

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

April 4, 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 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 endorses any particular religious belief or form of invocation.

III. **PLEDGE OF ALLEGIANCE**

IV. **ROLL CALL**

V. **PRESENTATIONS**

- A. Introduction of New Employees
- B. Donation by Dr. Anthony Choi of Accident Reconstruction Software Program to the Montclair Police Department

VI. **PUBLIC COMMENT**

This section is intended to provide members of the public with an opportunity to comment on any subject that does not appear on this agenda. Each speaker will be afforded five minutes to address the City Council Members and Redevelopment Agency and Montclair Housing Corporation Boards of Directors. (Government Code Section 54954.3)

Under the provisions of the Brown Act, the Council/Agency/ MHC is prohibited from taking action on items not listed on the agenda.

VII. **PUBLIC HEARINGS**

- A. Consider City Council's Adoption of Resolution No. 11-2894 Approving Agreement No. 11-42, an Affordable Housing Agreement by and Between the Montclair Redevelopment Agency and the Montclair Housing Corporation [CC/RDA/MHC]

(Continued on next page)

Consider Redevelopment Agency Board of Directors' Adoption of Resolution No. 11-03 Approving Agreement No. 11-42, an Affordable Housing Agreement by and Between the City of Montclair Redevelopment Agency and the Montclair Housing Corporation, and Making Certain Findings in Connection Therewith [RDA/MHC]

Consider Redevelopment Agency Board of Directors' Approval of Agreement No. 11-43 (Promissory Note 11-02) by and Between the Montclair Redevelopment Agency and the Montclair Housing Corporation [RDA/MHC]

Consider Montclair Housing Corporation Board of Directors' Adoption of Resolution No 11-01 Approving Agreement No. 11-42, an Affordable Housing Agreement by and Between the City of Montclair Redevelopment Agency and the Montclair Housing Corporation, and Making Certain Findings in Connection Therewith [RDA/MHC]

Consider Montclair Housing Corporation Board of Directors' Approval of Agreement No. 11-43 (Promissory Note 11-02) by and Between the Montclair Housing Corporation and the City of Montclair Redevelopment Agency [RDA/MHC]

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VIII. CONSENT CALENDAR

A. Approval of Minutes

1. Minutes of the Regular Joint Council/Agency/MHC Meeting of March 21, 2011 [CC/RDA/MHC]

B. Administrative Reports

1. Consider Setting a Public Hearing to Receive Public Comment on Reallocation and Expenditure of Fiscal Year 2009-10 Supplemental Law Enforcement Services Funds [CC] 22
2. Consider Authorization to Purchase Six 2011 Ford Crown Victoria Police Interceptor Sedans From Hemborg Ford [CC] 23
3. Consider Authorization to Receive \$9,446 From a Federal Emergency Management Agency Grant for Purchase of Wellness/Fitness and Audiovisual Equipment [CC]
- Consider Authorization of a \$1,050 Appropriation From the Contingency Account to Pay the Required 10 Percent Federal Emergency Management Agency Match for Purchase of Wellness/Fitness and Audiovisual Equipment [CC] 24
4. Consider Authorization to Advertise for Bid Proposals for the Mission Boulevard Improvement Phase 9 Project [CC]
- Consider Authorizing City Manager to Award Construction Contract to and Execute Agreement With Lowest Responsible, Responsive Bidder and Include a Construction Contingency of 10 Percent [CC] 26
5. Consider Approval of Warrant Register and Payroll Documentation [CC] 27

C. Agreements

1. Consider Approval of Agreement No. 11-44 Amending Agreement No. 10-43 With the San Bernardino County Department of Aging and Adult Services to Increase Funding for the Senior Citizen Nutrition Program [CC] 28
2. Consider Approval of Agreement No. 11-45 With Wheeler & Wheeler Architects for Design Services for the Community Center Restroom Conversion and ADA Upgrade Project [CC] 54

D. Resolutions

1. Consider Adoption of Resolution No. 11-2895 Supporting and Encouraging the Transfer of Title for LA/Ontario International Back to the City of Ontario or to Such Regional Authority as May Be Established [CC] 67

IX. PULLED CONSENT CALENDAR ITEMS

X. RESPONSE - None

XI. COMMUNICATIONS

- A. City Attorney/Agency Counsel
- B. City Manager/Executive Director
- C. Mayor/Chairman
- D. Council/Agency Board
- E. Committee Meeting Minutes *(For Informational Purposes Only)*
 1. Minutes of the Code Enforcement Committee Meeting of March 21, 2011
 2. Minutes of the Personnel Committee Meeting of March 21, 2011 76

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

The next regularly scheduled City Council, Redevelopment Agency Board, and Montclair Housing Corporation Board meetings will be held on Monday, April 18, 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 March 31, 2011.

AGENDA REPORT

SUBJECT: CONSIDER CITY COUNCIL'S ADOPTION OF RESOLUTION NO. 11-2894 APPROVING AGREEMENT NO. 11-42, AN AFFORDABLE HOUSING AGREEMENT BY AND BETWEEN THE MONTCLAIR REDEVELOPMENT AGENCY AND THE MONTCLAIR HOUSING CORPORATION

DATE: April 4, 2011
SECTION: PUBLIC HEARINGS (JT)
ITEM NO.: A
FILE I.D.: RDA254
DEPT.: CC/RDA/MHC

CONSIDER REDEVELOPMENT AGENCY BOARD OF DIRECTORS' ADOPTION OF RESOLUTION NO. 11-03 APPROVING AGREEMENT NO. 11-42, AN AFFORDABLE HOUSING AGREEMENT BY AND BETWEEN THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY AND THE MONTCLAIR HOUSING CORPORATION AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH

CONSIDER REDEVELOPMENT AGENCY BOARD OF DIRECTORS' APPROVAL OF AGREEMENT NO. 11-43 (PROMISSORY NOTE 11-02) BY AND BETWEEN THE MONTCLAIR REDEVELOPMENT AGENCY AND THE MONTCLAIR HOUSING CORPORATION

CONSIDER MONTCLAIR HOUSING CORPORATION BOARD OF DIRECTORS' ADOPTION OF RESOLUTION NO. 11-01 APPROVING AGREEMENT NO. 11-42, AN AFFORDABLE HOUSING AGREEMENT BY AND BETWEEN THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY AND THE MONTCLAIR HOUSING CORPORATION AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH

CONSIDER MONTCLAIR HOUSING CORPORATION BOARD OF DIRECTORS' APPROVAL OF AGREEMENT NO. 11-43 (PROMISSORY NOTE 11-02) BY AND BETWEEN THE MONTCLAIR HOUSING CORPORATION AND THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY

REASON FOR CONSIDERATION: The Redevelopment Agency proposes to transfer certain real property it owns to the Montclair Housing Corporation (MHC) pursuant to Health and Safety Code Sections 33431 and 33433, which requires a public hearing be conducted by

Prepared by: Christine P. Caldwell Reviewed and Approved by: MS STARRS
Proofed by: Gordon L. Smith Presented by: [Signature]

the City Council to consider the disposition of property by a redevelopment agency. Staff is requesting the City Council consider adoption of Resolution No. 11-2894 approving proposed Agreement No. 11-42, an Affordable Housing Agreement by and between the Agency and MHC. The Agency Board of Directors is requested to consider adoption of Resolution No. 11-03 approving and authorizing the execution of Agreement No. 11-42, an Affordable Housing Agreement by and between the Agency and MHC, and approve proposed Agreement No. 11-43 (Promissory Note 11-02) by and between the Agency and MHC. Lastly, the MHC Board is requested to consider adoption of Resolution No. 11-01 approving and authorizing execution of Agreement No. 11-42, an Affordable Housing Agreement by and between the Agency and MHC, and approve Agreement No. 11-43 (Promissory Note 11-02) by and between the Agency and MHC.

Copies of proposed Council Resolution No. 11-2894, Agency Resolution No. 11-03, and MHC Resolution No. 11-01 and Agreement No. 11-43 (Promissory Note 11-02) are attached and a copy of proposed Agreement No. 11-42 is included in the agenda packets for the City Council's and Agency and MHC Boards of Directors' review and consideration.

BACKGROUND: Staff is proposing 33 Agency-owned properties be transferred to MHC for purposes of increasing, improving, and preserving the City of Montclair's supply of low to moderate income housing available at an affordable cost. The properties were all purchased with Low to Moderate Income Housing Fund moneys or other Redevelopment Agency funds, and affordability covenants have been recorded. The Agency-owned properties, a combination of single-family and multifamily properties, proposed to be transferred to MHC would include the following:

1. 4275 Kingsley Street
2. 10313 Amherst Avenue
3. 10323 Amherst Avenue
4. 10330 Amherst Avenue
5. 10333 Amherst Avenue
6. 10380 Amherst Avenue
7. 10383 Amherst Avenue
8. 10390 Amherst Avenue
9. 10410 Amherst Avenue
10. 4791 Canoga Street
11. 4811 Canoga Street
12. 4820 Canoga Street
13. 10333 Pradera Avenue
14. 10380 Pradera Avenue
15. 10390 Pradera Avenue
16. 9448 Carrillo Avenue
17. 9644 Central Avenue
18. 9741 Central Avenue
19. 9751 Central Avenue
20. 9761 Central Avenue
21. 9815 Central Avenue
22. 9916 Central Avenue
23. 9945 Central Avenue
24. 9963 Central Avenue
25. 10079 Central Avenue
26. 10087 Central Avenue
27. 10215 Central Avenue

28. 10235 Central Avenue
29. 9010 Fremont Avenue
30. 5290 Orchard Street
31. 10291 Greenwood Avenue
32. 5225 Palo Verde Street
33. 5444 Palo Verde Street

Disposition of the Properties

Agency Special Counsel has proposed an Affordable Housing Agreement between the Agency and MHC as the vehicle for disposition of the property. Proposed Agreement No. 11-42 provides the terms and conditions of the disposition of the Agency properties to the MHC. The proposed Affordable Housing Agreement includes the following points:

1. MHC would covenant and agree to devote, use, operate, and maintain each property in accordance with the applicable Grant Deed; Covenants, Conditions, and Restrictions (CC&Rs); and the Affordable Housing Agreement.
2. MHC would agree to make available, restrict occupancy to, and rent the housing units to very low and low to moderate income households all at an Affordable Rent.
3. The housing units would be subject to affordability covenants for a period of 55 years from recordation of the Grant Deed.
4. A Promissory Note would be executed by MHC for the aggregate price of the single-family and multifamily properties to be paid by the MHC as consideration for the purchase of the properties by MHC.

The properties would be sold to the MHC at a price that has been determined to be its current fair market value. The value of the properties would be based on a recent independent fair market value appraisal paid for by the Agency and current sales. Although affordability covenants currently exist on the properties, the Affordable Housing Agreement would call for new affordability covenants to be recorded on the properties. Affordability covenants would be recorded on all 33 properties for a period of 55 years.

FISCAL IMPACT: The purchase price of the properties to be sold by the Agency to the MHC is \$12,141,000 and shall be payable to the Agency pursuant to execution of Promissory Note 11-02. As indicated, this price has been considered to be a fair market value based on a recent appraisal and current sales. Promissory Note 11-02 shall be repayable in 55 annual installments commencing on the first anniversary of execution of the Promissory Note and continuing on each anniversary thereafter until the Promissory Note amount is paid in full. The 55 annual Promissory Note installments shall be forgiven as each installment becomes due if MHC is in full compliance with the terms of the Affordable Housing Agreement, the CC&Rs, and the Promissory Note.

RECOMMENDATION: Staff recommends the following actions:

1. The City Council's adoption of Resolution No. 11-2894 approving Agreement No. 11-42, an Affordable Housing Agreement by and between the City of Montclair Redevelopment Agency and the Montclair Housing Corporation.

2. The Redevelopment Agency Board of Directors' adoption of Resolution No. 11-03 approving Agreement No. 11-42, an Affordable Housing Agreement by and between the City of Montclair Redevelopment Agency and the Montclair Housing Corporation and making certain findings in connection therewith.
3. The Redevelopment Agency Board of Directors' approval of Agreement No. 11-43 (Promissory Note 11-02) by and between the City of Montclair Redevelopment Agency and the Montclair Housing Corporation.
4. The Montclair Housing Corporation Board of Directors' adoption of Resolution No. 11-01 approving Agreement No. 11-42, an Affordable Housing Agreement by and between the City of Montclair Redevelopment Agency and Montclair Housing Corporation and making certain findings in connection therewith.
5. The Montclair Housing Corporation Board of Directors' approval of Agreement No. 11-43 (Promissory Note 11-02) by and between the City of Montclair Redevelopment Agency and the Montclair Housing Corporation.

