOLUTION NO. 11-10, A RESOLUTION OF THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY AUTHORIZING EXPENDITURE OF AGENCY FUNDS FOR GRAFFITI ABATEMENT DURING FISCAL YEAR 2011-12.

**DATE:** June 20, 2011

**SECTION:** RESOLUTIONS

**ITEM NO.:** 6

**FILE I.D.:** FIN220

**DEPT.:** RDA/MHC

CONSIDER CITY COUNCIL'S APPROVAL OF AGREEMENT NOS. 11-61, 11-62, 11-63, AND 11-64 APPROVING RESPECTIVE PROMISSORY NOTES 11-01, 11-02, 11-03, AND 11-04 BETWEEN THE CITY OF MONTCLAIR AND THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY

CONSIDER REDEVELOPMENT AGENCY BOARD OF DIRECTORS' APPROVAL OF AGREEMENT NOS. 11-61, 11-62, 11-63, AND 11-64 APPROVING RESPECTIVE PROMISSORY NOTES 11-01, 11-02, 11-03, AND 11-04 BETWEEN THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY AND THE CITY OF MONTCLAIR

CONSIDER REDEVELOPMENT AGENCY BOARD OF DIRECTORS' ADOPTION OF RESOLUTION NO. 11-11 ADOPTING THE FISCAL YEAR 2011-12 BUDGET FOR THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY

CONSIDER REDEVELOPMENT AGENCY BOARD OF DIRECTORS' APPROVAL OF AGREEMENT NO. 11-65 APPROVING PROMISSORY NOTE 11-02 BETWEEN THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY AND THE MONTCLAIR HOUSING CORPORATION

CONSIDER MONTCLAIR HOUSING CORPORATION BOARD OF DIRECTORS' APPROVAL OF AGREEMENT NO. 11-65 APPROVING PROMISSORY NOTE 11-02 BETWEEN THE MONTCLAIR HOUSING CORPORATION AND THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY

CONSIDER MONTCLAIR HOUSING CORPORATION BOARD OF DIRECTORS' ADOPTION OF RESOLUTION NO. 11-02 ADOPTING THE FISCAL YEAR 2011-12 BUDGET FOR THE MONTCLAIR HOUSING CORPORATION

**REASON FOR CONSIDERATION:** The series of items presented for consideration by the City Council and Redevelopment Agency and Montclair Housing Corporation Boards of Directors involve actions necessary to adopt and implement the Redevelopment Agency and Montclair Housing Corporation Budgets for Fiscal Year 2011-12. Pursuant to Section 33606 of the California Health and Safety Code, a redevelopment agency must adopt an annual budget containing specific information by fund.

Prepared by: M. STAATS  
Proofed by: George L. Smith

Reviewed and Approved by: M. STAATS  
Presented by: [Signature]

The Fiscal Year 2011-12 Redevelopment Agency Budget proposes to reimburse the City for expenses related to graffiti abatement within redevelopment project areas. Prior to the reimbursement for this expense, the Redevelopment Agency Board of Directors is requested to consider adoption of Resolution No. 11-10 authorizing the reimbursement for Fiscal Year 2011-12.

**BACKGROUND:** The Fiscal Year 2011-12 Preliminary Budgets for the Redevelopment Agency and Montclair Housing Corporation were submitted to the respective Board of Directors on June 16, 2011.

Health and Safety Code Section 33420.3 authorizes redevelopment agencies to finance the removal of graffiti from public or private property within redevelopment project area boundaries. In order to utilize this statute, a redevelopment agency must adopt findings that removal of graffiti within redevelopment project areas will assist in the elimination of blight within each designated redevelopment project area. Therefore, the Redevelopment Agency Board of Directors is requested to adopt Resolution No. 11-10 authorizing the expenditure of funds for graffiti abatement.

As the Redevelopment Agency Board of Directors, City Council Members, and Montclair Housing Corporation Board Members know, the Redevelopment Agency borrows funds from the City for operating expenses and repays the borrowed funds to the City annually with accrued interest. The City Council is requested to approve Agreement Nos. 11-61, 11-62, 11-63, and 11-64, which are Redevelopment Agency Promissory Note Nos. 11-01, 11-02, 11-03, and 11-04, respectively. The Redevelopment Agency Board of Directors is then requested to approve Agreement Nos. 11-61, 11-62, 11-63, and 11-64. These Agreements compose the Promissory Notes for the Fiscal Year 2011-12 Operating Budget.

The Redevelopment Agency Board of Directors is requested to approve Resolution No. 11-11 adopting the Fiscal Year 2011-12 Budget for the City of Montclair Redevelopment Agency.

The Redevelopment Agency Board of Directors is requested to approve Agreement No. 11-65. Agreement No. 11-65 is Promissory Note 11-02 issued by the Montclair Housing Corporation. Pursuant to the terms of Promissory Notes 11-02, the Redevelopment Agency would loan the Montclair Housing Corporation \$1,000,000 from the Housing Fund for various improvements to multifamily units and single-family homes owned by the Redevelopment Agency and leased to the Montclair Housing Corporation. The Montclair Housing Corporation is requested to approve Agreement No. 11-65 approving the terms of Promissory Note 11-02.

The Montclair Housing Corporation Board of Directors is requested to approve the Annual Budget for the Montclair Housing Corporation. The expenses related to the Montclair Housing Corporation involve operation and maintenance of 32 properties. The properties that the Montclair Housing Corporation is responsible for include 18 single-family homes and 80 multifamily units.

**FISCAL IMPACT:** It is estimated the Fiscal Year 2011-12 Redevelopment Agency Budget would provide for a decrease in total balance of \$8,230,832 during Fiscal Year 2011-12.

**RECOMMENDATION:** Staff recommends the City Council and Redevelopment Agency and Montclair Housing Corporation Boards of Directors take the following actions related to the Fiscal Year 2011-12 Redevelopment Agency Annual Budget and Montclair Housing Corporation Annual Budget:

1. The Redevelopment Agency Board of Directors adopt Resolution No. 11-10, a Resolution of the City of Montclair Redevelopment Agency authorizing the expenditure of Agency funds for graffiti abatement for Fiscal Year 2011-12.
2. The City Council approve Agreement Nos. 11-61, 11-62, 11-63, and 11-64 approving respective Promissory Notes 11-01, 11-02, 11-03, and 11-04 between the City of Montclair and the City of Montclair Redevelopment Agency.
3. The Redevelopment Agency Board of Directors approve Agreement Nos. 11-61, 11-62, 11-63, and 11-64 approving respective Promissory Note Nos. 11-01, 11-02, 11-03, and 11-04 between the City of Montclair and the City of Montclair Redevelopment Agency.
4. The Redevelopment Agency Board of Directors adopt Resolution No. 11-11, a Resolution of the City of Montclair Redevelopment Agency adopting the Fiscal Year 2011-12 Budget for the City of Montclair Redevelopment Agency.
5. The Redevelopment Agency Board of Directors approve Agreement No. 11-65 approving Promissory Note No. 11-02 between the City of Montclair Redevelopment Agency and the Montclair Housing Corporation.
6. The Montclair Housing Corporation Board of Directors approve Agreement No. 11-65 approving Promissory Note No. 11-02, between the Montclair Housing Corporation and the City of Montclair Redevelopment Agency.
7. The Montclair Housing Corporation Board of Directors adopt Resolution No. 11-02, a Resolution of the Montclair Housing Corporation adopting the Fiscal Year 2011-12 Budget for the Montclair Housing Corporation.

**RESOLUTION NO. 11-10**

**A RESOLUTION OF THE CITY OF  
MONTCLAIR REDEVELOPMENT AGENCY  
AUTHORIZING EXPENDITURE OF AGENCY  
FUNDS FOR GRAFFITI ABATEMENT FOR  
FISCAL YEAR 2011-12**

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

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

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

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

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

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

**Section 2.** The Agency approves the expenditure of Agency funds for the purposes of funding the City's graffiti abatement program for Fiscal Year 2011-12 in an amount that is directly attributable to the cost of the graffiti abatement that is completed within the Redevelopment Project Areas.

APPROVED AND ADOPTED this XX day of XX, 2011.

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Chairman

ATTEST:

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Secretary

I, Yvonne L. Smith, Secretary of the City of Montclair Redevelopment Agency; DO HEREBY CERTIFY that Resolution No. 11-10 was duly adopted by the Redevelopment Agency Board of Directors at a regular meeting thereof, held on the XX day of XX, 2011, and that it was adopted by the following vote, to-wit:

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

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Yvonne L. Smith  
Secretary

**AGREEMENT NO. 11-61**

**CITY OF MONTCLAIR REDEVELOPMENT AGENCY**

**PROMISSORY NOTE 11-01**

July 1, 2011

\$69,500

City of Montclair Redevelopment Project Area No. I, after this date, hereby agrees to pay the City of Montclair the sum not to exceed Sixty-Nine Thousand Five Hundred Dollars (\$69,500), with interest thereupon at a rate of twelve percent (12%) per annum (or the maximum rate of interest which a redevelopment agency is permitted by law to pay) from initiation and thereafter until paid.

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

IN WITNESS WHEREOF, this Note has been executed this 1st day of July, 2011.

**CITY OF MONTCLAIR  
REDEVELOPMENT AGENCY**

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

**ATTEST:**

\_\_\_\_\_  
Yvonne L. Smith, Secretary

**AGREEMENT NO. 11-62**

**CITY OF MONTCLAIR REDEVELOPMENT AGENCY**

**PROMISSORY NOTE 11-02**

July 1, 2011

\$585,000

City of Montclair Redevelopment Project Area No. III, after this date, hereby agrees to pay the City of Montclair the sum not to exceed Five Hundred Eighty-Five Thousand Dollars (\$585,000), with interest thereupon at a rate of twelve percent (12%) per annum (or the maximum rate of interest which a redevelopment agency is permitted by law to pay) from initiation and thereafter until paid.

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

**IN WITNESS WHEREOF**, this Note has been executed this 1st day of July, 2011.

**CITY OF MONTCLAIR  
REDEVELOPMENT AGENCY**

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

**ATTEST:**

\_\_\_\_\_  
Yvonne L. Smith, Secretary

**AGREEMENT NO. 11-63**

**CITY OF MONTCLAIR REDEVELOPMENT AGENCY**

**PROMISSORY NOTE 11-03**

July 1, 2011

\$1,000,000

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

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

**IN WITNESS WHEREOF**, this Note has been executed this 1st day of July, 2011.

**CITY OF MONTCLAIR  
REDEVELOPMENT AGENCY**

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

**ATTEST:**

\_\_\_\_\_  
Yvonne L. Smith, Secretary

**AGREEMENT NO. 11-64**

**CITY OF MONTCLAIR REDEVELOPMENT AGENCY**

**PROMISSORY NOTE 11-04**

July 1, 2011

\$1,100,000

City of Montclair Redevelopment Project Area No. V, after this date, hereby agrees to pay the City of Montclair the sum not to exceed One Million, One Hundred Thousand Dollars (\$1,100,000), with interest thereupon at a rate of twelve percent (12%) per annum (or the maximum rate of interest which a redevelopment agency is permitted by law to pay) from initiation and thereafter until paid.