RESOLUTION NO. 11-2894

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR APPROVING AGREEMENT NO. 11-42, AN AFFORDABLE HOUSING AGREEMENT BY AND BETWEEN THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY AND MONTCLAIR HOUSING CORPORATION, AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH

WHEREAS, the City of Montclair Redevelopment Agency (the "Agency") is engaged in activities necessary to carry out and implement the Redevelopment Plans for the Agency's Redevelopment Project Area No. I, Redevelopment Project Area No. II, Redevelopment Project Area No. III, Redevelopment Project Area No. IV, Redevelopment Project Area No. V, and the Mission Boulevard Joint Redevelopment Project Area (each, a "Redevelopment Project") (collectively, the "Redevelopment Projects"); and

WHEREAS, Montclair Housing Corporation ("MHC") has expressed its desire to acquire the properties set forth in Exhibit "A" (attached hereto and incorporated herein) (the "Properties"), which Properties are currently owned by the Agency; and

WHEREAS, MHC desires to acquire the Properties, and to operate each as either a single-family or multifamily housing development (collectively, the "Project"); and

WHEREAS, MHC has submitted to the Agency and the City Council of the City of Montclair (the "City Council") copies of an Affordable Housing Agreement (the "Agreement") in a form executed by MHC; and

WHEREAS, pursuant to Section 33433 of the Community Redevelopment Law (California Health and Safety Code Section 33000, *et seq.*), the Agency is authorized, with the approval of the City Council after a duly noticed public hearing, to sell Properties for development pursuant to the Redevelopment Plan upon a determination by the City Council that the sale of the property will either assist in the elimination of blight or provide affordable housing for low and moderate income persons, that the consideration for such sale is not less than either the fair market value or fair reuse value in accordance with the covenants and conditions governing the sale and the development costs required thereof, and that the sale is consistent with the Implementation Plan which has been adopted by the Agency for the Redevelopment Project; and

WHEREAS, the Agreement would generally provide as follows: (i) that a total of eighteen (18) single-family housing units will be made available and rented to moderate income households at an affordable rent; (ii) that a total of thirty-nine (39) multifamily housing units will be made available and rented to moderate income households at an affordable rent; and (iii) that a total of forty (40)

multifamily housing units will be made available and rented to very low income households at an affordable rent; and

WHEREAS, the total aggregate purchase price for the Properties under the Agreement is not less than the total aggregate fair market value of the Properties and the reuse value of the Properties, at the use and with the covenants, conditions precedent, conditions subsequent and development costs authorized by the Agreement, as determined by the reuse analysis of the Agreement which has been performed by the Agency's financial consultants; and

WHEREAS, the Agency has adopted an Implementation Plan for each Redevelopment Project pursuant to Health and Safety Code Section 33490, which identifies goals and objectives including providing for the construction of affordable housing; and

WHEREAS, the Agreement would assist the Agency in meeting the goals and objectives set forth in the Implementation Plan by the operation of the Project; and

WHEREAS, a joint public hearing of the Agency and City Council on the proposed Agreement was duly noticed in accordance with the requirements of Health and Safety Code Sections 33431 and 33433, and the proposed Agreement, and a summary report meeting the requirements of Health and Safety Code Section 33433, was available for public inspection prior to the joint public hearing consistent with the requirements of Health and Safety Code Section 33433; and

WHEREAS, on April 4, 2011, the Agency and City Council held a joint public hearing on the proposed Agreement, at which time the Agency reviewed and evaluated all of the information, testimony, and evidence presented during the joint public hearing; and

WHEREAS, all actions required by all applicable law with respect to the proposed Agreement have been taken in an appropriate and timely manner; and

WHEREAS, the City Council has duly considered all terms and conditions of the proposed Agreement and believes that it is in the best interests of the City of Montclair and the health, safety, and welfare of its residents and in accord with the public purposes and provisions of applicable state and local laws and requirements.

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

Section 1. The City Council finds and determines that, based upon substantial evidence provided in the record before it, the aggregate consideration for the Agency's sale of the Properties pursuant to the terms and conditions of the Agreement is not less than the aggregate fair reuse value of the Properties at the use and with the covenants, conditions precedent, conditions subsequent, and development costs authorized by the Agreement.

Section 2. The City Council hereby finds that the sale of the Properties pursuant to the Agreement will provide affordable housing for low and moderate income persons.

Section 3. The City Council hereby finds and determines that the Agreement is consistent with the provisions and goals of each Redevelopment Plan and corresponding Implementation Plan.

Section 4. The City Council hereby approves and consents to the Agency's approval of the Agreement and authorizes the Agency to enter into the Agreement. A copy of the Agreement when executed shall be placed on file in the Office of the City Clerk.

Section 5. The Deputy City Clerk shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED this XX day of XX, 2011.

Mayor

ATTEST:

Deputy City Clerk

I, Yvonne Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 11-2894 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 Smith
Deputy City Clerk

EXHIBIT "A"

SINGLE-FAMILY PROPERTIES
9448 Carrillo Avenue
9644 Central Avenue
9741 Central Avenue
9751 Central Avenue
9761 Central Avenue
9815 Central Avenue
9916 Central Avenue
9945 Central Avenue
9963 Central Avenue
10079 Central Avenue
10087 Central Avenue
10215 Central Avenue
10235 Central Avenue
9010 Fremont Avenue
5290 Orchard Street
10291 Greenwood Avenue
5225 Palo Verde Street
5444 Palo Verde Street

MULTIFAMILY PROPERTIES
4275 Kingsley Street
10313 Amherst Avenue
10323 Amherst Avenue
10330 Amherst Avenue
10333 Amherst Avenue
10380 Amherst Avenue
10383 Amherst Avenue
10390 Amherst Avenue
10410 Amherst Avenue
4791 Canoga Street
4811 & 4820 Canoga Street
10333 Pradera Avenue
10380 Pradera Avenue
10390 Pradera Avenue

RESOLUTION NO. 11-03

A RESOLUTION OF THE CITY OF MONTCLAIR REDEVELOPMENT AGENCY APPROVING AGREEMENT NO. 11-42, AN AFFORDABLE HOUSING AGREEMENT BY AND BETWEEN THE AGENCY AND THE MONTCLAIR HOUSING CORPORATION, AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH

WHEREAS, the City of Montclair Redevelopment Agency (the "Agency") is engaged in activities necessary to carry out and implement the Redevelopment Plans for the Agency's Redevelopment Project Area No. I, Redevelopment Project Area No. II, Redevelopment Project Area No. III, Redevelopment Project Area No. IV, Redevelopment Project Area No. V, and the Mission Boulevard Joint Redevelopment Project Area (each, a "Redevelopment Project") (collectively, the "Redevelopment Projects"); and

WHEREAS, Montclair Housing Corporation ("MHC") has expressed its desire to acquire the properties set forth in Exhibit "A" (attached hereto and incorporated herein) (the "Properties"), which Properties are currently owned by the Agency; and

WHEREAS, MHC desires to acquire the Properties, and to operate each as either a single-family or multifamily housing development (collectively, the "Project"); and

WHEREAS, MHC has submitted to the Agency and the City Council of the City of Montclair (the "City Council") copies of an Affordable Housing Agreement (the "Agreement") in a form executed by MHC; and

WHEREAS, pursuant to Section 33433 of the Community Redevelopment Law (California Health and Safety Code Section 33000, *et seq.*), the Agency is authorized, with the approval of the City Council after a duly noticed public hearing, to sell Properties for development pursuant to the Redevelopment Plan upon a determination by the City Council that the sale of the property will either assist in the elimination of blight or provide affordable housing for low and moderate income persons, that the consideration for such sale is not less than either the fair market value or fair reuse value in accordance with the covenants and conditions governing the sale and the development costs required thereof, and that the sale is consistent with the Implementation Plan which has been adopted by the Agency for the Redevelopment Project; and

WHEREAS, the Agreement would generally provide as follows: (i) that a total of eighteen (18) single-family housing units will be made available and rented to moderate income households at an affordable rent; (ii) that a total of thirty-nine (39) multifamily housing units will be made available and rented to moderate income households at an affordable rent; and (iii) that a total of forty (40)

multifamily housing units will be made available and rented to very low income households at an affordable rent; and

WHEREAS, the total aggregate purchase price for the Properties under the Agreement is not less than the total aggregate fair market value of the Properties and the reuse value of the Properties, at the use and with the covenants, conditions precedent, conditions subsequent and development costs authorized by the Agreement, as determined by the reuse analysis of the Agreement which has been performed by the Agency's financial consultants; and

WHEREAS, the Agency has adopted an Implementation Plan for each Redevelopment Project pursuant to Health and Safety Code Section 33490, which identifies goals and objectives including providing for the construction of affordable housing; and

WHEREAS, the Agreement would assist the Agency in meeting the goals and objectives set forth in the Implementation Plan by the operation of the Project; and

WHEREAS, a joint public hearing of the Agency and City Council on the proposed Agreement was duly noticed in accordance with the requirements of Health and Safety Code Sections 33431 and 33433, and the proposed Agreement and a summary report meeting the requirements of Health and Safety Code Section 33433 was available for public inspection prior to the joint public hearing consistent with the requirements of Health and Safety Code Section 33433; and

WHEREAS, on April 4, 2011, the Agency and City Council held a joint public hearing on the proposed Agreement, at which time the Agency reviewed and evaluated all of the information, testimony, and evidence presented during the joint public hearing; and

WHEREAS, all actions required by all applicable law with respect to the proposed Agreement have been taken in an appropriate and timely manner; and

WHEREAS, the Agency has duly considered all terms and conditions of the proposed Agreement and believes that it is in the best interests of the City of Montclair and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local laws and requirements.

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

Section 1: The Agency finds and determines that, based upon substantial evidence provided in the record before it, the aggregate consideration for the Agency's sale of the Properties pursuant to the terms and conditions of the Agreement is not less than the aggregate fair reuse value of the Properties, at the use and with the covenants; conditions precedent, conditions subsequent and development costs authorized by the Agreement.

Section 2: The Agency hereby finds that the sale of the Properties pursuant to the Agreement will provide affordable housing for low and moderate income persons.

Section 3: The Agency hereby finds and determines that the Agreement is consistent with the provisions and goals of each Redevelopment Plan and corresponding Implementation Plan.

Section 4: The Agency hereby approves the Agreement and authorizes and directs the Chairman of the Agency to execute the Agreement on behalf of the Agency. A copy of the Agreement when executed shall be placed on file in the Office of the Agency Secretary. The Executive Director of the Agency, or designee, is authorized to implement the Agreement and take all further actions and execute all escrow documents and other documents that are necessary or appropriate to carry out the Agreement.

Section 5: The Agency Secretary shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED this XX day of XX, 2011.

Vice Chairperson

ATTEST:

Secretary

I, Yvonne L. Smith, Secretary of the City of Montclair Redevelopment Agency, DO HEREBY CERTIFY that Resolution No. 11-03 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

EXHIBIT "A"

SINGLE-FAMILY PROPERTIES
9448 Carrillo Avenue
9644 Central Avenue
9741 Central Avenue
9751 Central Avenue
9761 Central Avenue
9815 Central Avenue
9916 Central Avenue
9945 Central Avenue
9963 Central Avenue
10079 Central Avenue
10087 Central Avenue
10215 Central Avenue
10235 Central Avenue
9010 Fremont Avenue
5290 Orchard Street
10291 Greenwood Avenue
5225 Palo Verde Street
5444 Palo Verde Street

MULTIFAMILY PROPERTIES
4275 Kingsley Street
10313 Amherst Avenue
10323 Amherst Avenue
10330 Amherst Avenue
10333 Amherst Avenue
10380 Amherst Avenue
10383 Amherst Avenue
10390 Amherst Avenue
10410 Amherst Avenue
4791 Canoga Street
4811 & 4820 Canoga Street
10333 Pradera Avenue
10380 Pradera Avenue
10390 Pradera Avenue

RESOLUTION NO. 11-01

A RESOLUTION OF THE MONTCLAIR HOUSING CORPORATION APPROVING AGREEMENT NO. 11-42, AN AFFORDABLE HOUSING AGREEMENT BY AND BETWEEN THE AGENCY AND THE MONTCLAIR HOUSING CORPORATION AND MAKING CERTAIN FINDINGS IN CONNECTION THEREWITH

WHEREAS, the City of Montclair Redevelopment Agency (the "Agency") is engaged in activities necessary to carry out and implement the Redevelopment Plans for the Agency's Redevelopment Project Area No. I, Redevelopment Project Area No. II, Redevelopment Project Area No. III, Redevelopment Project Area No. IV, Redevelopment Project Area No. V, and the Mission Boulevard Joint Redevelopment Project Area (each, a "Redevelopment Project") (collectively, the "Redevelopment Projects"); and

WHEREAS, Montclair Housing Corporation ("MHC") Board has expressed its desire to acquire the properties set forth in Exhibit "A" (attached hereto and incorporated herein) (the "Properties"), which Properties are currently owned by the Agency; and

WHEREAS, MHC Board desires to acquire the Properties and to operate each as either a single-family or multifamily housing development (collectively, the "Project"); and

WHEREAS, the MHC Board has submitted to the Agency Board and the City Council of the City of Montclair (the "City Council") copies of an Affordable Housing Agreement (the "Agreement") in a form executed by MHC; and

WHEREAS, pursuant to Section 33433 of the Community Redevelopment Law (California Health and Safety Code Section 33000, *et seq.*), the Agency is authorized, with the approval of the City Council after a duly noticed public hearing, to sell Properties for development pursuant to the Redevelopment Plan upon a determination by the City Council that the sale of the property will either assist in the elimination of blight or provide affordable housing for low and moderate income persons, that the consideration for such sale is not less than either the fair market value or fair reuse value in accordance with the covenants and conditions governing the sale and the development costs required thereof, and that the sale is consistent with the Implementation Plan which has been adopted by the Agency for the Redevelopment Project; and

WHEREAS, the Agreement would generally provide as follows: (i) that a total of eighteen (18) single-family housing units will be made available and rented to moderate income households at an affordable rent; (ii) that a total of thirty-nine (39) multifamily housing units will be made available and rented to moderate income households at an affordable rent; and (iii) that a total of forty (40) multifamily housing units will be made available and rented to very low income households at an affordable rent; and

WHEREAS, the total aggregate purchase price for the Properties under the Agreement is not less than the total aggregate fair market value of the Properties and the reuse value of the Properties at the use and with the covenants, conditions precedent, conditions subsequent, and development costs authorized by the Agreement as determined by the reuse analysis of the Agreement, which has been performed by the Agency's financial consultants; and

WHEREAS, the Agency Board has adopted an Implementation Plan for each Redevelopment Project pursuant to Health and Safety Code Section 33490, which identifies goals and objectives including providing for the construction of affordable housing; and

WHEREAS, the Agreement would assist the Agency in meeting the goals and objectives set forth in the Implementation Plan by the operation of the Project; and

WHEREAS, a joint public hearing of the Agency Board and City Council on the proposed Agreement was duly noticed in accordance with the requirements of Health and Safety Code Sections 33431 and 33433, and the proposed Agreement and a summary report meeting the requirements of Health and Safety Code Section 33433 was available for public inspection prior to the joint public hearing consistent with the requirements of Health and Safety Code Section 33433; and

WHEREAS, on April 4, 2011, the Agency Board and City Council held a joint public hearing on the proposed Agreement, at which time the Agency Board reviewed and evaluated all of the information, testimony, and evidence presented during the joint public hearing; and

WHEREAS, all actions required by all applicable law with respect to the proposed Agreement have been taken in an appropriate and timely manner; and

WHEREAS, the MHC Board has duly considered all terms and conditions of the proposed Agreement and believes it is in the best interests of the City of Montclair and the health, safety, and welfare of its residents and in accord with the public purposes and provisions of applicable state and local laws and requirements.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Montclair Housing Corporation does hereby find and determine as follows:

Section 1. The MHC Board finds and determines that, based upon substantial evidence provided in the record before it, the aggregate consideration for the Agency's sale of the Properties pursuant to the terms and conditions of the Agreement is not less than the aggregate fair reuse value of the Properties at the use and with the covenants, conditions precedent, conditions subsequent, and development costs authorized by the Agreement.