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

IN WITNESS WHEREOF, this Note has been executed this 1st day of July, 2011.

**CITY OF MONTCLAIR  
REDEVELOPMENT AGENCY**

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

**ATTEST:**

\_\_\_\_\_  
Yvonne L. Smith, Secretary

**RESOLUTION NO. 11-11**

**A RESOLUTION OF THE CITY OF MONTCLAIR  
REDEVELOPMENT AGENCY ADOPTING THE  
FISCAL YEAR 2011-12 BUDGET FOR THE CITY  
OF MONTCLAIR REDEVELOPMENT AGENCY**

**WHEREAS**, the Executive Director has submitted to the Board of Directors of the City of Montclair Redevelopment Agency the Preliminary Budget for Fiscal Year 2011-12 including all proposed expenditures, estimated revenues, and estimated fund balances; and

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

**WHEREAS**, the Agency Board of Directors has duly reviewed the Preliminary budget at an adjourned joint meeting open to the public held on June 20, 2011.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Directors of the City of Montclair Redevelopment Agency hereby adopts the Preliminary Budget as the Annual Budget for Fiscal Year 2011-12.

**BE IT FURTHER RESOLVED** that funds are automatically reappropriated into the Fiscal Year 2012-13 Budget for all outstanding purchase orders and unexecuted contracts as of June 30, 2012, for which a valid appropriation exists.

**BE IT FURTHER RESOLVED** that funds are automatically reappropriated into the Fiscal Year 2012-13 Budget for all capital improvement projects included in the adopted Budget which have not been completed as of June 30, 2012.

**APPROVED AND ADOPTED** this XX day of XX, 2011.

\_\_\_\_\_  
Chairman

**ATTEST:**

\_\_\_\_\_  
Secretary

I, Yvonne L. Smith, Secretary of the City of Montclair Redevelopment Agency, DO HEREBY CERTIFY that Resolution No. 11-11 was duly adopted by the Redevelopment Agency Board of Directors at a regular meeting thereof, held on the XX day of XX, 2011, and that it was adopted by the following vote, to-wit:

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

\_\_\_\_\_  
Yvonne L. Smith  
Secretary

**AGREEMENT NO. 11-65**

**MONTCLAIR HOUSING CORPORATION**

**PROMISSORY NOTE 11-02**

July 1, 2011

\$1,000,000

Montclair Housing Corporation, after this date, hereby agrees to pay the City of Montclair Redevelopment Agency the sum not to exceed One Million Dollars (\$1,000,000), with interest thereupon at a rate of three percent (3%) per annum from initiation and thereafter until paid.

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

IN WITNESS WHEREOF, this Note has been executed this 1st day of July, 2011.

**CITY OF MONTCLAIR  
REDEVELOPMENT AGENCY**

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

**ATTEST:**

\_\_\_\_\_  
Yvonne L. Smith, Secretary

**RESOLUTION NO. 11-02**

**A RESOLUTION OF THE MONTCLAIR HOUSING CORPORATION ADOPTING THE FISCAL YEAR 2011-12 BUDGET FOR THE MONTCLAIR HOUSING CORPORATION**

**WHEREAS**, the President has submitted to the Board of Directors of the City of Montclair Housing Corporation the Preliminary Budget for Fiscal Year 2011-12 including all proposed expenditures, estimated revenues, and estimated fund balances; and

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

**WHEREAS**, the Montclair Housing Corporation has duly reviewed the Preliminary Budget at an adjourned joint meeting open to the public held on June 20, 2011.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Directors of the Montclair Housing Corporation hereby adopts the Preliminary Budget as the Annual Budget for Fiscal Year 2011-12.

**BE IT FURTHER RESOLVED** that funds are automatically reappropriated into the Fiscal Year 2012-13 Budget for all outstanding purchase orders and unexecuted contracts as of June 30, 2012, for which a valid appropriation exists.

**BE IT FURTHER RESOLVED** that funds are automatically reappropriated into the Fiscal Year 2012-13 Budget for all capital improvement projects included in the adopted Budget that have not been completed as of June 30, 2012.

**APPROVED AND ADOPTED** this XX day of XX, 2011.

\_\_\_\_\_  
Chairman

**ATTEST:**

\_\_\_\_\_  
Secretary

I, Yvonne L. Smith, Secretary of the Montclair Housing Corporation, DO HEREBY CERTIFY that Resolution No. 11-02 was duly adopted by the Montclair Housing Corporation Board of Directors at a regular meeting thereof, held on the XX day of XX, 2011, and that it was adopted by the following vote, to-wit:

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

\_\_\_\_\_  
Yvonne L. Smith  
Secretary

**MINUTES OF THE MEETING OF THE MONTCLAIR  
PERSONNEL COMMITTEE HELD ON MONDAY,  
JUNE 6, 2011, AT 8:27 P.M. IN THE CITY  
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,  
MONTCLAIR, CALIFORNIA**

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**I. CALL TO ORDER**

Mayor Eaton called the meeting to order at 8:27 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  
May 16, 2011.**

Moved by City Manager Starr, seconded by Council Member Ruh,  
and carried unanimously to approve the minutes of the Personnel  
Committee meeting of May 16, 2011.

**IV. PUBLIC COMMENT - None**

**V. CLOSED SESSION**

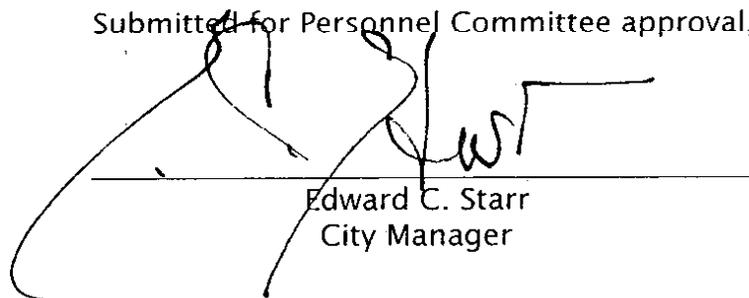
At 8:28 p.m., the Personnel Committee went into Closed Session  
regarding personnel matters related to appointments, resignations/  
terminations, and evaluations of employee performance.

At 8:42 p.m., the Personnel Committee returned from Closed Session.  
Mayor Eaton stated that no announcements would be made at this time.

**VI. ADJOURNMENT**

At 8:42 p.m., Mayor Eaton adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



Edward C. Starr  
City Manager

**CITY OF MONTCLAIR**  
**TREASURER'S REPORT**  
**FOR THE MONTH ENDING**  
**May 31, 2011**

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**SCHEDULE 3:**

STATEMENT OF CASH AND INVESTMENT ACCOUNTS

**GRAPH**

CASH AND INVESTMENTS BY ACCOUNT

**CITY OF MONTCLAIR  
STATEMENTS OF COMPLIANCE WITH THE 2011 INVESTMENT POLICY  
AND  
INVESTMENT STRATEGY FOR JUNE 2011**

**May 31, 2011**

COMPLIANCE STATEMENT

As of May 31, 2011, the City had \$2,500,000 invested in long-term securities. This amount is 6.54 percent and is within the 50 percent limitation established in the 2011 investment policy.

As of May 31, 2011, the City had 89.53 percent of the total portfolio invested to mature within one year. This is more than the 15 percent minimum required by 2011 investment policy.

During May, the City was in compliance with the internal control procedures set forth in the 2011 Investment Policy.

  
\_\_\_\_\_  
Michael Piotrowski  
Senior Accountant

INVESTMENT STRATEGY FOR THE MONTH OF JUNE 2011

During June surplus moneys will be invested in the Local Agency Investment Fund and other investments authorized in the 2011 Investment Policy. The City has sufficient funds available to meet expenditures during the six month period ending November 30, 2011.