Section 2. The MHC Board hereby finds that the sale of the Properties pursuant to the Agreement will provide affordable housing for low and moderate income persons.

Section 3. The MHC Board hereby finds and determines that the Agreement is consistent with the provisions and goals of each Redevelopment Plan and corresponding Implementation Plan.

Section 4. The MHC Board hereby approves the Agreement and authorizes and directs the MHC Chairman to execute the Agreement on behalf of the MHC. A copy of the Agreement when executed shall be placed on file in the Office of the MHC Secretary. The Executive Director of the MHC, or designee, is authorized to implement the Agreement and take all further actions and execute all escrow documents and other documents that are necessary or appropriate to carry out the Agreement.

Section 5. The MHC Secretary shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED this XX day of XX, 2011.

Vice Chairperson

ATTEST:

Secretary

I, Yvonne L. Smith, Secretary of the Montclair Housing Corporation, DO HEREBY CERTIFY that Resolution No. 11-01 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

EXHIBIT "A"

SINGLE-FAMILY PROPERTIES
9448 Carrillo Avenue
9644 Central Avenue
9741 Central Avenue
9751 Central Avenue
9761 Central Avenue
9815 Central Avenue
9916 Central Avenue
9945 Central Avenue
9963 Central Avenue
10079 Central Avenue
10087 Central Avenue
10215 Central Avenue
10235 Central Avenue
9010 Fremont Avenue
5290 Orchard Street
10291 Greenwood Avenue
5225 Palo Verde Street
5444 Palo Verde Street

MULTIFAMILY PROPERTIES
4275 Kingsley Street
10313 Amherst Avenue
10323 Amherst Avenue
10330 Amherst Avenue
10333 Amherst Avenue
10380 Amherst Avenue
10383 Amherst Avenue
10390 Amherst Avenue
10410 Amherst Avenue
4791 Canoga Street
4811 & 4820 Canoga Street
10333 Pradera Avenue
10380 Pradera Avenue
10390 Pradera Avenue

AGREEMENT NO. 11-43

MONTCLAIR HOUSING CORPORATION

PROMISSORY NOTE 11-02

April 4, 2011

\$12,141,000

Montclair, California

FOR VALUE RECEIVED, on or before April 4, 2066, the MONTCLAIR HOUSING CORPORATION, a California nonprofit public benefit corporation ("MHC"), as maker and obligor, promises to pay to the CITY OF MONTCLAIR REDEVELOPMENT AGENCY, a public body, corporate and politic ("Agency"), as holder and beneficiary, or order, at Agency's office at 5111 Benito Street, Montclair, California 91763, or such other place as Agency may designate in writing, the sum of Twelve Million One Hundred Forty-One Thousand Dollars (\$12,141,000) or so much thereof as may be disbursed hereunder ("Note Amount") in currency of the United States of America, which at the time of payment is lawful for the payment of public and private debts.

1. **Agreement.** This Promissory Note ("Note") is given in accordance with that certain Affordable Housing Agreement executed by MHC and Agency and dated as of April 4, 2011 ("Agreement"). The rights and obligations of MHC and Agency under this Note shall be governed by the Agreement and by the additional terms set forth in this Note. In the event of any conflict or inconsistencies between the terms of this Note and the terms of the Agreement or any other document related to the Note Amount, the terms of this Note shall prevail. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Agreement.

2. **Interest.** The Note Amount shall bear no interest.

3. **Repayment of Note Amount.** Note Amount shall be repayable in fifty-five (55) annual installments commencing on the first anniversary of this Note and continuing on each anniversary thereafter until the Note Amount is paid in full. Notwithstanding the foregoing, the fifty-five (55) annual installments shall be forgiven as each installment becomes due if, and only if, MHC is in full compliance with the terms of the Agreement, the terms of the CC&Rs recorded as an encumbrance to each Property, and the terms of this Note.

4. **Waivers.**

(a) MHC expressly agrees that this Note or any payment hereunder may be extended from time to time at Agency's sole discretion and that Agency may accept security in consideration for any such extension at its sole discretion and without in any way affecting the liability of MHC.

(b) No extension of time for payment of this Note made by agreement by Agency with any person now or hereafter liable for the payment of this Note shall operate to release, discharge, modify, change or affect the original liability of MHC under this Note, either in whole or in part.

(c) The obligations of MHC under this Note shall be absolute and MHC waives any and all rights to offset, deduct or withhold any payments or charges due under this Note for any reasons whatsoever.

(d) MHC waives presentment, demand, notice of protest and nonpayment, notice of default or delinquency, notice of acceleration, notice of costs, expenses or leases or interest thereon, notice of dishonor, diligence in collection or in proceeding against any of the rights or interests in or to properties securing this Note, and the benefit of any exemption under any homestead exemption laws, if applicable.

(e) No previous waiver and no failure or delay by Agency in acting with respect to the terms of this Note shall constitute a waiver of any breach, default, or failure or condition under this Note. A waiver of any term of this Note must be made in writing and shall be limited to the express written terms of such waiver.

5. Amendments and Modifications. This Note may not be changed orally, but only by an amendment approved by Agency and evidenced in a writing signed by MHC and by Agency.

6. Miscellaneous. Time is of the essence hereof. This Note shall be governed by and construed under the laws of the State of California except to the extent Federal laws preempt the laws of the State of California.

7. Entire Agreement. This Note and the relevant provisions of the Agreement constitute the entire agreement and understanding between and among the parties in respect of the subject matter of such agreements and supersede all prior agreements and understandings with respect to such subject matter, whether oral or written.

IN WITNESS WHEREOF, this Note has been executed this 5th day of April, 2011.

MHC:

MONTCLAIR HOUSING CORPORATION,
a California nonprofit public benefit
corporation

By _____
Paul M. Eaton, Chairman

ATTEST:

Yvonne L. Smith, Secretary

AGENDA REPORT

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

DATE: April 4, 2011
SECTION: ADMIN. REPORTS
ITEM NO.: 1
FILE I.D.: PDT362
DEPT.: POLICE

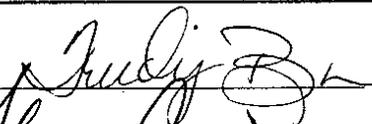
REASON FOR CONSIDERATION: The Police Department would like to reallocate Fiscal Year 2009-10 Supplemental Law Enforcement Services (SLES) funds, which requires a public hearing be conducted to receive public comment.

BACKGROUND: The City Council approved allocation of Fiscal Year 2009-10 SLES funds on November 16, 2009. On June 7, 2010, the City Council approved the reallocation of unexpended grant funds to cover a potential shortfall in Patrol overtime in the Police Department's Fiscal Year 2010-11 Budget. Through meticulous planning and management of overtime scheduling, the Department is on course to complete the 2010-11 fiscal year utilizing only General Fund moneys. Staff would like to reallocate \$44,910 of 2009-10 SLES funds to Patrol overtime before the funds expire on June 30, 2011. Specifications for the reallocation will be made available for City Council and public review and consideration at the proposed April 18, 2011 public hearing.

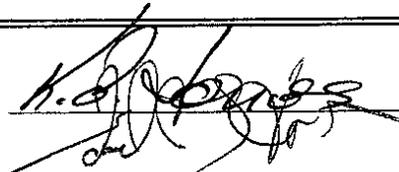
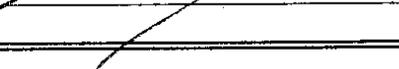
FISCAL IMPACT: The City Council's reallocation of Fiscal Year 2009-10 Supplemental Law Enforcement Services funds would create no fiscal impact to the City.

RECOMMENDATION: Staff recommends the City Council set a public hearing for Monday, April 18, 2011, at 7:00 p.m. in the City Council Chambers to receive public comment on the reallocation and expenditure of Fiscal Year 2009-10 Supplemental Law Enforcement Services funds.

Prepared by:




Reviewed and
Approved by:

Proofed by:

Presented by:

AGENDA REPORT

SUBJECT: CONSIDER AUTHORIZATION TO PURCHASE
SIX 2011 FORD CROWN VICTORIA POLICE
INTERCEPTOR SEDANS FROM HEMBORG
FORD

DATE: April 4, 2011

SECTION: ADMIN. REPORTS

ITEM NO.: 2

FILE I.D.: VEH450

DEPT.: POLICE

REASON FOR CONSIDERATION: The City Council is requested to consider authorizing the purchase of six Ford Crown Victoria Police Interceptor sedans. Expenditures in excess of \$20,000 require City Council approval pursuant to the City's Purchasing Manual.

BACKGROUND: The Police Department anticipated replacing six 2005 high-mileage vehicles in the Fiscal Year 2011-12 Budget. Ford Motor Company has discontinued production of Crown Victoria Police Interceptor sedans and, effective March 1, 2011, is no longer accepting orders for the vehicles. Hemborg Ford is the only local dealership ordering the last production of this model.

If the Police Department does not purchase the Ford Crown Victoria sedans, the next Police vehicle of choice would be the Chevrolet Caprice at a cost of approximately \$4,000 more per vehicle than the Crown Victoria. The Chevrolet Caprice will not be available until December 2011.

The Montclair Police Department has one Crown Victoria on order to replace a vehicle that was involved in a traffic collision, and Hemborg Ford is willing to add the six vehicles to the previous order.

FISCAL IMPACT: The cost per vehicle would be \$23,087 including sales tax, document fees, and tire tax for an Equipment Replacement Fund expenditure of \$138,523.

RECOMMENDATION: Staff recommends the City Council authorize the purchase of six 2011 Ford Crown Victoria Police Interceptor sedans from Hemborg Ford.

Prepared by:

J. C. Gross
Sharon Agjanian

Reviewed and
Approved by:

R. A. [Signature]
[Signature]

Proofed by:

Presented by:

AGENDA REPORT

SUBJECT: CONSIDER AUTHORIZATION TO RECEIVE \$9,446 FROM A FEDERAL EMERGENCY MANAGEMENT AGENCY GRANT FOR PURCHASE OF WELLNESS/FITNESS AND AUDIOVISUAL EQUIPMENT

CONSIDER AUTHORIZATION OF A \$1,050 APPROPRIATION FROM THE CONTINGENCY ACCOUNT TO PAY THE REQUIRED 10 PERCENT FEDERAL EMERGENCY MANAGEMENT AGENCY MATCH FOR PURCHASE OF WELLNESS/FITNESS AND AUDIOVISUAL EQUIPMENT

DATE: April 4, 2011

SECTION: ADMIN. REPORTS

ITEM NO.: 3

FILE I.D.: EQS215-01/EQS215-11/FRD205

DEPT.: FIRE

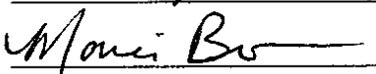
REASON FOR CONSIDERATION: The City Council is requested to consider authorizing the Fire Department to receive \$9,446 from a Federal Emergency Management Agency (FEMA) grant for purchase of wellness/fitness and audiovisual equipment and a \$1,050 appropriation from the Contingency Account to pay the required 10 percent FEMA match.

BACKGROUND: In early 2010, the Fire Department applied for and was awarded a FEMA Firefighters Assistance grant in the amount of \$24,000 for the purchase of washer-extractor systems for both Fire Stations. Utilizing the competitive bid process, the Fire Department purchased the washer-extractor systems for only \$13,504, significantly below the awarded \$24,000 grant. A FEMA representative advised Fire Department staff that the remaining of \$10,496 in grant funds may be applied toward additional department-related programs provided the City pays a 10 percent match required by the grant program. Also, FEMA stipulates that the remaining grant funds, which would be \$9,446 after the City's 10 percent match, must be used as follows: 50 percent of the funds (\$5,248) must be used for a specific Fire Department program, and the remaining 50 percent (\$5,248) may be applied to other multiple Fire Department programs.

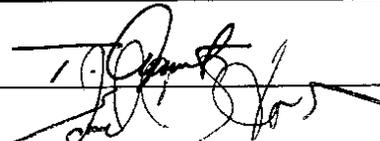
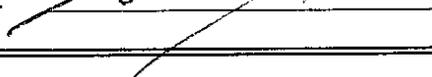
The Fire Department proposes 50 percent of the residual grant funds be used to replace obsolete Wellness/Fitness Program equipment and the remaining 50 percent be used for purchase of classroom audiovisual equipment to augment training requirements, eliminating the Department's reliance on the availability of other City equipment and support.

FISCAL IMPACT: The cost to purchase wellness/fitness and audiovisual equipment is \$10,496. Should the City Council approve this item, 90 percent of the cost (\$9,446) would be paid by the FEMA grant. The City Council is requested to authorize a \$1,050 appropriation from the Contingency Account to pay FEMA's required 10 percent match.

Prepared by: _____

Reviewed and
Approved by: _____

Proofed by: _____

Presented by: _____

RECOMMENDATION: Staff recommends the City Council take the following actions related to purchase of wellness/fitness and audiovisual equipment for Fire Station Nos. 1 and 2:

1. Authorize the Fire Department to receive \$9,446 from a Federal Emergency Management Agency grant.
2. Authorize a \$1,050 appropriation from the Contingency Account to pay the required 10 percent Federal Emergency Management Agency match.

AGENDA REPORT

SUBJECT: CONSIDER AUTHORIZATION TO ADVERTISE FOR BID PROPOSALS FOR THE MISSION BOULEVARD IMPROVEMENT PHASE 9 PROJECT	DATE: April 4, 2011
CONSIDER AUTHORIZING CITY MANAGER TO AWARD CONSTRUCTION CONTRACT TO AND EXECUTE AGREEMENT WITH LOWEST RESPONSIBLE, RESPONSIVE BIDDER AND INCLUDE A CONSTRUCTION CONTINGENCY OF 10 PERCENT	SECTION: ADMIN. REPORTS
	ITEM NO.: 4
	FILE I.D.: SSP178
	DEPT.: PUBLIC WORKS

REASON FOR CONSIDERATION: Advertising for bid proposals is subject to City Council approval.

BACKGROUND: The Fiscal Years 2008-2012 Capital Improvement Program has identified funding for various phases of the Mission Boulevard Improvement Project. The work is intended to enhance the appearance and improve the rideability of Mission Boulevard. Previously, the City has completed work on Phases 1 through 8.

The Mission Boulevard Improvement Phase 9 Project would commence where Phase 7 improvements ended at Pipeline Avenue and continue west to the City limits at the San Antonio Channel. The project work would include median islands with landscaping and irrigation; pavement reconstruction; addition of curb, gutter, and sidewalk; striping; crosswalk enhancements at major intersections; and street lighting.

FISCAL IMPACT: The cost of advertising this project should not exceed \$3,500. The project cost estimate is currently \$1.1 million. Funding for this project includes approximately \$600,000 of federal transportation funds through Transportation Enhancements. The funds were made available through the San Bernardino Associated Governments (SANBAG). The California Department of Transportation's approval is required prior to advertising and is currently in process. Approval is expected within the next few weeks. A bid opening is tentatively scheduled in June; but in the event it occurs after the deadline for the agenda, delegating the authority to award the construction contract to the City Manager would ensure the City's ability to have the contract awarded before the end of the year. Remaining costs would be funded with 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:

1. Authorize staff to advertise for bid proposals for the Mission Boulevard Improvement Phase 9 Project.
2. Authorize the City Manager to award construction contract to and execute Agreement with the lowest responsible, responsive bidder and include a construction contingency of 10 percent.

Prepared by: <u><i>mrock</i></u>	Reviewed and Approved by: <u><i>M. J. STATS</i></u>
Proofed by: <u><i>Alle M</i></u>	Presented by: <u><i>[Signature]</i></u>

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF WARRANT REGISTER AND PAYROLL DOCUMENTATION	DATE: April 4, 2011
	SECTION: ADMIN. REPORTS
	ITEM NO.: 5
BUSINESS PLAN: N/A	FILE I.D.: FIN540
	DEPT.: ADMIN. SVCS.

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

BACKGROUND: Mayor Pro Tem Raft has examined the Warrant Register dated April 4, 2011, and Payroll Documentation dated February 13, 2011; finds them to be in order; and recommends their approval.

FISCAL IMPACT: The Warrant Register dated April 4, 2011, totals \$972,213.18. The Payroll Documentation dated February 13, 2011, totals \$590,917.86, with \$417,892.13 being the total cash disbursement.

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

Prepared by:

Proofed by:

Reviewed and
Approved by:

Presented by:

AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 11-44 AMENDING AGREEMENT NO. 10-43 WITH THE SAN BERNARDINO COUNTY DEPARTMENT OF AGING AND ADULT SERVICES TO INCREASE FUNDING FOR THE SENIOR CITIZEN NUTRITION PROGRAM	DATE: April 4, 2011 SECTION: AGREEMENTS ITEM NO.: 1 FILE I.D.: HSV105 DEPT.: COMMUNITY DEV.
BUSINESS PLAN: N/A	

REASON FOR CONSIDERATION: The City Council is requested to consider approval of Agreement No. 11-44 amending Agreement No. 10-43 with the San Bernardino County Department of Aging and Adult Services (DAAS) to increase funding for the Senior Citizen Nutrition Program for Fiscal Year 2010-11. A copy of proposed Agreement No. 11-44 is attached for the City Council's review and consideration.

BACKGROUND: The San Bernardino County Department of Aging and Adult Services has awarded the City additional one-time-only (OTO) funding to purchase additional meals for the City's Senior Citizen Nutrition Program for persons aged 60 and older. Proposed Agreement No. 11-44 would amend Agreement No. 10-43 by increasing the City's funding by \$1,401 from the previous contract amount of \$94,010 for Fiscal Year 2010-11. Agreement No. 11-44 contains the proposed budget and OTO funding schedule.

The term of proposed Agreement No. 11-44 is July 1, 2010, through June 30, 2011.

FISCAL IMPACT: Should Agreement No. 11-44 be approved, the Fiscal Year 2010-11 funding would be increased by \$1,401 for purchase of additional meals for the City's Senior Citizen Nutrition Program. These funds have been allocated to the City through the Older Americans Act Title III grant funds.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 11-44 amending Agreement No. 10-43 with the Department of Aging and Adult Services to increase funding for the Senior Citizen Nutrition Program.

Prepared by:

M. Richter

Reviewed and
Approved by:

Steve Luster

Proofed by:

Christine Smichely

Presented by:

[Signature]

FOR COUNTY USE ONLY



County of San Bernardino

F A S

STANDARD CONTRACT

<input type="checkbox"/> New	Vendor Code	SC	Dept.	Contract Number				
<input checked="" type="checkbox"/> Change	CITYOFM731		OOA	10-317 A-1				
<input type="checkbox"/> Cancel								
County Department		Dept.	Orgn.	Contractor's License No.				
Aging and Adult Services		OOA						
County Department Contract Representative			Telephone	Total Contract Amount				
Wendy Everett			(909) 387-2917	\$ 95,411				
Contract Type								
<input type="checkbox"/> Revenue <input checked="" type="checkbox"/> Encumbered <input type="checkbox"/> Unencumbered <input type="checkbox"/> Other:								
If not encumbered or revenue contract type, provide reason:								
Commodity Code		Contract Start Date	Contract End Date	Original Amount	Amendment Amount			
95200		July 1, 2010	June 30, 2011	\$94,010	\$ 1,401			
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No	Amount		
AAF	OOA	210	200	2445		\$1,401		
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount		
Fund	Dept.	Organization	Appr.	Obj/Rev Source	GRC/PROJ/JOB No.	Amount		
Project Name			Estimated Payment Total by Fiscal Year					
Elderly Nutrition Services Program			FY	Amount	I/D	FY	Amount	I/D
			10/11	\$1401	I			

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

Name
 City of Montclair
 Address
 5111 Benito Street
 Montclair, CA 91763
 Telephone (909) 626-8571
 Federal ID No. or Social Security No. 95-6005731

hereinafter called Contractor

IT IS HEREBY AGREED AS FOLLOWS:

AMENDMENT NO. 1

It is hereby agreed to amend Contract No. 10-317 as follows:

III. CONTRACTOR GENERAL RESPONSIBILITIES

Paragraph B is amended to read as follows:

- B. Without the prior written consent of the Assistant Executive Officer for Human Services, this Contract is not assignable by Contractor either in whole or in part. Contractor agrees not to enter into any subcontracts for work contemplated under this Contract without first obtaining written approval from the Assistant Executive Officer – Human Services or his/her designee. Any subcontractor shall be subject to the same provisions as Contractor. Contractor shall be fully responsible for the performance of any subcontractor.

Auditor/Controller-Recorder Use Only

<input type="checkbox"/> Contract Database	<input type="checkbox"/> FAS
Input Date	Keyed By

Paragraph EE is added to read as follows:

EE. Subcontracting

1. General

- a. Without the prior written consent of the Director of DAAS or his/her designee, this Contract is not assignable by Contractor either in whole or in part. Contractor agrees not to enter into any subcontracts for work contemplated under this Contract without first obtaining written approval from the Director of DAAS or his/her designee. Any subcontractor shall be subject to the same provisions as Contractor. Contractor shall be fully responsible for the performance of any subcontractor. Contractor must include all required subcontract language in its contract with any subcontractor (see Attachment M-Required Subcontract Language).
- b. The Contractor shall have no authority to contract for, on behalf of, or incur obligations on behalf of the County.

2. Awards

- a. Policies and procedures used in processing and awarding the subcontracts must be:
 1. Organized and structured;
 2. Reasonable and equitable;
 3. Documented and approved by appropriate authorities;
 4. Consistent with applicable federal, state, and local procurement requirements;
 5. Uniformly applied; and
 6. Open for public review and scrutiny.
- b. Copies of subcontracts, memoranda and/or letters of understanding shall be on file with the Contractor and shall be made available for review at the request of the County.
- c. A copy of the executed subcontract shall be submitted to the Director of DAAS.

3. Financial

- a. Funds for this Contract shall not be obligated in subcontracts for services beyond the ending date of this Contract.
- b. Contractor must ensure costs incurred by the subcontractor are verifiable from their records.
- c. The Contractor shall review, approve, and monitor subcontractor performance, budgets and expenditures pertaining to the contracted service(s).
- d. If applicable¹, The Contractor shall monitor on an ongoing basis, the subcontractor's use of federal and state funds through reporting, site visits, regular contact or other means to provide reasonable assurance that the subcontractor administers funds in compliance with laws, regulations, and the provisions of contracts. (OMB Circular A-133.400(d)(3)).

¹ OMB applies if aggregate expenditures of \$500,000 in federal funds are spent in one fiscal year

- e. The maximum reimbursement amount allowable for indirect costs is 8% of subcontractor's direct costs, excluding in-kind contributions and nonexpendable equipment.
4. Monitoring
- a. Contractor shall monitor the budget and expenditures of its subcontractors and/or vendors.
 - b. Contractor shall report immediately to the DAAS in writing any incidents of alleged fraud and/or abuse by either the Contractor or Subcontractor.
 - c. The contractor shall monitor the insurance requirements of its subcontractors and/or vendors.
 - d. Contractor shall monitor the performance of its subcontractors and/or vendors requiring subcontractor to maintain adequate staff.
 - e. The contractor shall satisfy, settle, and resolve all administrative, programmatic, and fiscal aspects of the program(s), including issues that arise out of any subcontract agreement.
 - f. The contractor shall not delegate or contract the above responsibilities to any other entity, including but not limited to disputes, claims, protests of award, or other matters of a contractual nature.
 - g. The contractor will provide support and technical assistance to subcontractors and respond in writing to all written requests for direction, guidance, and interpretation of instructions to include client and service data.
5. Subcontract Termination
- a. Contractor shall notify DAAS in writing of termination of this subcontract within three (3) business days of receipt of notification of intent to terminate subcontracted service(s).

V. FISCAL PROVISIONS

Paragraph A is amended to read as follows:

- A. The maximum amount of funds available for payment under this Contract shall not exceed \$95,411 of which \$88,185 may be federally funded, and shall be subject to availability of funds to the County. The consideration to be paid to Contractor shall be in full payment for all Contractor's services and expenses incurred in the performance hereof, including travel and per diem.

Paragraph B is amended to read as follows:

- B. Contractor shall be compensated on a fee-for-service basis based on the following rate, as specified in Scope of Work (Attachment A):

Fiscal Year 2010/11 Congregate Site: \$5.53 per meal, up to 17,206 meals

Paragraph M, item 1 is amended to read as follows:

- M. Matching contributions
 - 1. The Contractor shall provide in-kind matching contributions of a minimum of \$9,508, which is the Title III portion of the Contract multiplied by 11.11%.

Paragraph N is amended to read as follows:

- N. The County shall pay Contractor for the authorized services of the previous month. Under normal conditions, Contractor shall expect payment approximately 45 days after submission of a correctly prepared invoice.

VII. CORRECTION OF PERFORMANCE DEFICIENCIES

Section C is amended to read as follows:

C. Appeal Procedures

If Contractor disagrees with any decision or action taken by the County or DAAS related to this Contract, Contractor may choose to file a formal grievance by following the procedures below:

1. The Contractor shall file a formal written grievance with the DAAS Deputy Director of Administrative Services ("DAAS Deputy Director") within fifteen (15) business days after the Contractor is aware of the factors or conditions precipitating the contract dispute. The written grievance shall set forth the subject of the grievance, identify the specific clause in dispute and shall provide a detailed statement of the grievance, including dates, names, places, and the specific remedy or action requested. The filing address is 686 East Mill Street, San Bernardino, California, 92415-0640. The DAAS Deputy Director shall provide a written response to Contractor within fifteen (15) business days of receipt of the grievance.
2. If Contractor is not satisfied with the DAAS Deputy Director's response, Contractor may file a written grievance appeal, which shall include a statement by the Contractor as to why the DAAS Deputy Director's response is not satisfactory, to the Director of DAAS within fifteen (15) business days of receipt of the DAAS Deputy Director's response. The filing address is 686 East Mill Street, San Bernardino, California, 92415-0640. The Director of DAAS shall provide a written response to Contractor within fifteen (15) business days. The Director of DAAS shall have final authority for the decision on the grievance except as provided below.
3. If Contractor is not satisfied with the DAAS Director's response, Contractor may file a written grievance appeal, which shall include a statement by the Contractor as to why the DAAS Director's response is not satisfactory, to the Assistant Executive Officer (AEO) of Human Services within fifteen (15) business days of receipt of the DAAS Director's response. The filing address is 385 North Arrowhead Avenue, Fifth Floor, San Bernardino, California, 92415-0128. The Assistant Executive Officer shall provide a written response to Contractor within fifteen (15) business days. The Assistant Executive Officer shall have final authority for the decision on the grievance except as provided below.
4. For those appeals which involve CDA programmatic policies and directives issued to the County and contained within this Contract, the following applies. If Contractor is not satisfied with the AEO's decision, the written grievance may be registered in writing with the CDA, Case Management Branch, 1300 National Drive, Suite 200, Sacramento, California, 95834, within fifteen (15) business days following receipt of the AEO's decision. Contractor shall submit to CDA the original written grievance along with a copy of the DAAS Deputy Director's written response, the Contractor's appeal to the Director of DAAS, the Director of DAAS' decision, the Contractor's appeal to the Assistant Executive Officer, and the Assistant Executive Officer's decision. CDA shall have final authority for the decision on the grievance.