**CITY OF MONTCLAIR**  
**STATEMENT OF CASH AND INVESTMENTS BY FUND**  
**AS OF May 31, 2011**

<u>Fund</u>	<u>Beginning Balance</u>	<u>Receipts</u>	<u>Disbursements</u>	<u>Interfund Transfers</u>	<u>Ending Balance</u>
General Fund	\$17,212,859.83	\$5,517,668.67	\$2,701,235.42	(\$572,036.63)	\$19,457,256.45
Gas Tax Fund	\$3,867,892.83	\$39,730.26	\$91,029.34	\$645.65	\$3,817,239.40
Measure 1 Fund	\$687,251.07	\$168,644.88	\$1,895.43	\$218,937.00	\$1,072,937.52
Traffic Safety Fund	\$315,833.94	\$8,476.29	\$0.00	\$0.00	\$324,310.23
Automated Traffic Enforcement	(\$438,837.01)	\$0.00	\$0.00	\$0.00	(\$438,837.01)
Park Development Fund	\$328,624.13	\$140,666.44	\$8,959.63	(\$307.45)	\$460,023.49
C.D.B.G. Fund	\$548,424.51	\$31,331.56	\$0.00	\$12,597.99	\$592,354.06
Air Quality Improvement Trust Fund	\$67,271.56	\$1,002.78	\$2,743.42	\$0.00	\$65,530.92
Older American Fund	\$24,628.20	\$3,937.09	\$10,497.93	(\$37,001.80)	(\$18,934.44)
Forfeiture Fund - State	\$4,043.39	\$0.00	\$0.00	\$0.00	\$4,043.39
OCJP Grant Fund	(\$76,718.53)	\$0.00	\$0.00	\$0.00	(\$76,718.53)
SB 509 Public Safety Fund	\$25,563.31	\$16,992.00	\$20,806.21	\$0.00	\$21,749.10
Section 11489 Subfund	\$20,391.79	\$0.00	\$0.00	\$0.00	\$20,391.79
Federal Forfeiture Fund - Treasury	\$230.58	\$0.00	\$0.00	\$0.00	\$230.58
School Districts Grant Fund	(\$591,820.40)	\$32,000.00	\$9,322.59	(\$135.45)	(\$569,278.44)
State Supplemental Law Enforcement Fund	\$2,435.35	\$27,616.81	\$17,414.70	\$0.00	\$12,637.46
Local Law Enforcement Block Grant	\$116,196.87	\$0.00	\$0.00	\$0.00	\$116,196.87
Crime Prevention Fund	\$10,475.87	\$94.81	\$0.00	\$0.00	\$10,570.68
Recycling Grant	(\$5,179.39)	\$1,000.00	\$1,000.00	\$0.00	(\$5,179.39)
Human Services Grant Fund	\$223,769.09	\$11,950.67	\$144,092.59	(\$1,020.17)	\$90,607.00
California Nutrition Network Grant Fund	(\$25,076.55)	\$0.00	\$4,174.75	(\$45.85)	(\$29,297.15)
Human Services Special Revenue Grant	(\$20,987.28)	\$0.00	\$10,280.08	(\$3,979.14)	(\$35,246.50)
Office of Traffic Safety Grant Fund	\$2,917.67	\$0.00	\$0.00	\$0.00	\$2,917.67
Paramedic Fund	(\$67,052.72)	\$5,159.13	\$11,865.07	(\$1,309.47)	(\$75,068.13)
Ramona Ave. Grade Separation	(\$587,726.52)	\$111,354.57	\$111,354.57	\$1,457,343.46	\$869,616.94
Monte Vista Ave. Grade Separation	(\$1,299,876.89)	\$128,564.00	\$2,220.00	\$0.00	(\$1,173,532.89)
Police Facility Capital Project	(\$978,562.12)	\$0.00	\$0.00	\$0.00	(\$978,562.12)
Senior/Youth Center Capital Projects	(\$2,965,060.72)	\$0.00	\$388.24	\$197,162.89	(\$2,768,286.07)
Parking Lot Expansion Capital Project	(\$1,360.76)	\$0.00	\$0.00	\$0.00	(\$1,360.76)
Sewer Maintenance Fund	\$629,067.94	\$190,818.29	\$177,050.30	(\$20,437.52)	\$622,398.41
C.B.M.W.D. Agency	\$809,752.66	\$14,555.36	\$0.00	\$0.00	\$824,308.02
Equipment Replacement Fund	\$1,400,999.18	\$1,015,600.00	\$500,000.00	\$0.00	\$1,916,599.18
Infrastructure Fund	\$2,453,963.82	\$0.00	\$0.00	(\$1,469,941.45)	\$984,022.37
Employee Benefits Self-Ins. Fund	\$561,658.27	\$64,675.61	\$143,853.40	\$0.00	\$482,480.48
General Liab. Self-Insurance Fund	(\$39,936.55)	\$0.00	\$1,141.84	\$385,782.22	\$344,703.83
Contingency Fund	\$9,934,474.02	\$503,412.50	\$500,000.00	\$2,201,797.92	\$12,139,684.44
Refuse Fee Impound Fund	\$266,165.85	\$40,211.46	\$4,286.18	(\$6,026.39)	\$296,064.74
Youth Sponsorship Fund	\$32,481.66	\$0.00	\$0.00	\$0.00	\$32,481.66
City Facility Improvement Fund	\$2,155,416.14	\$0.00	\$0.00	(\$2,362,025.81)	(\$206,609.67)
<b>TOTALS</b>	<u>\$34,604,594.09</u>	<u>\$8,075,463.18</u>	<u>\$4,475,611.69</u>	<u>\$0.00</u>	<u>\$38,204,445.58</u>

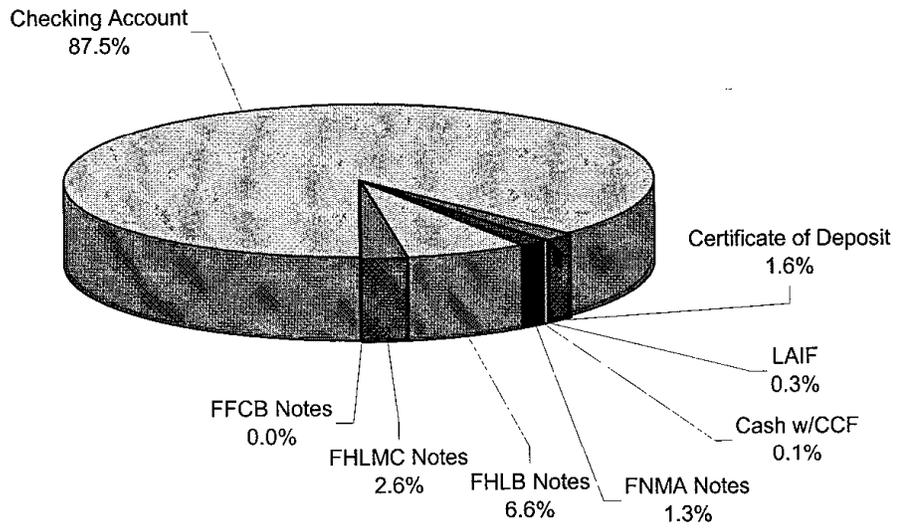
**CITY OF MONTCLAIR  
STATEMENT OF CASH AND INVESTMENT ACCOUNTS  
AS OF May 31, 2011**

	Par Value	Purchase Date	Maturity Date	Coupon Interest Rate	Current Market Value	Balance at Cost	Totals
<b>CHECKING ACCOUNT</b>							
Wells Fargo Bank				0.500%			\$ 33,412,265.58
<b>CASH W/FISCAL AGENT, CD's, LAIF DEPOSITS, AND SHORT-TERM U.S. AGENCY SECURITIES</b>							
CD - Metlife Bank		11/10/10	11/12/13	1.300%	240,000.00	240,000.00	
CD - GE Money Bank		11/12/10	05/12/13	1.000%	240,000.00	240,000.00	
CD - Ally Bank		11/12/10	11/12/13	1.350%	148,000.00	148,000.00	
Local Agency Investment Fund (LAIF)				<b>0.390%</b>	131,698.34	131,698.34	
Cash w/California Community Foundation				Unknown	32,481.66	32,481.66	
					<u>\$ 792,180.00</u>		<u>\$ 792,180.00</u>
<b>U.S. AGENCY SECURITIES (1 to 3 years)</b>							
FHLMC	1,000,000	04/23/09	04/08/13	2.500%	1,000,440.00	1,000,000.00	
FHLB	500,000	04/27/11	12/27/13	1.250%	500,000.00	500,000.00	
					<u>\$ 1,500,440.00</u>		<u>\$ 1,500,000.00</u>
<b>U.S. AGENCY SECURITIES (Over 3 Years)</b>							
FHLB	1,000,000	06/30/10	06/30/15	1.000%	1,000,810.00	1,000,000.00	
FNMA	500,000	08/25/10	08/25/15	1.750%	503,965.00	500,000.00	
FHLB	1,000,000	04/27/11	04/27/16	1.125%	1,000,000.00	1,000,000.00	
					<u>\$ 2,504,775.00</u>		<u>\$ 2,500,000.00</u>
<b>TOTAL</b>							<u><u>\$ 38,204,445.58</u></u>

Current market values obtained from First Tennessee Bank.

**CITY OF MONTCLAIR  
CASH AND INVESTMENTS BY ACCOUNT  
May 31, 2011**

**Total Cash & Investments \$38,204,446**



**CITY OF MONTCLAIR  
REDEVELOPMENT AGENCY  
TREASURER'S REPORT  
FOR THE MONTH ENDING**

**May 31, 2011**

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**CASH AND INVESTMENTS BY ACCOUNT GRAPH**

**CITY OF MONTCLAIR  
REDEVELOPMENT AGENCY  
STATEMENT OF CASH AND INVESTMENTS BY FUND  
May 31, 2011**

**PROJECT AREA NO. I**

Low Income	\$ 151,047.35	
Tax Increment	78,583.55	
Operating	<u>801.69</u>	\$ 230,432.59

**PROJECT AREA NO. II**

Special Housing	\$ 326,207.65	
Low Income	0.00	
Tax Increment	0.00	
Operating	<u>(3,921.33)</u>	\$ 322,286.32

**PROJECT AREA NO. III**

Low Income	\$ 3,344,003.24	
Tax Increment	3,351,293.91	
Operating	<u>2,924,413.12</u>	\$ 9,619,710.27

**PROJECT AREA NO. IV**

Low Income	\$ 526,634.79	
Tax Increment	1,915,259.18	
Operating	<u>494,864.08</u>	\$ 2,936,758.05

**PROJECT AREA NO. V**

Low Income	\$ 394,794.78	
Tax Increment	4,861,654.89	
Operating	<u>1,349,150.03</u>	\$ 6,605,599.70

**MISSION BLVD JOINT PROJECT**

Low-Moderate Housing	\$ 489,022.53	
Tax Increment	296,761.60	
Operating	<u>(123,702.47)</u>	\$ <u>662,081.66</u>

**TOTAL CASH & INVESTMENTS BY FUND**

**\$ 20,376,868.59**

**CITY OF MONTCLAIR  
REDEVELOPMENT AGENCY  
STATEMENT OF CASH AND INVESTMENTS BY ACCOUNT  
May 31, 2011**

	<u>Maturity Date</u>	<u>Interest Rate</u>	<u>Market Value</u>	<u>Book Value</u>
<b>Checking Account</b>				
Wells Fargo, 984-002113		0.05%	\$ 9,258,464.84	\$ 9,258,464.84
<b>Cash and Investments</b>				
LAIF		0.40%	2,943,720.00	2,943,720.00
FFCB Note (Fund 2320)	07/25/13	0.730%	500,050.00	500,000.00
FHLMC Note (Fund 2540)	09/03/13	1.150%	1,000,050.00	1,000,000.00
FNMA Note (Fund 2540)	09/20/13	1.000%	501,884.04	499,531.25
FFCB Note (Fund 2320)	11/12/13	0.790%	500,035.00	500,000.00
FHLB Note (Fund 2320)	02/24/14	1.200%	992,839.27	992,740.00
FHLB Note (Fund 2350)	03/28/14	1.300%	503,960.00	500,000.00
FHLB Note (Fund 2350)	03/28/14	1.250%	1,007,930.00	1,000,000.00
FHLB Note (Fund 2440)	05/02/14	1.500%	1,001,980.00	1,000,000.00
FHLMC Note (Fund 2540)	10/06/14	1.650%	501,557.81	499,062.50
FHLB Note (Fund 2350)	07/18/14	1.500%	500,821.82	498,350.00
FHLMC Note (Fund 2520)	10/14/14	1.800%	1,191,221.25	1,185,000.00
<b>TOTAL CASH &amp; INVESTMENTS BY ACCOUNT</b>			<b>\$ <u>20,404,514.03</u></b>	<b>\$ <u>20,376,868.59</u></b>

**NPHH - Cash with Fiscal Agent as of 3/31/11**

Wells Fargo, 193-9320899 (RDA Revolving)	0.050%	89,036.37	\$ 89,036.37
Wells Fargo, 193-9320881 (Housing Oper)	0.050%	16,969.99	\$ 16,969.99

Current market values obtained from First Tennessee Bank.

**NOTE:**

Pursuant to the Agency's 2011 Investment Policy, all moneys exclusive of tax exempt bond proceeds which are invested pursuant to the bond indenture, are invested in banks, the Local Agency Investment Fund and in securities with maturities of no greater than three years.

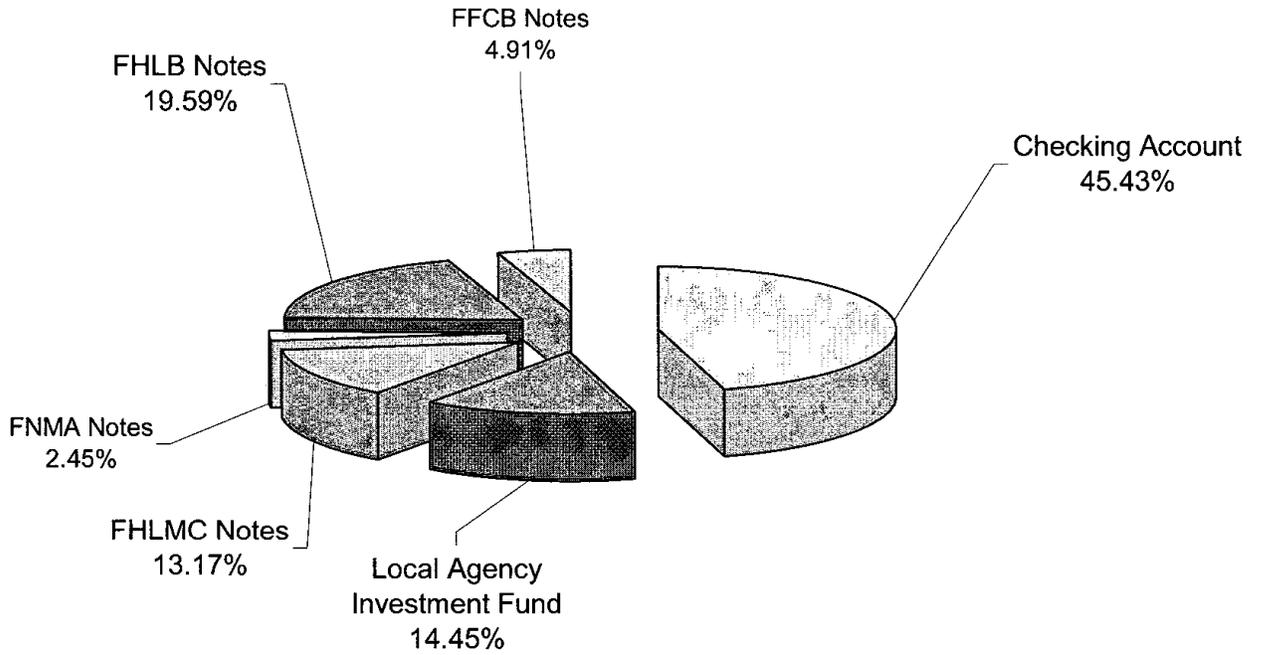
The Agency has sufficient funds available to meet expenditures during the six-month period ending 11/30/2011.

During May, the Agency was in compliance with the internal control procedures set forth in the 2011 Investment Policy.

  
Janet Kulbeck  
Junior Accountant

**CITY OF MONTCLAIR REDEVELOPMENT AGENCY  
CASH AND INVESTMENTS BY ACCOUNT GRAPH  
May 31, 2011**

**Total Cash & Investments - \$20,376,869**



**CITY OF MONTCLAIR  
HOUSING CORPORATION  
WARRANT REGISTER  
FOR THE MONTH ENDING  
May 31, 2011**

CITY OF MONTCLAIR  
FINAL WARRANT REGISTER  
COUNCIL DATE: June 20, 2011  
REGULAR WARRANTS  
CHECKING ACCOUNT: MHC

<u>Fund</u>	<u>Description</u>	<u>Amount</u>
3001	General Fund	68,350.48
	<b>Report Total:</b>	<b>68,350.48</b>

---

Vice Chairperson Raft

# Accounts Payable

## Voucher Register By Vendor Number



User: mpiotrowski  
 Printed: 06/02/2011 - 3:11 PM

Voucher	Vendor No/Name	Account Number	Description	Inv No	Inv Date	PO	Pmt Date	Amount	Check
002976	Buch002	3001-2003-56100-400	10313 Amherst-repair wall, shower	041127	04/20/2011		05/05/2011	874.23	2976
	Buchbinder Maintenance, Inc.								
002976	Buch002	3001-3001-56170-400	4820 Canoga-repairs to entire unit	110422	04/20/2011		05/05/2011	2,981.17	2976
	Buchbinder Maintenance, Inc.								
								3,855.40	
Voucher: 002976									
002977	Mont002	3001-2010-56020-400	10380 Pradera 020111-033111	010822 04/11	04/04/2011		05/05/2011	309.92	2977
	City of Montclair								
002977	Mont002	3001-2011-56020-400	10390 Pradera 020111-033111	010824 04/11	04/04/2011		05/05/2011	309.92	2977
	City of Montclair								
002977	Mont002	3001-2020-56020-400	4275 Kingsley 020111-033111	010825 04/11	04/04/2011		05/05/2011	309.92	2977
	City of Montclair								
002977	Mont002	3001-2002-56020-400	10333 Amherst 020111-033111	010827 04/11	04/04/2011		05/05/2011	309.92	2977
	City of Montclair								
002977	Mont002	3001-3001-56020-400	4820 Canoga 020111-033111	010828 04/11	04/04/2011		05/05/2011	542.36	2977
	City of Montclair								
002977	Mont002	3001-3001-56020-400	4820 Canoga 020111-033111	010829 04/11	04/04/2011		05/05/2011	542.36	2977
	City of Montclair								
002977	Mont002	3001-3001-56020-400	4811 Canoga 020111-033111	010830 04/11	04/04/2011		05/05/2011	542.36	2977
	City of Montclair								
002977	Mont002	3001-3001-56020-400	4811 Canoga 020111-033111	010831 04/11	04/04/2011		05/05/2011	542.36	2977
	City of Montclair								
002977	Mont002	3001-2004-56020-400	10383 Amherst 020111-033111	012600 04/11	04/04/2011		05/05/2011	309.92	2977
	City of Montclair								
002977	Mont002	3001-2003-56020-400	10313 Amherst 020111-033111	012601 04/11	04/04/2011		05/05/2011	309.92	2977
	City of Montclair								
002977	Mont002	3001-2030-56020-400	4791 Canoga 020111-033111	013383 04/11	04/04/2011		05/05/2011	309.92	2977
	City of Montclair								
002977	Mont002	3001-1013-56020-400	10291 Greenwood 020111-033111	013555 04/11	04/04/2011		05/05/2011	88.48	2977
	City of Montclair								
002977	Mont002	3001-2006-56020-400	10380 Amherst 020111-033111	013584 04/11	04/04/2011		05/05/2011	309.92	2977
	City of Montclair								

Voucher	Vendor No/Name	Account Number	Description	Inv No	Inv Date	PO	Pmt Date	Amount	Check
002977	Mont002	3001-2007-56020-400	10330 Amherst 020111-033111	013961 04/11	04/04/2011		05/05/2011	309.92	2977
	City of Montclair								
002977	Mont002	3001-2008-56020-400	10390 Amherst 020111-033111	017175 04/11	04/04/2011		05/05/2011	309.92	2977
	City of Montclair								
								Voucher: 002977	5,357.12
002978	Mont074	3001-1004-56020-400	10235 Central 020211-040411	05511605 04/11	04/04/2011		05/05/2011	188.19	2978
	Monte Vista Water District								
002978	Mont074	3001-1009-56020-400	10215 Central 020211-040411	05512008 04/11	04/04/2011		05/05/2011	145.34	2978
	Monte Vista Water District								
002978	Mont074	3001-1013-56020-400	10291 Greenwood 020311-040511	06201005 04/11	04/05/2011		05/05/2011	228.34	2978
	Monte Vista Water District								
002978	Mont074	3001-2010-56020-400	10380 Pradera 020511-040611	06704405 04/11	04/06/2011		05/05/2011	216.07	2978
	Monte Vista Water District								
002978	Mont074	3001-2011-56020-400	10390 Pradera 020511-040611	06704505 04/11	04/06/2011		05/05/2011	303.81	2978
	Monte Vista Water District								
002978	Mont074	3001-2030-56020-400	4275 Kingsley 020511-040611	06708102 04/11	04/06/2011		05/05/2011	159.92	2978
	Monte Vista Water District								
002978	Mont074	3001-2007-56020-400	10330 Amherst 020511-040611	06708202 04/11	04/06/2011		05/05/2011	163.43	2978
	Monte Vista Water District								
002978	Mont074	3001-2006-56020-400	10380 Amherst 020511-040611	06708703 04/11	04/06/2011		05/05/2011	188.00	2978
	Monte Vista Water District								
002978	Mont074	3001-2008-56020-400	10390 Amherst 020511-040611	06708805 04/11	04/06/2011		05/05/2011	210.80	2978
	Monte Vista Water District								
002978	Mont074	3001-2005-56020-400	10410 Amherst 020511-040611	06711505 04/11	04/06/2011		05/05/2011	214.32	2978
	Monte Vista Water District								
002978	Mont074	3001-2004-56020-400	10383 Amherst 020511-040611	06713506 04/11	04/06/2011		05/05/2011	191.50	2978
	Monte Vista Water District								
002978	Mont074	3001-2002-56020-400	10333 Amherst 020511-040611	06714001 04/11	04/06/2011		05/05/2011	221.49	2978
	Monte Vista Water District								
002978	Mont074	3001-2001-56020-400	10323 Amherst 020511-040611	06714105 04/11	04/06/2011		05/05/2011	140.62	2978
	Monte Vista Water District								
002978	Mont074	3001-2003-56020-400	10313 Amherst 020511-040611	06714206 04/11	04/06/2011		05/05/2011	184.49	2978
	Monte Vista Water District								
002978	Mont074	3001-2020-56020-400	4791 Canoga 020511-040611	06912003 04/11	04/06/2011		05/05/2011	193.26	2978
	Monte Vista Water District								
002978	Mont074	3001-3001-56020-400	4820 Canoga 020511-040611	07001602 04/11	04/06/2011		05/05/2011	242.40	2978
	Monte Vista Water District								
002978	Mont074	3001-3001-56020-400	4820 Canoga 020511-040611	07001802 04/11	04/06/2011		05/05/2011	117.81	2978
	Monte Vista Water District								
002978	Mont074	3001-3001-56020-400	4811 Canoga 020511-040611	07002002 04/11	04/06/2011		05/05/2011	356.45	2978
	Monte Vista Water District								
002978	Mont074	3001-3001-56020-400	4811 Canoga 020511-040611	07002202 04/11	04/06/2011		05/05/2011	210.80	2978
	Monte Vista Water District								