X. GENERAL PROVISIONS

Paragraph D, items 1 and 17 are amended to read as follows.

1. Unless otherwise provided for in this Section, property refers to all assets, capitalized or non-capitalized, used in operation of this Contract.

- a. Property includes land, buildings, improvements, machinery, vehicles, furniture, tools, intangibles, etc.
 - b. Property does not include consumable office supplies such as paper, pencils, typing ribbons, file folders, etc.
17. All equipment purchases of \$5,000.00 or more, require the written approval of the Director of DAAS or his/her designee prior to purchase.

Paragraph D, item 18 is added to read as follows:

18. All property purchases require the following:
Contractor must seek bids from "multiple firms" in selecting a supplier of goods. "Multiple" firms means a minimum of three (3) separate and distinct business entities in competition to supply the same or similar good. When selecting a bid, Contractor must consider such factors as type of goods/supplies needed, cost, schedule, and availability.

ATTACHMENT A – SCOPE OF WORK: Fiscal Year 2010-11 dated March 7, 2011 is added to this Contract.
ATTACHMENT B – BUDGET – Fiscal Year 2010-11 dated March 14, 2011 is added to this Contract.
ATTACHMENT M – REQUIRED SUBCONTRACT LANGUAGE is added to this Contract.

All other terms and conditions remain in full force and effect.

COUNTY OF SAN BERNARDINO

City of Montclair

▶ _____
 Josie Gonzales, Chair, Board of Supervisors

By ▶ _____
 (Authorized signature - sign in blue ink)

Dated: _____

Name Paul M. Eaton
 (Print or type name of person signing contract)

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

Title Mayor
 (Print or Type)

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

Dated: _____

By _____
 Deputy

Address 5111 Benito Street
Montclair, CA 91763

ATTEST:

 Yvonne L. Smith
 Deputy City Clerk

Approved as to Legal Form ▶ Jacqueline Carey-Wilson, County Counsel Date _____	Reviewed by Contract Compliance ▶ Lory Klopfer, Contracts Manager Date _____	Presented to BOS for Signature ▶ Colleen Krygier, Director Date _____
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Input Date	Keyed By

San Bernardino County
Elderly Nutrition Program
Scope of Work
March 7, 2011

This Scope of Work contains the measurable objectives mandated by the Department of Aging and Adult Services (DAAS) and the California Department of Aging (CDA) required of the Elderly Nutrition Program (ENP) Provider. The Scope of Work specifies and establishes monthly, quarterly, and annual time frames and constitutes the primary document for on-going monitoring and annual Program and Fiscal monitoring. It will be used to measure the Provider's efforts towards providing quality nutrition services.

Contractor: City of Montclair

Service Area: Montclair

I. Program Description:

- A. Purpose – The purpose of the 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. Objectives:
 - 1. Give preference to older individuals in greatest economic or social need with particular attention to low-income minority individuals.
 - 2. Serve meals that provide one-third (1/3) of the Recommended Dietary Allowances (RDA's) and are safe and of good quality.
 - 3. Promote and maintain high food safety and sanitation standards.
 - 4. Promote good health behaviors through nutrition education and nutrition screening of participants.
 - 5. Promote or maintain coordination with other nutrition-related supportive services for older individuals.
- E. Target Population – The ENP Provider 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.

II. Eligibility for Nutrition Services:

- A. Congregate Meals – Individuals eligible to receive a meal at a congregate nutrition site are:
 - 1. Any older individual 60 or older.
 - 2. The spouse of any older individual 60 or older.
 - 3. A person with a disability, under age sixty (60) who resides in housing facilities occupied primarily by older individuals (60 or older) at which congregate nutrition services are provided.
 - 4. A disabled individual who resides at home with and accompanies an older individual who participates in the program.
- B. Volunteer Meals:
 - 1. A volunteer under age sixty (60) may be offered a meal if doing so will not deprive an older individual who is 60 or older of a meal.
- C. Home-Delivered Meals – Individuals eligible to receive a home-delivered meal are:
 - 1. Any older individual who is frail, as defined below, and homebound by reason of illness, disability, or isolation:
 - a) "Frail" means that an older individual is determined to be functionally impaired because the individual either:
 - (1) Is unable to perform at least two (2) activities of daily living, including bathing, toileting, dressing, feeding, breathing, transferring and mobility and associated

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tasks, without substantial human assistance, including verbal reminding, physical cueing or supervision.

- (2) Due to a cognitive or other mental impairment, requires substantial supervision because the older individual behaves in a manner that poses a serious health or safety hazard to the individual or to others.
2. A spouse of a person in sub-section (C)(1) above, regardless of age or condition, if an assessment concludes that it is in the best interest of the homebound older individual.
3. An individual with a disability who resides at home with older individuals if an assessment concludes that it is in the best interest of the homebound older individual who participates in the program.
4. Priority shall be given to older individuals in sub-section (C)(1) above.

III. Requirements for Nutrition Services:

A. Congregate Meals:

1. Each Congregate Meal Provider shall:
 - a) Include procedures for obtain the views of participants about the services received.
 - b) Not preclude the service of a meal to a participant who has failed to make a reservation when food is available.
 - c) Ensure each Congregate Meal participant completes sections I and IV of the Client Intake Sheet (provided by DAAS) on the first day of service and annually thereafter.
 - d) Maintain appropriate documentation on each client. Documentation shall be kept on file to be monitored by DAAS.
2. Each Congregate Meal site shall meet all of the following:
 - a) Have a paid staff or volunteer designated to be responsible for the day-to-day activities at each site, and physically be on-site during the time that ENP activities are taking place.
 - b) Have restrooms, lighting, and ventilation, which meet the requirements of CURFFL.
 - c) Have equipment, including tables and chairs that are sturdy and appropriate for older individuals. Tables shall be arranged to assure ease of access and encourage socialization.

B. Home-Delivered Meals:

1. Develop and implement criteria to assess the level of need for home-delivered nutrition services of each eligible participant.
 - a) An initial determination of eligibility may be accomplished by telephone. This initial contact with the participant shall include completion of sections I, II, III, and IV of the Client Intake Sheet (provided by DAAS).
 - b) A written assessment shall be done in the home within two (2) weeks of beginning meal service, and shall include an assessment of the type of meal appropriate for the participant in their living environment.
 - c) An older individual eligible for receiving home-delivered meals shall be assessed for need of nutrition-related supportive services, and referred as necessary.
 - d) Re-assessment of need shall be determined quarterly. Such re-assessment shall be done in the home of the participant at least every other quarter. Each quarter's re-assessment shall include completion of sections I, II, III, and IV of the Client Intake Sheet (provided by DAAS).
2. Provide written instructions, in the language of the majority of the participants, for handling and re-heating of the meals.
3. Establish a waiting list for home-delivered meals whenever the home-delivered meal providers are unable to provide meals to all eligible individuals. The decision to place eligible recipients of a home-delivered meal on a waiting list, and their position on such a list, shall be based on greatest need and-or in accordance with policy established by the home-delivered meal provider, in consultation with DAAS

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4. Provide home-delivered meals in pre-packaged divided trays (hot or frozen meals).
5. Maintain appropriate documentation on each client. Documentation shall be kept on file to be monitored by DAAS.

IV. Program Outcomes:

A. Total Number of Meals to be Served: 17,206**

1. A minimum of 95% of the total number of meals is to be provided. The Director of DAAS must approve requests to serve less than 95% of the total number of meals to be provided. All such requests must be in writing.

Program: C-1 (Congregate Meals)	Program C-2 (Home-Delivered Meals)
# of Days of Service: 251	# of Days of Service:
Number of Meals: 17,206	Number of Meals:
Sites to be Served: Montclair Community/Senior Center	Areas to be Served:

V. Staffing:

A. Manager or Director:

1. The ENP provider shall have a manager on staff who shall conduct the day-to-day management and administrative functions of the ENP, and either have (1), (2), or (3):
 - a) Possess an associate degree in institutional food service management, or a closely related field, such as, but not limited to, restaurant management, plus two (2) years experience as a food service supervisor, or,
 - b) Demonstrate experience in food service, such as, but not limited to, cooking at a restaurant, and within twelve (12) months of hire successfully complete a minimum of twenty (20) hours specifically related to food service management, business administration, or personnel management at a college level. Prior to completion of meeting the hours, this individual's performance shall be evaluated through quarterly monitoring by a registered dietitian, or,
 - c) Two years experience managing food services. Such experience shall be verified and approved by a registered dietitian prior to hire.
2. The ENP Provider shall maintain documentation on file of the qualifications of the Program Manager or staff.
3. If the Provider has more than one site, the Manager/Director shall monitor the sites on a bi-monthly basis. The bi-monthly visit shall be for the purpose of monitoring the food service practices of the employees and the implementation of the program requirements at the site level. Documentation of each visit shall be maintained on file for DAAS review.

B. Personnel – Paid Staff/Volunteers:

1. There shall be sufficient qualified paid staff or volunteer staff with the appropriate education and experience to carry out the requirements of the ENP. The total number of staff should be based on the method and level of services provided and size of the service area.
2. Contractor is encouraged to hire multi-lingual/multi-cultural staff to increase low-income and ethnic minority program participation in accordance with federal mandates.
3. Contractor shall recruit for vacant positions in an open and competitive application process free of discriminatory questions. Written job descriptions for all paid and volunteer staff shall be maintained.
4. Contractor shall complete a written work performance evaluation on all paid and volunteer staff at least annually.
5. All staff, paid and volunteer, that will be handling food must be in possession of a current Food Handlers Card.
6. Volunteers shall be recruited and used in any phase of the program operation where qualified.

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7. Volunteers shall be screened and selected through a formal process that assesses their capabilities.
 8. Volunteers shall receive the same training as paid staff.
 9. Volunteers that are paid through other job training programs are not considered volunteers and must be paid the agreed upon rate charged for regular paid staff.
 10. The ENP Provider shall maintain a written Volunteer Policy that describes how volunteers are recruited, screened, what topics they are taught at orientation, and how often their performance is evaluated.
- C. Registered Dietitian:
1. Each ENP Provider shall establish and administer nutrition services with the advice of a Registered Dietitian in accordance with Section 339 of the OAA, and follow the general requirements in Title 22, Division 1.8, Section 7500.
 2. The Registered Dietitian will provide the following activities to meet the mandated requirements:
 - a) At a minimum, quarterly monitor for safe food handling and sanitation practices of food facilities.
 - b) Review and approve the content of staff training prior to presentation.
 - c) Develop, or review and approve the cycle menus.
 - d) Provide input, review, and approve the Nutrition Education Plan prior to presentation.
 - e) Provide technical support and assistance as needed.

VI. Staff Training Activities:

- A. A yearly written Staff Training Plan shall be developed, implemented, and maintained on file by the ENP Provider, as required in Title 22, Division 1.8, Section 7636.7(c).
- B. The Provider's Registered Dietitian shall review and approve the content of the Plan prior to presentation.
- C. The Staff Training Plan must identify who is to be trained, who will conduct the training, content of the training, and when it is scheduled.
- D. A copy of the Staff Training Plan that has been approved by the Provider's Registered Dietitian must be submitted to DAAS by September 1st of the FY it is being provided in. The DAAS Registered Dietitian will review and approve the Staff Training Plan and return it to the Provider. The DAAS approved Staff Training Plan must be kept on file.
- E. A minimum of four (4) hours of staff training shall be provided annually for paid and volunteer food service staff, including congregate and home-delivered meal staff.
- F. Training sessions shall be evaluated by those receiving the training.
- G. The ENP Provider shall maintain documentation of each training session on file. Documentation includes, but is not limited to, sign-in sheets, agendas, handouts, and completed evaluations.
- H. All staff, paid and volunteer, shall be oriented and trained to perform their assigned responsibilities and tasks. Training, at a minimum, shall include:
 1. Food safety, prevention of food borne illness, and Hazard Analysis Critical Control Points (HACCP) principles.
 2. Accident prevention, instruction on fire safety, first aid, choking, earthquake preparedness, and other emergency procedures.
 3. Elder Abuse Law and reporting procedures.

VII. Senior Participants:

- A. Satisfaction Survey:
 1. The ENP Provider shall conduct a Client Satisfaction Survey at least annually. The Survey instrument must be approved by DAAS prior to its use, and all findings from the Survey must be used to improve services. The Provider must keep the completed Surveys and the tabulated results on file. A copy of the tabulated results must be submitted to DAAS by March 3rd of the FY it is being conducted for.

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B. Complaint Procedures:

1. Each Provider shall have a written Complaint Procedure.
2. The Complaint Procedure will be available for the participants and will provide them the opportunity to provide positive as well as negative feedback to the Program Manager.
3. The Provider shall have an assessment tool readily accessible for the seniors attending the congregate site or receiving a home-delivered meal.

C. Nutrition Education Services for Participants:

1. Nutrition Education shall be provided a minimum of four (4) times per year to participants in congregate and home-delivered meal programs.
 - a) Nutrition Education for congregate sites is defined as demonstrations, presentation, lectures or small group discussions, all of which may be augmented with printed materials.
 - b) Nutrition Education for home-delivered meal participants may consist solely of printed material that is in conjunction with a congregate meal Nutrition Education presentation.
2. Nutrition Education shall be based on the particular need of congregate and home-delivered meal participants. An annual Needs Assessment shall be performed by the ENP Provider to make this determination.
3. The Nutrition Education Plan and annual Needs Assessment must be submitted to DAAS by September 1st of the FY it is being provided in.
4. 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: 1,200	# of Units to be Provided:
# of Sites to be Presented at: 1	# of Participants to be Presented to:

VIII. Menu Planning Guidelines/Menu Requirements:

- A. A minimum of a 3-month cycle shall be planned and submitted to DAAS.
- B. Menu cycles shall include the availability of seasonal foods.
- C. Health, cultural, ethnic and regional dietary practices shall be considered in menu planning, food selection, and meal preparation.
- D. The menu cycle shall be approved by the Provider's Registered Dietitian and upon approval forwarded to the DAAS Registered Dietitian for certification. Menus shall be submitted to the DAAS Registered Dietitian forty-five (45) days prior to the menu start date. Allow thirty (30) days for the menu certification process. Menus will be returned to the Provider at least fifteen (15) days prior to the menu start date. ENP Providers are required to have menus certified prior to the menu start date. All signatures on the menu shall be original signatures.
- E. A copy of the certified menu must be posted in a spot conspicuous to clients at each congregate site.
- F. Copies of the menus shall be made available to the participants upon request.
- G. When planning the menus, the California Daily Food Guide and the Dietary Guidelines for Americans (DGA) are to be considered. Menus shall conform to the following criteria referenced in the sources:
 1. Provide an average of 550-750 calories per meal.
 2. Limit total fat to no more than 25-30% of the calories averaged for the week.
 3. Choose and prepare foods with low amounts of salt, soy sauce and other high sodium items.
 4. Include good sources of dietary fiber such as whole grains and cooked dry beans at least four times a week.
 5. Include a variety of foods and preparation methods with consideration to color, combinations, texture, size, shape, taste, and preference of the participants served.

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6. Dietary Reference Intake Values:

1. Table one (1) represents the most current Dietary Reference Intakes (DRI) values and daily compliance range for target nutrients. The values provided are based on the U.S. Department of Agriculture (USDA) Food Guide calculated for one (1) meal for a woman over seventy (70) years of age whose activity level is sedentary. This example represents a majority of the older adult population served by the ENP statewide.

a. The nutrients selected for this Table are based on the target nutrients to:

- i. Promote health and prevent disease
- ii. Prevent deficiencies
- iii. Indicate diet quality
- iv. Manage disease

Table 1**Target Nutrients**

Nutrient	Target Value * per meal	Daily Compliance Range
Calories (Kcal)	>550 Kcal	>550 – 700 Kcal
Protein	14 gm	14 gm (in the entrée)
Fat (% of total calories)	30%	<35% weekly average
Vitamin A (ug)	250 ug	> 250 ug 3 out of 5 days /wk or 4 out of 7 days/wk
Vitamin C (mg)	25 mg	25 mg
Vitamin B6 (mg)	0.5 mg	>0.5 mg
Vitamin B12 (ug) **	0.8 ug	0.8 ug **
Calcium (mg)	400 mg	>400 mg
Magnesium (mg)	140 mg	>140 mg
Zinc (mg) **	2.6 mg	>2.6 mg **
Sodium (mg)	<800 mg	<1,200 mg (over 1,000 mg place an icon on the menu)
Fiber (gm)	>7 gm	>7 gm
Potassium (gm) **	1565 mg	1565 mg **
Vitamin D	200 IU	200 IU
Vitamin E **	5 IU	Provide education **

*Target Value: This value represents one-third of the DRI for a 1600 calorie range. The 1600 calorie range was chosen based on the requirements for a 70-year-old sedentary female. If a majority of the senior population served by the AAA ENP Program differs from the above example, use your ENP predominate demographic characteristics to calculate target nutrient values.

** If these elements are not provided to the level noted as a weekly average, the Program must educate the participants on how to obtain these elements.

NOTE: Fortified foods should be used to meet vitamin B12 needs.

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Recommended sodium content was liberalized based on the information from the Mathematical study data which indicated that, for many participants, the ENP meal provides 40-50 percent of the participants' daily intake.

7. Component Meal Pattern Requirements:

1. The California 1600-calorie component meal pattern has been developed to reflect the new DGA requirements for those programs that are not using computerized nutrient analysis.
2. The ENP Provider has the discretion to allow occasional flexibility in planning meals that may not meet the meal pattern, but does meet the nutrient value requirements. Fortified food products and combination dishes used in a menu may not match the meal pattern, but may provide for the required nutrient values. For example, a fortified snack bar as a dessert could be used to boost the nutrient value of a boxed lunch or special occasion meal.
3. Items that provide the following target nutrients should be identified on the menu when using a component meal pattern template:
 - a. Vitamin C – Provide one-third (1/3) of the DRI for vitamin C each meal – 25 mg (for a 1600-calorie menu).
 - b. Vitamin A – Provide one-third (1/3) of the DRI for vitamin A at least three (3) times per week, 250 µg (for a 1600-calorie menu).
 - c. Sodium – meals that contain over 1,000 mg of sodium must be noted on the menu as a high sodium meal.
4. Table two (2) describes the elements in the California 1600-calorie meal pattern. Serving sizes are based on the USDA Food Guide Pyramid. This sample component meal pattern does not assure that meals meet one-third (1/3) of the DRI's and the DGA. Meals will require specific types of fruits and vegetables, whole grains, and high fiber foods in order to assure the target nutrients are provided. The component meal pattern may be deficient in vitamins E, B12, and Zinc, requiring additional nutrition education for participants on the selection of foods that are good sources of these nutrients.
 - a. The meal pattern in Table two (2) below is based on the minimum requirements for a sedentary female 70 years of age. If the majority of the population served by a provider falls within another requirement range (i.e. active 60 year old men), the serving sizes and minimum number of servings required can be adjusted to meet the service population. ENP Providers should verify the population served and develop menu criteria accordingly.

Table 2
California 1600 Calorie per Day Component Meal Pattern
Minimum Recommended Elements

Food Group	Required servings for 550 calories per meal	Serving sizes for 1600 calorie level
Lean meat or beans	1 serving 2 ounces per meal	2 ounces = 1 serving
Vegetable	1 – 2 servings	½ cup = 1 serving
Fruit	1 serving	½ cup = 1 serving
Bread or Grain At least ½ whole grain	1 – 2 servings	1 slice Bread = 1 serving ½ cup of rice or pasta = 1 serving
Low-fat milk or milk alternate	1 serving	1 cup or equivalent measure

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Fat	Optional	
Dessert	Optional - limit sweets use fruit	Select foods high in fiber and low in fat and sugar

(1) The number of servings per meal estimates provision of one-third of the DRIs.

(2) Caloric value (1,600 Kcal/day) based on a 70-year-old female, "sedentary" physical activity level using Table 3 - Estimated Caloric Requirements in Each Gender and Age Group at Three Levels of Physical Activity, from the DGA 2005.

H. Meal Components – required for both computerized and component menus:

1. Protein – meat, fish, poultry, legumes, eggs, and cheese:
 - a) A minimum of 2.0 ounces of cooked, edible portions of meat, fish, poultry, legumes, eggs, cheese, (or a combination thereof) providing at least 14 grams of protein. Programs should consider the preferences of the participants they serve.
 - b) Legumes should not be counted as both vegetable and protein. ENP Providers may use other protein sources to provide the occasional vegetarian meal.
2. Vegetables (1-2 ½ cup servings):
 - a) Vegetables as a primary ingredient in soups, stews, casseroles, or other combination dishes should total ½ cup per serving.
 - b) Raw leafy vegetables (salads) should equal 1-cup if they are to be considered a serving.
3. Fruit (1 serving):
 - a) A serving of fruit equals:
 - (1) 1 medium sized whole fruit
 - (2) ½ cup fresh, chopped, cooked, frozen, or canned drained fruit
 - (3) ½ cup 100% fruit juice
 - b) Fresh, frozen, or canned fruit should be packed in juice, light syrup, or without sugar. Fruit packed in high sugar content syrup may be rinsed before using.
4. Breads/Grains (1 ounce equivalent serving):
 - a) One-half of the daily intake of grains should be from whole grains. Grains that are processed (not whole) must be fortified.
5. Milk (8 fl. oz.):
 - a) Each meal shall contain eight (8) fluid ounces of fortified skim, low fat, or buttermilk. If religious preference precludes the acceptance of milk with the meal, it may be omitted from the menu (however, an equivalent substitute must be used).
6. Fat (Optional):
 - a) Each meal may contain fat components to increase the palatability and acceptability of the meal.
 - b) When selecting and preparing meat, poultry, dry beans, and milk or milk products, make choices that are lean, low fat, or fat free.
 - c) Consume less than 10% of calories from saturated fatty acids and less than 300 mg/day of cholesterol, and keep trans fatty acid consumption as low as possible.
 - d) Keep total fat intake between 20 to 35 percent of calories, with most fats coming from sources of polyunsaturated and monounsaturated fatty acids such as fish, nuts, and vegetable oils.
7. Dessert (Optional):
 - a) Dessert may be provided as an option to satisfy the caloric requirements or for additional nutrients. Use fruit as a dessert as often as possible and limit sweets. The fruit, grains, and dairy products served as dessert can count towards the fruit, grain, or dairy requirements. Desserts that are low in fat and/or low in sugar are encouraged.

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- b) When a dessert contains ½ cup of fruit per serving, it may be counted as a serving of fruit.
 - c) When a dessert contains the equivalent of 1 serving (1 ounce) starches/grains per serving, it may be counted as a serving of starches/grains (example: rice pudding or oatmeal cookie).
 - d) When a dessert contains the equivalent of ½ cup of milk per serving, it may be counted as ½ serving of milk.
8. Condiments and Product Substitutes:
- a) Sugar substitutes, pepper, herbal seasonings, lemon, vinegar, non-dairy coffee creamer, salt, and sugar may be provided, but should not be counted as fulfilling any part of the nutritive requirements.
 - b) Condiments such as salad dressings, ketchup, soy sauce, mustard, and mayonnaise do not need to be counted in a menu analysis if they are served "on the side" and are not combined with the food.
9. Sodium:
- a) The commitment to reduce sodium in the meals stems from the fact that nutrition-related chronic diseases remain the primary cause of death among people aged 65 and older. California has a diverse population, and the ENPs in the State provide culturally appropriate meals for many ethnicities. Asian meals traditionally have higher sodium levels. Programs that choose to provide culturally appropriate meals, but are concerned with the sodium content of the meals, may consider:
 - (1) Using low sodium soy sauce or diluting soy sauce with water to produce low sodium soy sauce;
 - (2) Offering soy sauce as a condiment to be added by the senior;
 - (3) Providing Nutrition Education on sodium;
 - (4) Continuing to work with the sodium levels of meals, making small steps to reduce the risk of developing kidney stones, and possibly decrease bone loss with age;
 - (5) Not providing potassium chloride salt substitutes;
 - (6) Noting meals that have more than 1000 mg of sodium on the menu as such: "This meal contains more than 1000 mg of sodium," or using an icon denoting a high sodium meal; and
 - (7) Using low sodium versions of high sodium foods when available and feasible with budget allowances.
- i. Meal Component/Nutrient Analysis:
- 1. A meal component/nutrient analysis of the entire menu cycle conducted and/or approved by a Registered Dietitian shall be done to ensure compliance with Title 22, Division 1.8, Section 7638.5.
 - a) Computerized Nutrient Analysis Requirements
 - (1) Although not required, use of computerized nutrient analysis is strongly recommended and will help ensure and verify the nutritional adequacy of meals. The goal of assessing nutrient intakes of groups is to determine the prevalence of inadequate or excessive nutrient intakes within a particular group of individuals. While meal patterns serve as a basic framework for menu planning, providers are encouraged to use computerized nutrient analysis because it provides specific information on nutrients the menu may not be providing. The information that a menu is not supplying all of the desired nutrients will guide the development of future menus. As required menu elements are expanded, it is more difficult to meet all of the requirements on a daily basis. ENP Providers should focus on:
 - (a) Vitamin A
 - (b) Vitamin C

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- (c) Protein
 - (d) Fat
 - (e) Sodium
 - (f) Fiber
- (2) Not all nutrient guidelines will be met with each meal. However, areas that do not meet the requirements should be the focus of future menu revisions and nutrition education.
- (3) The following nutrients should be included in the analysis when the computerized nutrient analysis method is used: calories; protein; carbohydrates; total fat; saturated fat; total fiber; vitamins A, C, D, E, K, thiamin, riboflavin, niacin, B6, folate, B12, calcium, chromium, copper, iron, magnesium, sodium, and zinc. In addition to meeting one-third of the DRIs, the menus should also follow the DGA.

IX. Food Procurement:

- A. Food procurement procedures shall comply with Title 22, California Retail Food Code (CRFC) standards, and HACCP best practices guidelines.
- B. All food shall be of good quality and shall be obtained from sources that conform to Federal, State, and local regulatory standards for quality, sanitation, and safety.
- C. To the extent possible, providers are encouraged to participate in group food purchasing.
- D. A comparative cost analysis shall be performed either by the ENP Provider or its group purchasing organization on an on-going basis to obtain the highest quality food for the lowest price available.

X. Food Storage:

- A. Food storage procedures shall comply with Title 22, CRFC standards, and HACCP best practices guidelines.
- B. Adequate and suitable space free from vermin, dirt, and contamination or adulteration shall be provided for the storage of food and beverages, and cooking, serving, and eating supplies.

XI. Food Production:

- A. Food production procedures shall comply with Title 22, CRFC standards, and HACCP best practices guidelines.
- B. Food production and meal service shall be under the supervision of a trained staff in food service management to ensure food service sanitation and the practice of hygienic food handling techniques are followed. This person shall function with the advice of the Provider's Registered Dietitian.
- C. Meals shall be served as indicated on the certified menus. In the event that a menu substitution must occur, the following procedure must be followed:
 - 1. The Provider's Registered Dietitian must approve all menu substitutions.
 - 2. A Menu Substitution Form must be completed and signed by the Provider's Registered Dietitian.
 - 3. The completed Menu Substitution form shall be kept on file for DAAS review.
- D. Production Control:
 - 1. Production schedules or worksheets must be available in the food preparation area.
 - 2. Food shall be prepared in sufficient quantities to serve all participants. Careful planning shall minimize the leftover food and prevent waste.
 - 3. Standardized recipes shall be used to ensure consistency of quality and quantity and adherence to menu guidelines.
 - 4. Appropriate utensils for correct and consistent portion control shall be available and used at each site.