Voucher	Vendor No/Name	Account Number	Description	Inv No	Inv Date	PO	Pmt Date	Amount	Check
								3,877.04	
								Voucher: 002978	
002979	Grec003	3001-2003-56170-400	10313 Amherst-wall panels over tub	04272011	04/27/2011		05/12/2011	1,350.00	2979
								1,350.00	
								Voucher: 002979	
002980	Hele001	3001-2020-56060-400	4791 Canoga-Assessment 06/2011	Jun 2011	05/12/2011		05/12/2011	100.00	2980
002980	Hele001	3001-3001-56060-400	Canoga-Assessment 06/2011	Jun 2011	05/12/2011		05/12/2011	251.00	2980
								351.00	
								Voucher: 002980	
002981	Hugo001	3001-1010-56170-400	9945 Central-landscape Improv Pmt #5	Pmt #5	05/10/2011		05/12/2011	5,657.37	2981
								5,657.37	
								Voucher: 002981	
002982	Mont001	3001-0000-00010-101	Reimb City for MHC PR 04/14/11	PR041411	05/12/2011		05/12/2011	8,099.31	2982
002982	Mont001	3001-0000-00010-101	Reimb City for MHC PR 04/28/11	PR042811	05/12/2011		05/12/2011	5,906.18	2982
								14,005.49	
								Voucher: 002982	
002983	Mont043	3001-2010-56060-400	10380 Pradera-Assessment 06/2011	Jun 2011	05/12/2011		05/12/2011	50.00	2983
002983	Mont043	3001-2011-56060-400	10390 Pradera-Assessment 06/2011	Jun 2011	05/12/2011		05/12/2011	50.00	2983
								100.00	
								Voucher: 002983	
002984	Sout021	3001-2008-56020-400	10390 Amherst- wtr heater 031511-041311	19572389179 04	04/15/2011		05/12/2011	216.06	2984
								216.06	
								Voucher: 002984	
002985	Bric003	3001-2010-56170-400	10380 Pradera-remove materials	12038AA	05/11/2011		05/19/2011	2,480.00	2985

Voucher	Vendor No/Name	Account Number	Description	Inv No	Inv Date	PO	Pmt Date	Amount	Check
							Voucher: 002985	2,480.00	
002986	H2En001	3001-2010-56100-400	10380 Pradera-Post Remedation Testing	14279	05/10/2011		05/19/2011	650.00	2986
	H2 Environmental								
							Voucher: 002986	650.00	
002987	Land012	3001-1001-56100-400	10079 Central-04/2011, gopher, sprnklr	10079/511	05/02/2011		05/19/2011	180.00	2987
002987	Land012	3001-1002-56100-400	10087 Central-04/2011	10087/511	05/02/2011		05/19/2011	115.00	2987
002987	Land012	3001-1009-56100-400	10215 Central-04/2011, gopher	10215/511	05/02/2011		05/19/2011	195.00	2987
002987	Land012	3001-1004-56100-400	10235 Central-04/2011, gopher	10235/511	05/02/2011		05/19/2011	195.00	2987
002987	Land012	3001-1013-56100-400	10291 Greenwood-04/2011	10291/511	05/02/2011		05/19/2011	160.00	2987
002987	Land012	3001-2003-56100-400	10313 Amherst-04/2011	10313/511	05/02/2011		05/19/2011	155.00	2987
002987	Land012	3001-2001-56100-400	10323 Amherst-04/2011	10323/511	05/02/2011		05/19/2011	155.00	2987
002987	Land012	3001-2007-56100-400	10330 Amherst-04/2011	10330/511	05/02/2011		05/19/2011	150.00	2987
002987	Land012	3001-2002-56100-400	10333 Amherst-04/2011	10333/511	05/02/2011		05/19/2011	155.00	2987
002987	Land012	3001-2006-56100-400	10380 Amherst-04/2011	10380/511	05/02/2011		05/19/2011	150.00	2987
002987	Land012	3001-2010-56100-400	10380 Pradera-04/2011, weed killer	10380P/511	05/02/2011		05/19/2011	52.50	2987
002987	Land012	3001-2011-56100-400	10390 Pradera-04/2011, weed killer	10380P/511	05/02/2011		05/19/2011	52.50	2987
002987	Land012	3001-2004-56100-400	10383 Amherst-04/2011, gopher	10383/511	05/02/2011		05/19/2011	180.00	2987
002987	Land012	3001-2008-56100-400	10390 Amherst--04/2011	10390/511	05/02/2011		05/19/2011	150.00	2987
002987	Land012	3001-2005-56100-400	10410 Amherst--04/2011	10410/511	05/02/2011		05/19/2011	150.00	2987
002987	Land012	3001-2030-56100-400	4275 Kingsley-04/2011, gopher	4275/511	05/02/2011		05/19/2011	200.00	2987
002987	Land012	3001-3001-56100-400	4811 Canoga-04/2011	4811/511	05/02/2011		05/19/2011	100.00	2987
002987	Land012	3001-3001-56100-400	4820 Canoga-04/2011, weed killer	4820/511	05/02/2011		05/19/2011	215.00	2987

Voucher	Vendor No/Name	Account Number	Description	Inv No	Inv Date	PO	Pmt Date	Amount	Check
002987	Land012	3001-1011-56100-400	5225 Palo Verde-04/2011	5225/511	05/02/2011		05/19/2011	125.00	2987
		Landscape Maintenance Unlimite							
002987	Land012	3001-1005-56100-400	5290 Orchard-04/2011, gopher	5290/511	05/02/2011		05/19/2011	165.00	2987
		Landscape Maintenance Unlimite							
002987	Land012	3001-1501-56100-400	9448 Carrillo-04/2011, gopher, weed kill	9448/511	05/02/2011		05/19/2011	115.00	2987
		Landscape Maintenance Unlimite							
002987	Land012	3001-1014-56100-400	9644 Central-04/2011	9644/511	05/02/2011		05/19/2011	125.00	2987
		Landscape Maintenance Unlimite							
002987	Land012	3001-1006-56100-400	9741 Central-04/2011	9741/511	05/02/2011		05/19/2011	115.00	2987
		Landscape Maintenance Unlimite							
002987	Land012	3001-1007-56100-400	9751 Central-04/2011	9751/511	05/02/2011		05/19/2011	115.00	2987
		Landscape Maintenance Unlimite							
002987	Land012	3001-1008-56100-400	9761 Central-04/2011	9761/511	05/02/2011		05/19/2011	115.00	2987
		Landscape Maintenance Unlimite							
002987	Land012	3001-1003-56100-400	9815 Central-04/2011, gopher	9815/511	05/02/2011		05/19/2011	160.00	2987
		Landscape Maintenance Unlimite							
002987	Land012	3001-1015-56100-400	9963 Central- 04/2011, gopher	9963/511	05/02/2011		05/19/2011	170.00	2987
		Landscape Maintenance Unlimite							
002987	Land012	3001-1015-56100-400	9963 Central-Sprinkler repairs	9963/511	05/02/2011		05/19/2011	505.00	2987
		Landscape Maintenance Unlimite							
							Voucher: 002987	4,420.00	
002988	mont001	3001-4330-52660-400	USLIC Directors & Officers Insurance	PR05/17/2011	05/17/2011		05/19/2011	6,131.00	2988
		City of Montclair							
002988	mont001	3001-4330-52660-400	QBE Single Family Dwellings Insurance	PR05/17/2011	05/17/2011		05/19/2011	17,600.00	2988
		City of Montclair							
							Voucher: 002988	23,731.00	
002989	Mont001	3001-0000-20400-208	Correct MHC bank dep error 04/21/11	051911	05/19/2011		05/19/2011	1,173.50	2989
		City of Montclair							
							Voucher: 002989	1,173.50	
002990	Mont058	3001-0000-21200-208	To correct MHC bank dep error 04/21/11	05/19/2011	05/19/2011		05/19/2011	1,126.50	2990
		Montclair Redevelopment Agency							
							Voucher: 002990	1,126.50	

**Voucher Vendor No/Name Account Number                      Description                      Inv No                      Inv Date PO                      Pmt Date                      Amount                      Check**

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Report Total: 68,350.48

**CITY OF MONTCLAIR  
HOUSING CORPORATION  
TREASURER'S REPORT  
FOR THE MONTH ENDING**

**May 31, 2011**

**TABLE OF CONTENTS**

**SCHEDULE 1 - STATEMENT OF CASH AND INVESTMENTS BY ACCOUNT**

**CASH AND INVESTMENTS BY ACCOUNT GRAPH**

CITY OF MONTCLAIR  
HOUSING CORPORATION  
STATEMENT OF CASH AND INVESTMENTS BY ACCOUNT  
May 31, 2011

	<u>Interest Rate</u>		<u>Amount</u>
<b>Checking Account</b>			
Wells Fargo, 0654-893023	0.05%	\$	1,297,441.92
<b>Cash and Investments</b>			
LAIF	0.40%	\$	<u>1,565,986.26</u>
<b>TOTAL CASH &amp; INVESTMENTS BY ACCOUNT</b>			<b><u><u>\$ 2,863,428.18</u></u></b>

**NOTE:**

Pursuant to the Corporation's 2011 Investment Policy, all moneys are invested in banks, the Local Agency Investment Fund, and in securities with maturities of no greater than three years.

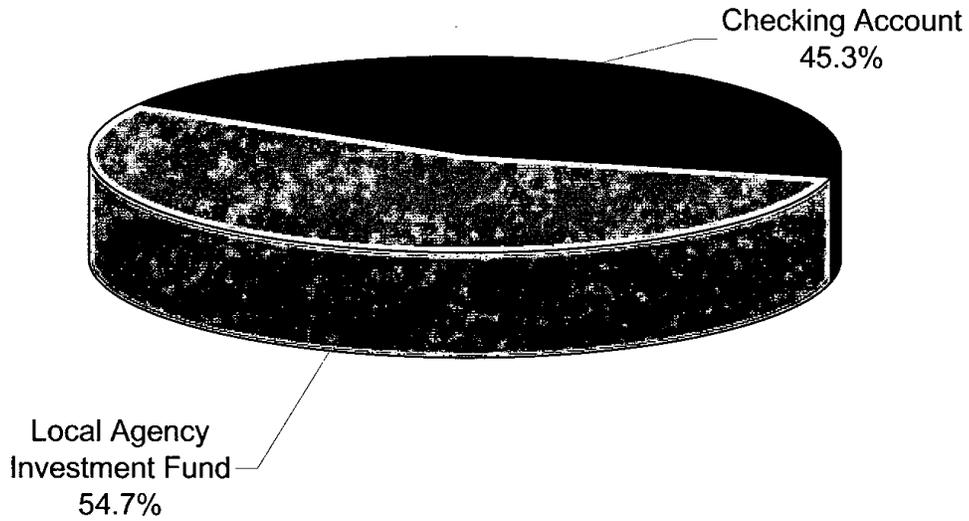
The Corporation has sufficient funds available to meet expenditures during the six-month period ending November 30, 2011

During May 2011, the Corporation was in compliance with the internal control procedures set forth in the 2011 Investment Policy.

  
 Janet Kulbeck  
 Junior Accountant

**CITY OF MONTCLAIR  
HOUSING CORPORATION  
CASH AND INVESTMENTS BY ACCOUNT GRAPH  
May 31, 2011**

**Total Cash & Investments - \$2,863,428**



**CITY OF MONTCLAIR  
REDEVELOPMENT AGENCY  
WARRANT REGISTER  
FOR THE MONTH ENDING  
May 31, 2011**

City of Montclair  
 Final Warrant Register  
 Council Date 6/20/11  
 Regular Warrants  
 Checking Account: RDA

	Warrants	Wire Transfers	Electronic AP	Area Totals
Project Area I	3,780.10	0.00	27.44	<b>3,807.54</b>
Project Area II	278.61	0.00	0.00	<b>278.61</b>
Project Area III	167,081.19	0.00	329.58	<b>167,410.77</b>
Project Area IV	466,079.05	0.00	228.90	<b>466,307.95</b>
Project Area V	509,534.41	0.00	329.58	<b>509,863.99</b>
Project Area VI - Mission Blvd	76.13	0.00	0.00	<b>76.13</b>
	1,146,829.49	0.00	915.50	
				<b><u>1,147,744.99</u></b>
				<b>May 2011 Total</b>

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**Vice Chairperson Raft**

CITY OF MONTCLAIR  
FINAL WARRANT REGISTER  
COUNCIL DATE: 6-20-11  
REGULAR WARRANTS  
CHECKING ACCOUNT: RPA

<u>Fund</u>	<u>Description</u>	<u>Amount</u>
2120	Project Area I Operating Fund	2,863.01
2150	Project Area I Low-Mod Housing	917.09
2260	Project Area II Special Housin	278.61
2320	Project Area III Operating Fun	145,768.83
2350	Project Area III Low-Mod Housi	21,312.36
2420	Project Area IV Operating Fund	26,101.04
2440	Project Area IV Tax Increment	432,333.50
2450	Project Area IV Low-Mod Housin	7,644.51
2511	Proj. Area V 2006A Bond Procee	1,762.28
2520	Project Area V Operating Fund	54,783.04
2540	Project Area V Tax Increment F	432,333.50
2550	Project Area V Low-Mod Housing	19,396.49
2590	Project Area V 2001 Bond Proce	1,259.10
2610	Mission Blvd 2008 Bond Proceed	76.13
	<b>Report Total:</b>	<b>1,146,829.49</b>

# Accounts Payable

## Voucher Register By Vendor Number



User: mpiotrowski  
 Printed: 06/02/2011 - 4:12 PM

Voucher	Vendor No/Name	Account Number	Description	Inv No	Inv Date	PO	Pmt Date	Amount	Check
007071	Cabr002 Caleb Cabrera	2320-4319-63110-400	EHIP Stattler 10266 Coalinga	10-119	05/03/2011		05/04/2011	3,970.00	7071
								3,970.00	
							Voucher: 007071		
007072	Enri002 Enrique Alcantara Construction	2320-4319-63110-400	EHIP Perez 5565 Caroline	11-11	05/03/2011		05/04/2011	4,070.00	7072
007072	Enri002 Enrique Alcantara Construction	2320-4319-63110-400	EHIP Poveda 9550 Poulsen	11-12	05/03/2011		05/04/2011	2,000.00	7072
								6,070.00	
							Voucher: 007072		
007073	Hugo001 Hugo Jaramillo	2350-4319-63110-400	EHIP Corona 9608 Bolton	11-08	05/03/2011		05/04/2011	3,400.00	7073
								3,400.00	
							Voucher: 007073		
007074	Land012 Landscape Maintenance Unlimite	2260-4319-56010-400	5326 San Bernardino April 2011 Service	5326/511	05/02/2011		05/04/2011	115.00	7074
007074	Land012 Landscape Maintenance Unlimite	2350-4319-56010-400	9010 Fremont April 2011 Service	9010/511	05/02/2011		05/04/2011	145.00	7074
								260.00	
							Voucher: 007074		
007075	LDKi001 LD King Inc	2520-4319-60020-400	Legal description - Ramona Grade Sep	110403	04/06/2011		05/04/2011	495.00	7075
007075	LDKi001 LD King Inc	2590-0000-10400-132	Agrmnt 08-70 Mission Phase 7-9	110419	04/21/2011		05/04/2011	387.50	7075
								882.50	
							Voucher: 007075		

Voucher	Vendor No/Name	Account Number	Description	Inv No	Inv Date	PO	Pmt Date	Amount	Check
007076	Mont001	2320-4319-52790-400	Graffiti Abatement April 2011 Proj 3	April 2011	05/02/2011		05/04/2011	431.35	7076
007076	Mont001	2420-4319-52790-400	Graffiti Abatement April 2011 Proj 4	April 2011	05/02/2011		05/04/2011	643.24	7076
007076	Mont001	2520-4319-52790-400	Graffiti Abatement April 2011 Proj 5A	April 2011	05/02/2011		05/04/2011	2,792.41	7076
007076	Mont001	2520-4319-52790-400	Graffiti Abatement April 2011 Proj 5B	April 2011	05/02/2011		05/04/2011	1,006.48	7076
								4,873.48	
								Voucher: 007076	
007077	Mont001	2120-0000-00010-101	RDA Payroll Costs for 4/14/11	April 2011	05/03/2011		05/04/2011	775.75	7077
007077	Mont001	2120-0000-00010-101	RDA Payroll Costs for 4/28/11	April 2011	05/03/2011		05/04/2011	530.92	7077
007077	Mont001	2150-0000-00010-101	RDA Payroll Costs for 4/14/11	April 2011	05/03/2011		05/04/2011	258.22	7077
007077	Mont001	2150-0000-00010-101	RDA Payroll Costs for 4/28/11	April 2011	05/03/2011		05/04/2011	199.85	7077
007077	Mont001	2320-0000-00010-101	RDA Payroll Costs for 4/14/11	April 2011	05/03/2011		05/04/2011	8,854.98	7077
007077	Mont001	2320-0000-00010-101	RDA Payroll Costs for 4/28/11	April 2011	05/03/2011		05/04/2011	6,100.79	7077
007077	Mont001	2350-0000-00010-101	RDA Payroll Costs for 4/14/11	April 2011	05/03/2011		05/04/2011	3,100.15	7077
007077	Mont001	2350-0000-00010-101	RDA Payroll Costs for 4/28/11	April 2011	05/03/2011		05/04/2011	2,398.18	7077
007077	Mont001	2420-0000-00010-101	RDA Payroll Costs for 4/14/11	April 2011	05/03/2011		05/04/2011	6,912.45	7077
007077	Mont001	2420-0000-00010-101	RDA Payroll Costs for 4/28/11	April 2011	05/03/2011		05/04/2011	4,688.90	7077
007077	Mont001	2450-0000-00010-101	RDA Payroll Costs for 4/14/11	April 2011	05/03/2011		05/04/2011	2,153.07	7077
007077	Mont001	2450-0000-00010-101	RDA Payroll Costs for 4/28/11	April 2011	05/03/2011		05/04/2011	1,665.63	7077
007077	Mont001	2520-0000-00010-101	RDA Payroll Costs for 4/14/11	April 2011	05/03/2011		05/04/2011	12,725.44	7077
007077	Mont001	2520-0000-00010-101	RDA Payroll Costs for 4/28/11	April 2011	05/03/2011		05/04/2011	9,066.97	7077
007077	Mont001	2550-0000-00010-101	RDA Payroll Costs for 4/14/11	April 2011	05/03/2011		05/04/2011	3,100.33	7077
007077	Mont001	2550-0000-00010-101	RDA Payroll Costs for 4/28/11	April 2011	05/03/2011		05/04/2011	2,398.11	7077

Voucher	Vendor No/Name	Account Number	Description	Inv No	Inv Date	PO	Pmt Date	Amount	Check
							Voucher: 007077	64,929.74	
007078	Mont002	2350-4319-52990-400	10333 Pradera - 03/15/11 - 03/31/11	47446	04/04/2011		05/04/2011	86.38	7078
		City of Montclair					Voucher: 007078	86.38	
007079	Mont074	2350-4319-52990-400	10333 Pradera - 03/15/11 - 04/06/11	067-054-04	04/06/2011		05/04/2011	71.20	7079
		Monte Vista Water District					Voucher: 007079	71.20	
007080	Myco001	2350-4319-63110-400	EHIP Brito 9950 Bel Air	10-118	05/03/2011		05/04/2011	3,300.00	7080
		Myco Construction							
007080	Myco001	2320-4319-63110-400	EHIP David 9865 Galena	10-120	05/03/2011		05/04/2011	4,800.00	7080
		Myco Construction					Voucher: 007080	8,100.00	
007081	Robb004	2120-4319-53210-400	Services rendered for March 2011	22051	03/31/2011		05/04/2011	9.45	7081
		Robbins & Holdaway							
007081	Robb004	2320-4319-53210-400	Services rendered for March 2011	22051	03/31/2011		05/04/2011	113.40	7081
		Robbins & Holdaway							
007081	Robb004	2420-4319-53210-400	Services rendered for March 2011	22051	03/31/2011		05/04/2011	78.75	7081
		Robbins & Holdaway							
007081	Robb004	2520-4319-53210-400	Services rendered for March 2011	22051	03/31/2011		05/04/2011	113.40	7081
		Robbins & Holdaway					Voucher: 007081	315.00	
007082	SanB009	2440-4319-69030-400	SERAF payment for FY 10-11	PR050311	05/03/2011		05/04/2011	432,333.50	7082
		San Bernardino County Treasure							
007082	SanB009	2540-4319-69030-400	SERAF payment for FY 10-11	PR050311	05/03/2011		05/04/2011	432,333.50	7082
		San Bernardino County Treasure					Voucher: 007082	864,667.00	
007083	Sout021	2350-4319-52990-400	10333 Pradera - 03/15/11 - 04/13/11	071-823-8800-4	04/15/2011		05/04/2011	84.58	7083
		Southern California Gas Co					Voucher: 007083	84.58	