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E. Meal Service/Temperature Monitoring:

1. All food for congregate sites shall be packaged and transported in a manner in which it is protected from potential contamination and maintains appropriate hot and cold food temperatures.
2. Meals shall be served to seniors "offer versus serve" – meaning participants are to be given an opportunity to decline a menu item. Food trays shall not be served ahead of time.
3. Temperature Checks:
 - a) All hot, cold, and frozen potentially hazardous meal components, including milk, shall be checked daily immediately prior to dispatch from the central kitchen.
 - b) All hot, cold, and frozen potentially hazardous meal components, including milk, shall be checked at satellite congregate sites upon delivery and at all congregate sites immediately before meal service.
 - c) The ENP Provider must have written procedures for monitoring food temperature.
 - d) The ENP Provider must use a form to document food temperatures daily (i.e. Food Temperature Log).
 - e) The ENP Provider shall have a staff member review the completed Food Temperature Logs at random a minimum of every other month. If problems are discovered, an action plan must be developed to resolve the issue.
 - f) All completed Food Temperature Logs must be maintained on file for DAAS review.
4. To maintain quality in prepared foods, holding times shall be kept to a minimum. Long periods of holding hot foods at required temperatures diminishes the nutrient content and palatability of foods.
5. Holding time shall not exceed 2 hours between the end of production and the beginning of food service at the congregate site.
6. Milk and milk products shall be provided in individual, commercially filled containers, or shall be poured by a staff member directly from commercially filled bulk containers into the glass or cup from which it is consumed.
7. Single service utensils and tableware shall be used one time only and then discarded.
8. Safety of the food after it has been served at the congregate site and then removed by the participant from the congregate site is the sole responsibility of the participant and may be consumed by the participant as he/she deems it appropriate.
9. The Provider shall have a sign posted in the congregate site stating, "Food removed from the congregate site is at your own risk."

XII. Food Service Requirements:

- A. The ENP Provider shall ensure that the following forms are available, completed **daily**, and maintained at each nutrition site for a minimum of 12 months:
 1. Food Temperature Log – one should be available for congregate meals and one for home delivered meals if hot foods are delivered to the client.
 2. Cleaning Schedule
 3. Equipment Temperature Log – for all dish machines, refrigerators, and freezers.
 4. Production Schedule – applicable only if food is cooked at the site.
 5. The current Environmental Health inspection shall be available at the site for review.
 6. Staff and volunteers who are handling food shall possess a current food handlers' card that shall be available for review.

XIII. Program Requirements:

- A. Client Intake Sheets:
 1. The ENP Provider will ensure that each participant completes the Client Intake Sheet form (provided by DAAS) to determine his or her level of nutritional risk. Forms shall be completed for:

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- a) Congregate Meal Participants – at the beginning of service and then annually thereafter for clients who remain on the program.
 - (1) Sections I and IV are required for congregate meals.
 - b) Home-Delivered Participants – at the beginning of service and then quarterly thereafter for clients who remain on the program.
 - (1) Sections I, II, III, and IV are required for home-delivered meals.
 2. ENP Providers who are required to complete their own data entry into the SAMS System must enter the annual and quarterly Client Intake Sheets into the database in a timely manner.
 3. ENP Providers who are not required to complete their own data entry must send the Client Intake Sheets to DAAS for data entry into the SAMS System.
- B. Outreach/Marketing Activities:
1. ENP Providers are required to provide outreach in the community through community organizations and other groups. All outreach and marketing activities shall be documented and kept on file for the annual monitoring visit conducted by DAAS.
 2. ENP Providers shall develop and have handouts, brochures, and/or signs available in languages other than English and posted in locations such as churches, community service locations, and small stores serving the minority communities.
- C. Emergency Procedures:
1. ENP Providers shall have a written Emergency/Disaster Plan.
 2. Each nutrition site shall have an evacuation plan posted identifying the emergency exits and assembly areas.
 3. Staff must be knowledgeable of emergency procedures.
 4. Where feasible and appropriate, ENP Providers shall make arrangements for the availability of meals to participants during a major disaster, as defined in 42 U.S.C., Chapter 68, Section 5122 (2). Such arrangements shall be included in the Emergency/Disaster Plan.
- D. Donations and Confidentiality:
1. An Eligible individual who receives a meal shall be given the opportunity to contribute to the cost of the meal
 2. The ENP Provider shall develop a suggested contribution/donation amount. When developing this contribution/donation amount, the income ranges of the older individuals in the community and the Provider's other sources of income shall be considered.
 3. A sign indicating the suggested contribution for eligible individuals and the fee for guests shall be posted near the contribution container at each congregate meal site. A guest fee shall cover all meal costs.
 4. No eligible individual shall be denied participation because of failure or inability to contribute.
 5. The Provider shall ensure that the amount of the eligible participant's contribution is kept confidential.
 6. The ENP Provider shall establish written procedures to protect contributions and fees from loss, mishandling, and theft (i.e. Contribution/Donation Procedures). Such Procedures shall be kept on file for DAAS review.
 7. All contributions and fees shall be identified as program income and used to increase the number of meals served, to facilitate access to such meals, and to provide nutrition-related supportive services.
- E. "No Soliciting" Sign:
1. The ENP Provider shall ensure that a "No Soliciting" sign is posted on the door leading to the congregate nutrition site. No soliciting of any kind is permitted on the premises during the lunch hours for services or goods promoted by businesses.

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F. Coordination:

1. If applicable, develop a fair and equitable policy and procedure for referring participants to the appropriate transportation provider for securing public transportation to and from nutrition sites and have the policy available for review by DAAS.
2. Include the following statement on all advertising, brochures, poster, etc., "**Funding for this service has been provided by the San Bernardino County Department of Aging and Adult Services through a grant award from the California Department of Aging.**"
3. Coordinate service with other County departments and local agencies by providing time for presentations or special activities that promote a community based system of care for the participants attending nutrition sites.

G. Reporting:

1. All fiscal and program data must be reported monthly (i.e. Request for Reimbursement, Rosters, Monthly Service Unit Report, etc.). All reports are due to DAAS by the 5th business day of the month following the month of service. DAAS will provide training as needed.
2. The Provider shall maintain support files including, but not limited to, invoices, payroll, Client Intake Sheets, and any other supporting documents to substantiate monthly reports.
3. ENP Providers are required to report all known or suspected cases of elder abuse to DAAS Adult Protective Service or law enforcement immediately by telephone. A written report must be sent within two (2) working days. Abuse of an elder or dependent adult means physical abuse, neglect, intimidation, cruel punishment, fiduciary abuse, abandonment, isolation, or other treatment resulting in physical harm or pain or mental suffering or the deprivation by a care custodian of goods or services which are necessary to avoid physical harm or mental suffering.
4. Maintain records, by month, that support claimed in-kind expenditures.
5. Report expenditures funded with Deferred Income by September 30th of the FY in which it is being claimed.
6. Develop and have on hand for review by DAAS, a cost allocation plan which explains the methods used to allocate costs between congregate and home-delivered meals or any other program funded by DAAS.
7. In the event additional funds become available, the Provider will use the funds to increase the number of meals being provided to participants by either increasing the number of individuals attending its present sites, or by opening new sites in communities not already served by the Provider. Exceptions to this requirement must be fully documented in writing and submitted to the Director of DAAS for prior approval.
8. Other Reporting Requirements:
 - a) SAMS (Social Assistance Management System):
 - (1) The following reports are to be completed and submitted to DAAS by the 5th business day of the month following the month of service if the Provider is serving **less than 500 clients** per month:
 - (a) Client Intake Sheets for any new clients or any annual or quarterly assessments completed in the month.
 - (b) Meal Rosters
 - (2) Providers that are serving **more than 500 clients** shall secure the appropriate licensing, have a dedicated staff responsible for maintaining the client tracking software, obtain and maintain an Internet Service Provider and the appropriate hardware that can support the program. These Providers shall be responsible for entering the following data into SAMS by the 5th business day of the month following the month of service:

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- (a) Client Intake Sheets for any new clients or any annual or quarterly assessments completed in the month.
 - (b) Rosters
 - (c) Routes (if applicable)
 - b) Nutrition Education Monthly Service Unit Report
 - (1) The Nutrition Education Monthly Service Unit Report is a tool that is used to report the number of Nutrition Education service units that have been provided to participants. This report is to be completed and submitted to DAAS by the 5th business day of the month following the month of service. Copies of any handouts presented to the participants as a component of the Nutrition Education shall be attached to the Nutrition Education Monthly Service Unit Report.
- H. Disposal of Equipment:
- 1. If the Provider wishes to dispose of equipment purchased with Nutrition grant funding, they must submit a request, in writing, to DAAS. The request shall state the equipment description, the location of the equipment, and the reason for disposal.
 - 2. Provider shall submit a list of equipment purchased with grant funding by location.

CITY OF MONTCLAIR
BUDGET LINE ITEMS FOR NUTRITION SERVICES
 Fiscal Year 2010/2011

CONGREGATE SITES C-1 HOME DELIVERED MEALS C-2 **Section I: Prepare this section based on annual estimated cost to serve the meals.**

		a	b	C=a+b
		Cost to Provider for the year		
Expenditure Category:		Cash	In-Kind	Annual Expense
1	Personnel	68,294	48,500	116,794
2	Staff Travel & Training	400		400
3	Equipment			
4	Consultants	2,000		2,000
5	Catered Food	75,215		75,215
6	Raw Food			
7	Other Expenses:			
	a. Consumable Supplies	9,263		9,263
	b. Insurance	5,000		5,000
	c. Repair & Maintenance			
	d. Rent/Building Space			
	e. Utilities			
	f. Vehicle Operations	7,650		7,650
	g. Miscellaneous	2,090		2,090
8.	Indirect Cost			
9.	Nutrition Education	262		262
Total Expenditures (add lines 1-9)		170,174	48,500	218,674

County Contract Revenue Sources:		
Title IIIC	81,168	81,168
NSIP	12,580	12,580
One Time Only	1,401	1,401
CDBG - DAAS		
CDBG ECD		
County Funding		
Nutrition Education	262	262
Total County Contract Revenue Sources	95,411	95,411

Other Revenue Sources:		
Program Income	27,656	27,656
Deferred Income		
Matching Cash	47,107	47,107
Matching In-Kind	48,500	48,500
Non-Match Cash		
Non-Match In-Kind		
Total Other Revenue Sources	123,263	123,263
Total Revenue	218,674	218,674

Section II: Prepare this section based on estimated number of meals that will be served multiplied by meal cost per unit.

D	E	f=d*e
Estimated annual number of meals	Proposed meal cost per unit	Annual Budget
17,206	\$5.53	\$95,411
	49	

**San Bernardino County
Elderly Nutrition Program
Required Subcontract Language**

Services provided by subcontractor in advance of receiving notice that this agreement is approved may be considered as having been performed at risk as a mere volunteer and may not be reimbursed or compensated.

I. Subcontractor General Responsibilities

A. Assurances

1. Subcontractor may not be debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.
2. Subcontractor may not have had, within a three-year period preceding this agreement, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction.
3. Subcontractor may not have violated a federal or state antitrust statute or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
4. Subcontractor may not be presently indicted or otherwise criminally or civilly charged by a governmental entity.
5. Subcontractor may not have had, within a three-year period preceding this agreement, one or more public transactions terminated for cause or default.
6. Subcontractor shall report, in writing, immediately to Contractor any incidents of alleged fraud and/or abuse by either the Contractor or Subcontractor.
7. Subcontractor shall obtain from the Department of Justice (DOJ) records of all convictions involving any sex crimes, drug crimes, or crimes of violence of a person who is offered employment or volunteers for all positions in which he or she would have contact with a minor, the aged, the blind, the disabled or a domestic violence client, as provided for in Penal Code section 11105.3 prior to providing any services. The County Department of Aging and Adult Services must be immediately notified of any records showing a conviction.
 - a. Examples include, but are not limited to, volunteers or employees in contact with a senior or disabled client at home, who transport them, and/or anyone who has routine, ongoing personal contact with seniors or disabled persons during the course of providing the contracted service(s).
8. Subcontractor shall prevent employees, consultants, or members of governing bodies from using their positions for purposes including, but not limited to, the selection of sub-subcontractors, that are, or give the appearance of being,

motivated by a desire for private gain for themselves or others, such as family business or other ties.

9. Subcontractor must administer their services according to all applicable local, State, and Federal laws and regulations including, but not limited to, discrimination, wages and hours of employment, occupational safety, and to fire, safety, health, and sanitation regulations, directives, guidelines, and/or manuals related to the subcontract resolving all issues using good administrative practices and sound judgment.
10. If applicable^{1*}, subcontractor must administer federal and state awards in compliance with laws and regulations ensuring that performance goals are achieved as stipulated in the OMB Circular A-133.400(d)(3).*
11. Subcontractor shall keep in effect all licenses, permits, notices, and certificates that are required by law.
12. The subcontractor, by signing this agreement, hereby certifies to the best of his or her knowledge and belief, that:
 - a. No federal appropriated funds have been paid or will be paid, by or on behalf of the subcontractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - b. Inclusion of this language in all subcontracts is certification as a material representation of fact upon which reliance is placed. This certification is a prerequisite for making or entering into the transaction imposed by 31 USC 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
13. Subcontractor guarantees that there were not any funds other than federal appropriated funds paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this federal contract, grant loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.
14. Subcontractor shall comply with all federal statutes relating to nondiscrimination, including statutes and laws contained in the Contractor Certification Clauses (CCC 307), which is hereby incorporated by reference.

¹ OMB applies if aggregate expenditures of \$500,000 in federal funds are spent in one fiscal year.

15. Subcontractor shall comply with Equal Access to Federally-Funded Benefits, Programs and Activities (Title VI of the Civil Rights Act of 1964).
16. Subcontractor shall comply with Equal Access to State- Funded Benefits, Programs and Activities (22 CCR 98323)(Chapter 182, Stats.2006).
17. Subcontractor shall comply with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. Sections 12101 et seq.).