Voucher	Vendor No/Name	Account Number	Description	Inv No	Inv Date	PO	Pmt Date	Amount	Check
007084	Sout023	2320-4319-60020-400	Foundation Area 11 - Landscape Maint	15722	04/29/2011		05/04/2011	2,650.00	7084
		Southern California Landscape							
							Voucher: 007084	2,650.00	
007085	Spyt001	2320-4319-60020-400	TXB-IP-P Pelco Network	199607	05/04/2011	00002075	05/04/2011	2,312.00	7085
		Spytowncom	Communications Mo						
							Voucher: 007085	2,312.00	
007086	Cald004	2120-4319-52130-400	ICSC Las Vegas 2011 - Per Diem	T10-49	05/12/2011		05/12/2011	8.50	7086
		Christine Caldwell							
007086	Cald004	2320-4319-52130-400	ICSC Las Vegas 2011 - Per Diem	T10-49	05/12/2011		05/12/2011	102.06	7086
		Christine Caldwell							
007086	Cald004	2420-4319-52130-400	ICSC Las Vegas 2011 - Per Diem	T10-49	05/12/2011		05/12/2011	70.88	7086
		Christine Caldwell							
007086	Cald004	2520-4319-52130-400	ICSC Las Vegas 2011 - Per Diem	T10-49	05/12/2011		05/12/2011	102.06	7086
		Christine Caldwell							
							Voucher: 007086	283.50	
007087	Cali105	2120-4319-52090-400	Issue #96 - ICSC Las Vegas Full Page	12511-06-112	05/02/2011		05/12/2011	126.00	7087
		California Centers Magazine, I	Ad						
007087	Cali105	2320-4319-52090-400	Issue #96 - ICSC Las Vegas Full Page	12511-06-112	05/02/2011		05/12/2011	1,512.00	7087
		California Centers Magazine, I	Ad						
007087	Cali105	2420-4319-52090-400	Issue #96 - ICSC Las Vegas Full Page	12511-06-112	05/02/2011		05/12/2011	1,050.00	7087
		California Centers Magazine, I	Ad						
007087	Cali105	2520-4319-52090-400	Issue #96 - ICSC Las Vegas Full Page	12511-06-112	05/02/2011		05/12/2011	1,512.00	7087
		California Centers Magazine, I	Ad						
							Voucher: 007087	4,200.00	
007088	Diaz009	2120-4319-52130-400	ICSC Las Vegas 2011 - Per Diem	T10-50	05/12/2011		05/12/2011	6.37	7088
		Mike Diaz							
007088	Diaz009	2320-4319-52130-400	ICSC Las Vegas 2011 - Per Diem	T10-50	05/12/2011		05/12/2011	76.50	7088
		Mike Diaz							
007088	Diaz009	2420-4319-52130-400	ICSC Las Vegas 2011 - Per Diem	T10-50	05/12/2011		05/12/2011	53.13	7088
		Mike Diaz							

Voucher	Vendor No/Name	Account Number	Description	Inv No	Inv Date	PO	Pmt Date	Amount	Check
007088	Diaz009 Mike Diaz	2520-4319-52130-400	ICSC Las Vegas 2011 - Per Diem	T10-50	05/12/2011		05/12/2011	76.50	7088
							Voucher: 007088	212.50	
007089	Eato004 Paul Eaton	2120-4319-52130-400	ICSC Las Vegas 2011 - Per Diem	T10-47	05/12/2011		05/12/2011	4.78	7089
007089	Eato004 Paul Eaton	2320-4319-52130-400	ICSC Las Vegas 2011 - Per Diem	T10-47	05/12/2011		05/12/2011	57.42	7089
007089	Eato004 Paul Eaton	2420-4319-52130-400	ICSC Las Vegas 2011 - Per Diem	T10-47	05/12/2011		05/12/2011	39.88	7089
007089	Eato004 Paul Eaton	2520-4319-52130-400	ICSC Las Vegas 2011 - Per Diem	T10-47	05/12/2011		05/12/2011	57.42	7089
							Voucher: 007089	159.50	
007090	GarcM001 Miguel Garcia	2120-4319-52130-400	ICSC Las Vegas 2011 - Per Diem	T10-48	05/12/2011		05/12/2011	8.50	7090
007090	GarcM001 Miguel Garcia	2320-4319-52130-400	ICSC Las Vegas 2011 - Per Diem	T10-48	05/12/2011		05/12/2011	102.06	7090
007090	GarcM001 Miguel Garcia	2420-4319-52130-400	ICSC Las Vegas 2011 - Per Diem	T10-48	05/12/2011		05/12/2011	70.88	7090
007090	GarcM001 Miguel Garcia	2520-4319-52130-400	ICSC Las Vegas 2011 - Per Diem	T10-48	05/12/2011		05/12/2011	102.06	7090
							Voucher: 007090	283.50	
007091	Grou003 Group 1 Productions	2120-4319-52090-400	Mini Video - San Antonio Gateway	285	05/03/2011		05/12/2011	9.00	7091
007091	Grou003 Group 1 Productions	2320-4319-52090-400	Mini Video - San Antonio Gateway	285	05/03/2011		05/12/2011	108.00	7091
007091	Grou003 Group 1 Productions	2420-4319-52090-400	Mini Video - San Antonio Gateway	285	05/03/2011		05/12/2011	75.00	7091
007091	Grou003 Group 1 Productions	2520-4319-52090-400	Mini Video - San Antonio Gateway	285	05/03/2011		05/12/2011	108.00	7091
							Voucher: 007091	300.00	
007092	Hind001 Hinderliter De Llamas & Assocs	2320-4319-53290-400	Sales Tax 2nd Qtr - Audit Services	0017914-IN	05/05/2011		05/12/2011	10,488.10	7092
							Voucher: 007092	10,488.10	

Voucher	Vendor No/Name	Account Number	Description	Inv No	Inv Date	PO	Pmt Date	Amount	Check
007093	Hugo001	2320-4319-63110-400	EHIP Corona 9608 Bolton	11-08	05/09/2011		05/12/2011	2,900.00	7093
	Hugo Jaramillo								
								2,900.00	
							Voucher: 007093	2,900.00	
007094	Inla052	2590-0000-10400-132	Mission Blvd Phase 9 Bid Proposal Ad	172448	04/11/2011		05/12/2011	871.60	7094
	Inland Valley Daily Bulletin								
								871.60	
							Voucher: 007094	871.60	
007095	LAEA001	2520-4319-60020-400	Ramona Grade Separation April 2011	11-31	05/02/2011		05/12/2011	2,775.00	7095
	LAE Associates								
								2,775.00	
							Voucher: 007095	2,775.00	
007096	MacC001	2320-0000-10400-132	Richton Street Alarm Cable	Quote	01/12/2011		05/12/2011	610.00	7096
	Mac Communications LLC								
								610.00	
							Voucher: 007096	610.00	
007097	Mont002	2260-4319-56020-400	5326 San Bernardino 03/01/11-04/30/11	17176	05/02/2011		05/12/2011	77.48	7097
	City of Montclair								
007097	Mont002	2350-4319-56020-400	9010 Fremont 03/01/11-04/30/11	45202	05/02/2011		05/12/2011	77.48	7097
	City of Montclair								
007097	Mont002	2520-4319-56010-400	5444 Palo Verde 03/11/11-04/30/11	47407	05/02/2011		05/12/2011	64.78	7097
	City of Montclair								
007097	Mont002	2520-4319-56010-400	9916 Central 03/01/11-04/30/11	8145	05/02/2011		05/12/2011	77.48	7097
	City of Montclair								
								297.22	
							Voucher: 007097	297.22	
007098	Mont074	2350-4319-56020-400	9010 Fremont 03/04/11 - 05/04/11	002-050-08	05/04/2011		05/12/2011	140.49	7098
	Monte Vista Water District								
								140.49	
							Voucher: 007098	140.49	
007099	Phil005	2320-4319-63110-400	EHIP Duan/Wang 9626 Greenwood	11-41	05/09/2011		05/12/2011	1,600.00	7099
	Phil May Landscape Architect								
								1,600.00	
							Voucher: 007099	1,600.00	

Voucher	Vendor No/Name	Account Number	Description	Inv No	Inv Date	PO	Pmt Date	Amount	Check
007100	Robb004	2320-4319-53210-400	Professional Services	00-1009 22198	04/30/2011		05/12/2011	367.50	7100
	Robbins & Holdaway								
							Voucher: 007100	367.50	
007101	Sout021	2520-4319-56010-400	9916 Central 03/15/11-04/13/11	071-922-8268-4	04/15/2011		05/12/2011	8.49	7101
	Southern California Gas Co								
							Voucher: 007101	8.49	
007102	Enri002	2320-4319-63110-400	EHIP Poveda 9550 Poulsen	11-12	05/19/2011		05/19/2011	3,000.00	7102
	Enrique Alcantara Construction								
							Voucher: 007102	3,000.00	
007103	Mont063	2120-4319-52630-400	Rent June 2011	June 2011	05/15/2011		05/19/2011	60.31	7103
	Montclair Town Center LLC								
007103	Mont063	2320-4319-52630-400	Rent June 2011	June 2011	05/15/2011		05/19/2011	723.67	7103
	Montclair Town Center LLC								
007103	Mont063	2420-4319-52630-400	Rent June 2011	June 2011	05/15/2011		05/19/2011	502.55	7103
	Montclair Town Center LLC								
007103	Mont063	2520-4319-52630-400	Rent June 2011	June 2011	05/15/2011		05/19/2011	723.67	7103
	Montclair Town Center LLC								
							Voucher: 007103	2,010.20	
007104	Mont074	2520-4319-56010-400	5444 Palo Verde 03/12/11 - 05/05/11	011-018-01	05/05/2011		05/19/2011	90.02	7104
	Monte Vista Water District								
007104	Mont074	2511-4319-60020-400	9390 Pradera 03/08/11 - 05/09/11	019-100-00	05/09/2011		05/19/2011	731.83	7104
	Monte Vista Water District								
007104	Mont074	2511-4319-60020-400	4425 Bonnie Brae 03/08/11 - 05/09/11	019-101-00	05/09/2011		05/19/2011	269.96	7104
	Monte Vista Water District								
007104	Mont074	2511-4319-60020-400	9365 Mills 03/08/11 - 05/09/11	019-102-00	05/09/2011		05/19/2011	716.63	7104
	Monte Vista Water District								
							Voucher: 007104	1,808.44	
007105	Sout018	2260-4319-56020-400	5326 San Bernardino 4/12/11 - 05/11/11	2-27-791-6888	05/12/2011		05/19/2011	37.80	7105
	Southern California Edison Co								
007105	Sout018	2520-4319-56010-400	9916 Central 4/09/11 - 04/22/11	2-28-934-3014	05/11/2011		05/19/2011	20.79	7105
	Southern California Edison Co								
007105	Sout018	2511-4319-60020-400	4425 Bonnie Brae 4/13/11 - 05/12/11	2-29-667-9806	05/13/2011		05/19/2011	21.93	7105
	Southern California Edison Co								

Voucher	Vendor No/Name	Account Number	Description	Inv No	Inv Date	PO	Pmt Date	Amount	Check
007105	Sout018	2511-4319-60020-400	4397 Kingsley 4/11/11 - 04/20/11	2-29-9452-20	05/11/2011		05/19/2011	21.93	7105
	Southern California Edison Co								
007105	Sout018	2260-4319-56020-400	5326 San Bernardino 4/12/11 - 05/11/11	2-31-577-3044	05/12/2011		05/19/2011	30.71	7105
	Southern California Edison Co								
							Voucher: 007105	133.16	
007106	Sout021	2260-4319-56020-400	5326 San Bernardino 04/13/11 - 05/12/11	170-622-7858-9	05/16/2011		05/19/2011	17.62	7106
	Southern California Gas Co								
							Voucher: 007106	17.62	
007107	Stra002	2320-4319-53210-400	Charges for period ending 3/31/11	022051 #0013	04/30/2011		05/19/2011	269.50	7107
	Stradling, Yocca, Carlson & Ra								
007107	Stra002	2420-4319-53210-400	Charges for period ending 3/31/11	022051 #0013	04/30/2011		05/19/2011	173.50	7107
	Stradling, Yocca, Carlson & Ra								
007107	Stra002	2520-4319-53210-400	Charges for period ending 3/31/11	022051 #0013	04/30/2011		05/19/2011	173.50	7107
	Stradling, Yocca, Carlson & Ra								
007107	Stra002	2550-4319-53210-400	Charges for period ending 3/31/11	022051 #0013	04/30/2011		05/19/2011	7,898.18	7107
	Stradling, Yocca, Carlson & Ra								
							Voucher: 007107	8,514.68	
007108	VerCo001	2320-4319-56010-400	Transcenter alarm phone lines	1296008607 02	05/01/2011		05/19/2011	463.36	7108
	Verizon Communications								
							Voucher: 007108	463.36	
007109	A&IRe001	2610-0000-10400-132	Mission Phase 10 Storm Drain	CN00006747	04/22/2011		05/26/2011	76.13	7109
	A&I Reprographics								
007109	A&IRe001	2320-0000-10400-132	Richton Street PD Impound Facility	RC00022672	03/22/2011		05/26/2011	30.08	7109
	A&I Reprographics								
							Voucher: 007109	106.21	
007110	ACECD002	2320-0000-10400-132	Agrmnt 11-26 Richton Impound Facility	Payment #2	05/25/2011		05/26/2011	70,677.26	7110
	ACE CD, Inc.								
							Voucher: 007110	70,677.26	

Voucher	Vendor No/Name	Account Number	Description	Inv No	Inv Date	PO	Pmt Date	Amount	Check
007111	Andr003	2320-0000-10400-132	Richton Street - Extra Services	18100	05/01/2011		05/26/2011	2,220.00	7111
	Andreasen Engineering Inc								
							Voucher: 007111	2,220.00	
007112	Eato004	2120-4319-41020-400	CC Meetings	May 2011	05/26/2011		05/26/2011	0.90	7112
	Paul Eaton								
007112	Eato004	2320-4319-41020-400	CC Meetings	May 2011	05/26/2011		05/26/2011	10.80	7112
	Paul Eaton								
007112	Eato004	2420-4319-41020-400	CC Meetings	May 2011	05/26/2011		05/26/2011	7.50	7112
	Paul Eaton								
007112	Eato004	2520-4319-41020-400	CC Meetings	May 2011	05/26/2011		05/26/2011	10.80	7112
	Paul Eaton								
							Voucher: 007112	30.00	
007113	Hugo001	2350-4319-63110-400	EHIP Herrera 9583 Mills	11-09	05/26/2011		05/26/2011	3,000.00	7113
	Hugo Jaramillo								
							Voucher: 007113	3,000.00	
007114	Mont001	2120-0000-00010-101	RDA Payroll Costs for 05/12/11	Pyroll May 2011	05/26/2011		05/26/2011	777.01	7114
	City of Montclair								
007114	Mont001	2120-0000-00010-101	RDA Payroll Costs for 05/26/11	Pyroll May 2011	05/26/2011		05/26/2011	537.65	7114
	City of Montclair								
007114	Mont001	2150-0000-00010-101	RDA Payroll Costs for 05/12/11	Pyroll May 2011	05/26/2011		05/26/2011	258.27	7114
	City of Montclair								
007114	Mont001	2150-0000-00010-101	RDA Payroll Costs for 05/26/11	Pyroll May 2011	05/26/2011		05/26/2011	200.75	7114
	City of Montclair								
007114	Mont001	2320-0000-00010-101	RDA Payroll Costs for 05/12/11	Pyroll May 2011	05/26/2011		05/26/2011	8,870.32	7114
	City of Montclair								
007114	Mont001	2320-0000-00010-101	RDA Payroll Costs for 05/26/11	Pyroll May 2011	05/26/2011		05/26/2011	6,183.18	7114
	City of Montclair								
007114	Mont001	2350-0000-00010-101	RDA Payroll Costs for 05/12/11	Pyroll May 2011	05/26/2011		05/26/2011	3,100.16	7114
	City of Montclair								
007114	Mont001	2350-0000-00010-101	RDA Payroll Costs for 05/26/11	Pyroll May 2011	05/26/2011		05/26/2011	2,408.74	7114
	City of Montclair								
007114	Mont001	2420-0000-00010-101	RDA Payroll Costs for 05/12/11	Pyroll May 2011	05/26/2011		05/26/2011	6,922.97	7114
	City of Montclair								
007114	Mont001	2420-0000-00010-101	RDA Payroll Costs for 05/26/11	Pyroll May 2011	05/26/2011		05/26/2011	4,745.78	7114
	City of Montclair								
007114	Mont001	2450-0000-00010-101	RDA Payroll Costs for 05/12/11	Pyroll May 2011	05/26/2011		05/26/2011	2,152.95	7114
	City of Montclair								

Voucher	Vendor No/Name	Account Number	Description	Inv No	Inv Date	PO	Pmt Date	Amount	Check
007114	Mont001	2450-0000-00010-101	RDA Payroll Costs for 05/26/11	Pyroll May 2011	05/26/2011		05/26/2011	1,672.86	7114
	City of Montclair								
007114	Mont001	2520-0000-00010-101	RDA Payroll Costs for 05/12/11	Pyroll May 2011	05/26/2011		05/26/2011	12,740.79	7114
	City of Montclair								
007114	Mont001	2520-0000-00010-101	RDA Payroll Costs for 05/26/11	Pyroll May 2011	05/26/2011		05/26/2011	9,777.51	7114
	City of Montclair								
007114	Mont001	2550-0000-00010-101	RDA Payroll Costs for 05/12/11	Pyroll May 2011	05/26/2011		05/26/2011	3,278.37	7114
	City of Montclair								
007114	Mont001	2550-0000-00010-101	RDA Payroll Costs for 05/26/11	Pyroll May 2011	05/26/2011		05/26/2011	2,721.50	7114
	City of Montclair								
							Voucher: 007114	66,348.81	
007115	Mont074	2520-4319-56010-400	9916 Central - 03/12/11 - 05/13/11	046-129-02	05/13/2011		05/26/2011	52.72	7115
	Monte Vista Water District								
							Voucher: 007115	52.72	
007116	Raft003	2120-4319-41020-400	CC Meetings	May 2011	05/26/2011		05/26/2011	2.70	7116
	Carolyn Raft								
007116	Raft003	2320-4319-41020-400	CC Meetings	May 2011	05/26/2011		05/26/2011	32.40	7116
	Carolyn Raft								
007116	Raft003	2420-4319-41020-400	CC Meetings	May 2011	05/26/2011		05/26/2011	22.50	7116
	Carolyn Raft								
007116	Raft003	2520-4319-41020-400	CC Meetings	May 2011	05/26/2011		05/26/2011	32.40	7116
	Carolyn Raft								
							Voucher: 007116	90.00	
007117	Robb004	2120-4319-41020-400	CC Meetings	May 2011	05/26/2011		05/26/2011	2.47	7117
	Robbins & Holdaway								
007117	Robb004	2320-4319-41020-400	CC Meetings	May 2011	05/26/2011		05/26/2011	29.70	7117
	Robbins & Holdaway								
007117	Robb004	2420-4319-41020-400	CC Meetings	May 2011	05/26/2011		05/26/2011	20.63	7117
	Robbins & Holdaway								
007117	Robb004	2520-4319-41020-400	CC Meetings	May 2011	05/26/2011		05/26/2011	29.70	7117
	Robbins & Holdaway								
							Voucher: 007117	82.50	
007118	Ruh001	2120-4319-41020-400	CC Meetings	May 2011	05/26/2011		05/26/2011	2.70	7118
	Bill Ruh								
007118	Ruh001	2320-4319-41020-400	CC Meetings	May 2011	05/26/2011		05/26/2011	32.40	7118
	Bill Ruh								

Voucher	Vendor No/Name	Account Number	Description	Inv No	Inv Date	PO	Pmt Date	Amount	Check
007118	Ruh001 Bill Ruh	2420-4319-41020-400	CC Meetings	May 2011	05/26/2011		05/26/2011	22.50	7118
007118	Ruh001 Bill Ruh	2520-4319-41020-400	CC Meetings	May 2011	05/26/2011		05/26/2011	32.40	7118
							Voucher: 007118	90.00	
007119	Sout021 Southern California Gas Co	2520-4319-56010-400	9916 Central - 04/13/11 - 05/12/11	071-922-8268-4	05/16/2011		05/26/2011	15.25	7119
							Voucher: 007119	15.25	
							Report Total:	1,146,829.49	

CITY OF MONTCLAIR  
User: jkulbeck

Electronic Clearinghouse  
Distribution Report

Printed: 05/12/11 11:20  
Batch: 001-05-2011

Account Number	Debit	Credit	Account Description
2120-0000-00010-101	0.00	13.28	Cash
2120-0000-20010-202	13.28	0.00	Accounts Payable
	13.28	13.28	
2320-0000-00010-101	0.00	159.48	Cash
2320-0000-20010-202	159.48	0.00	Accounts Payable
	159.48	159.48	
2420-0000-00010-101	0.00	110.76	Cash
2420-0000-20010-202	110.76	0.00	Accounts Payable
	110.76	110.76	
2520-0000-00010-101	0.00	159.48	Cash
2520-0000-20010-202	159.48	0.00	Accounts Payable
	159.48	159.48	
Report Totals:	443.00	443.00	

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Account Number	Debit	Credit	Account Description
2120-0000-00010-101	0.00	14.16	Cash
2120-0000-20010-202	14.16	0.00	Accounts Payable
	14.16	14.16	
2320-0000-00010-101	0.00	170.10	Cash
2320-0000-20010-202	170.10	0.00	Accounts Payable
	170.10	170.10	
2420-0000-00010-101	0.00	118.14	Cash
2420-0000-20010-202	118.14	0.00	Accounts Payable
	118.14	118.14	
2520-0000-00010-101	0.00	170.10	Cash
2520-0000-20010-202	170.10	0.00	Accounts Payable
	170.10	170.10	
Report Totals:	472.50	472.50	

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