B. Financial

1. Subcontractor shall be of sound financial status and in good standing with the Secretary of State of California and shall maintain that status throughout the term of the agreement. Note: Failure to do so shall result in suspension or termination of the agreement.
2. Funds for this agreement shall not be obligated for services beyond the ending date of this agreement.
3. Any reimbursement for authorized travel shall be at rates and per diem not to exceed those amounts paid by the State in accordance with Department of Personnel Administration's rules and regulations.

**Travel – <http://www.dpa.ca.gov/textdocs/freepmls/PML2008019.pdf>
 Per Diem (meals and incidentals) – <http://www.dpa.ca.gov/personnel-policies/travel/meals-and-incidentals.htm>
 Lodging – <http://www.dpa.ca.gov/personnel-policies/travel/short-term-travel.htm>**

4. This is not to be construed as limiting the Contractor or subcontractor from paying any differences in costs, from funds other than those provided through the Department of Aging and Adult Services.

C. Performance

1. Subcontractor shall be subject to the same provisions as the contractor.
2. Subcontractor shall not have authority to contract for, on behalf of, or incur obligations on behalf of the County.
3. If the subcontractor begins work in advance of receiving notice that this agreement is approved, that work may be considered as having been performed at risk as a mere volunteer and may not be reimbursed or compensated.

4. Subcontractor shall report immediately to the Department of Aging and Adult Services in writing any incidents of alleged fraud and/or abuse by either contractor or subcontractor.

D. Records

1. Subcontractor shall maintain any records, documents, or other evidence of fraud and abuse until otherwise notified by the department.
2. Subcontractor may be required to have written reporting procedures specific to each program that may include:
 - a. Collection and reporting of program data
 - b. Ensuring accuracy of all data from the subcontractor
 - c. Verification of subcontractor data prior to submission to Contractor
 - d. Correction procedures
 - e. Methodology for each non-registered service for collecting and reporting
3. If the above is applicable, Subcontractor's staff must be oriented and trained to perform the data collection and required reporting.
4. Subcontractor shall maintain complete records including, but not limited to, accounting records, contracts, agreements, reconciliation of the Financial Closeout Report, summary worksheets as a result of any audit performed, supporting documentation, letters of agreement, insurance documentation, Memorandums and/or Letters of Understanding, patient or client records, and electronic files of all activities and expenditures pertaining to this agreement.
5. Maintain all records and books pertaining to the delivery of services under this contract and demonstrate accountability for contract performance.
6. The County shall have the right upon reasonable notice and at reasonable hours of business to examine and inspect such records and books.
7. Records must be maintained and made available until an audit has occurred and an audit resolution has been issued or unless otherwise authorized in writing by the Department of Aging and Adult Services. Records may be required for a longer period as deemed necessary by the department.

Subcontractor	Title	Date
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Contractor	Title	Date
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AGENDA REPORT

SUBJECT: CONSIDER APPROVAL OF AGREEMENT NO. 11-45 WITH WHEELER & WHEELER ARCHITECTS FOR DESIGN SERVICES FOR THE COMMUNITY CENTER RESTROOM CONVERSION AND ADA UPGRADE PROJECT	DATE: April 4, 2011 SECTION: AGREEMENTS ITEM NO.: 2 FILE I.D.: CVC060 DEPT.: PUBLIC WORKS
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REASON FOR CONSIDERATION: Architectural design services are required to develop plans to convert existing Meeting Room A in the Community Center to Americans with Disability Act (ADA)-compliant restrooms. The design contract requires City Council approval. A copy of proposed Agreement No. 11-45 with Wheeler & Wheeler Architects is attached for the City Council's review and consideration.

BACKGROUND: The passage of Measure F by voters in November 2004 allowed the City to construct a number of facilities citywide including the Police Department facility, the Youth Center conversion, and the Senior Center. With the completion of the Senior Center and the transfer of the Senior Nutrition Program from the Community Center to the Senior Center, the City can now focus on constructing ADA-compliant restrooms and other ADA upgrades in the Community Center.

The existing restrooms in the Community Center are not fully ADA compliant; and modifying them to meet ADA requirements would require reducing the total number of facilities, which are already below the number required for the size of the building. A conceptual plan was developed by WLC Architects that would convert Meeting Room A, the former Senior Nutrition Program lunchroom, into restrooms that are ADA compliant and appropriately proportioned for the size of the building.

Proposals for development of plans, specifications, and bid documents were requested from WLC Architects, based in Rancho Cucamonga, and Wheeler & Wheeler Architects, based in Claremont. Only Wheeler & Wheeler Architects responded to the City's request. The proposal submitted by Wheeler & Wheeler Architects meets the City's requirements.

FISCAL IMPACT: Funding for this conversion project is provided through the Community Development Block Grant Program. The total project budget is \$370,000. The design contract with Wheeler & Wheeler Architects is for \$21,400.

RECOMMENDATION: Staff recommends the City Council approve Agreement No. 11-45 with Wheeler & Wheeler Architects for design services for the Community Center Restroom Conversion and ADA Upgrade Project.

Prepared by: *M. STAATS*
Proofed by: *Ally*

Reviewed and Approved by: *M. STAATS*
Presented by: *[Signature]*

CITY OF MONTCLAIR

AGREEMENT FOR CONSULTANT SERVICES

COMMUNITY CENTER RESTROOM PROJECT

THIS AGREEMENT is made and effective as of MARCH 22, 2011, between the **CITY OF MONTCLAIR**, a municipal corporation ("City") and **WHEELER & WHEELER ARCHITECTS** a California corporation ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. **TERM**

This Agreement shall commence on April 1, 2011, and shall remain and continue in effect for a period of 12 months until tasks described herein are completed, but in no event later than June 30, 2012, unless sooner terminated pursuant to the provisions of this Agreement.

2. **SERVICES**

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

3. **PERFORMANCE**

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

4. **CITY MANAGEMENT**

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

5. **PAYMENT**

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

\$21,400 for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

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

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

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

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

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

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

7. DEFAULT OF CONSULTANT

(a) The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the

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

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

8. OWNERSHIP OF DOCUMENTS

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

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

9. INDEMNIFICATION

(a) Indemnification for Professional Liability. When the law establishes a professional standard of care for Consultant's services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City and any and all

of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including attorney's fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or subconsultants (or any entity or individual that consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

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

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

10. INSURANCE

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

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

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

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

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

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

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

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

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

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

11. INDEPENDENT CONTRACTOR

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

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

12. LEGAL RESPONSIBILITIES

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

13. UNDUE INFLUENCE

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

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

No member, officer, or employee of City, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Project during his/her tenure or for one year thereafter, shall have any interest, direct or indirect,

in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the project performed under this Agreement.

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

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

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

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

16. NOTICES

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

addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To City: Michael C. Hudson
City Engineer
City of Montclair
5111 Benito
Montclair, CA 91763

To Consultant: Paul S. Wheeler
Wheeler & Wheeler Architects
133 Spring Street
Claremont, CA 91711-4930

17. ASSIGNMENT

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

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

18. LICENSES

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

19. GOVERNING LAW

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

20. ENTIRE AGREEMENT

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

21. CONTENTS OF REQUEST FOR PROPOSAL AND PROPOSAL

Consultant is bound by the contents of City's Request for Proposal, Exhibit "C" hereto and incorporated herein by this reference, and the contents of the proposal submitted by the Consultant, Exhibit "D" hereto. In the event of conflict, the requirements of City's Request for Proposals and this Agreement shall take precedence over those contained in the Consultant's proposals.

22. CONFIDENTIALITY

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

23. DISCRIMINATION

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

24. AUTHORITY TO EXECUTE THIS AGREEMENT

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

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

CITY OF MONTCLAIR

By: _____
Mayor

Attest:

By: _____
City Clerk

Approved as to Form:

By: _____
City Attorney

CONSULTANT

By: Paul Wheel
(Title) CEO

By: _____
(Title)

EXHIBIT A

WHEELER & WHEELER

A R C H I T E C T S
ARCHITECTURE INTERIORS PLANNING
133 Spring St., Claremont, CA 91711-4830
(909) 624-6065 (909) 621-7757

March 11, 2011

RE: Restroom and Conference Room Conversion/Remodel
City of Montclair Youth Center
Montclair, CA

Mr. Hudson,

Thank you for recognizing the abilities of Wheeler and Wheeler Architects, Inc. We have provided architectural services in and around the Pomona Valley for over twenty five years. We believe our experience would prove to be a valuable asset for your project. A few of our many projects can be viewed at www.wheelerarchitects.com.

We understand the scope of work to include: the conversion of an existing conference room to a men's and women's restroom, while concurrently converting existing restrooms to a conference room, although City may elect to modify it for storage. We are to include installation of two new pairs of electronic sliding glass doors with footings and foundation tie in. All materials and finishes are to match recent City standards installed at new Senior Center, including a new floor finish outside the existing restrooms, providing as much natural light as possible without the installation of sky lights.

Following is the proposed cost of Architectural Services for the above mentioned project and scope of work. Please feel free to contact me with any questions or concerns. We look forward to the opportunity of doing business with you. Thank you for your consideration.

Respectfully Submitted,

Paul S. Wheeler
Architect

EXHIBIT B

WHEELER & WHEELER

A R C H I T E C T S
ARCHITECTURE INTERIORS PLANNING
133 Spring St., Claremont, CA 91711-4830
(909) 624-5025 (909) 621-7757

Youth Center (City of Montclair):
Proposed Costs for Architectural Services for Restroom & Conference Room Conversions

Preliminary Design Field measure existing restrooms and conference room Prepare preliminary floor plan design for client approval	\$ 2,000.00
Design Development & Documentation New interior floor plan layout, Storefront finishes/trim In Lounge and Room B, detail, and complete construction documents with specifications for one (1) conference room and Two (2) restrooms	\$ 7,800.00
Mechanical/Plumbing Design & Engineering Design & calculate plumbing & mechanical drawings Including HVAC modifications for conference room T-24 Energy Calculations	\$ 2,075.00
Electrical Design & Engineering Design & calculate lighting, power/data plans Including automatic doors at east and south entrances to Community Center T-24 Energy Calculations	\$ 1,725.00
Bidding & Permitting (30hrs) Process through required agencies for plan check approval Permitting and Bidding	\$ 3,000.00
Construction Administration (12 week @ 4hrs/wk) Attend weekly meeting (2hrs incl. drive time) Review and Approve submittals/shop drawings Respond to clarifications/Requests for Information Review and Approve pay requests	\$ 4,800.00
Total Cost for Architectural Services	\$ 21,400.00

Specific Exclusions:

Reproductions, City Plan Check/Permit fees, Fire Sprinkler Design, Fire Alarm Design, Structural Engineering/Coordination

Note:

Any/all governmental fees advanced by Wheeler & Wheeler Architects, Inc. will be subject to a fifteen percent (15%) mark-up. Record Drawings and specifications are to be provided to Wheeler & Wheeler Architects, Inc. by the City of Montclair to allow proper coordination and integration of remodel to new Youth Center

Signature of Approval

Date

AGENDA REPORT

SUBJECT: CONSIDER ADOPTION OF RESOLUTION NO. 11-2895 SUPPORTING AND ENCOURAGING THE TRANSFER OF TITLE FOR LA/ONTARIO INTERNATIONAL BACK TO THE CITY OF ONTARIO OR TO SUCH REGIONAL AUTHORITY AS MAY BE ESTABLISHED

DATE: April 4, 2011

SECTION: RESOLUTIONS

ITEM NO.: 1

FILE I.D.: TRN300

DEPT.: CITY MGR.

REASON FOR CONSIDERATION: At the March 21, 2011 regular joint meeting, Council Member Dutrey requested City staff to prepare a Resolution supporting the transfer of title for LA/Ontario International back to the City of Ontario.

BACKGROUND: In 2009, City of Ontario officials first expressed concern with the management of LA/Ontario International by Los Angeles World Airports (LAWA)—since 2007, the airport saw a 47 percent decline in annual passenger volume. LAWA officials attribute the decline to the global economic recession; however, a September 2010 "Recovery Plan" prepared by the City of Ontario suggests the decline may be attributed to other causes including:

1. Failure by LAWA to properly manage LA/Ontario International—a failure that saw the loss of 8,075 regional jobs and \$410 million in economic losses.
2. Failure by LAWA to properly and adequately redistribute air traffic service among the regional airports.
3. Failure by LAWA to control operational costs largely resulting from the following: (a) a larger than necessary workforce (John Wayne Airport employs 175 workers, Long Beach Airport employs 124 workers, and LA/Ontario International employs 302 workers—the average ratio of airport employees per million passengers is 79 per million; at LA/Ontario International, the average is 163 per million); (b) employees earning higher than average wages (15 percent higher) for comparable positions at other LAWA airports; and (c) \$8.7 million dollars in annual administrative costs paid directly to LAWA.

The City of Ontario "Recovery Plan" indicates LA/Ontario International is the only airport in Southern California that is unconstrained and enjoys political and community support for service expansion, further noting that under City of Ontario control, LA/Ontario International would be freed from the annual administrative charge paid to LAWA—producing an immediate 15 percent reduction in the airport's operating budget and lowering

Prepared by:

Proofed by:

Reviewed and
Approved by:

Presented by:

the per passenger cost for air carrier operations by \$4—according to the report, the per enplaned passenger cost at LA/Ontario International is \$14.50; at LAX, the fee is \$11; at John Wayne Airport, the fee is \$9.93; and at Long Beach Airport, the fee is \$5.34.

In January 2011, City of Ontario officials submitted a proposal to LAWA to regain control of LA/Ontario International, claiming the City could successfully decrease operation costs by \$67 million—or 20 percent—thus lowering airport fees and encouraging a rise in annual passenger volume.

In March 2011, LAWA officials announced a plan to consider selling LA/Ontario International, with an anticipated sales price between \$250 million to \$500 million.

LA/Ontario International is the transportation centerpiece of the Inland Empire, with a service area population in excess of 6 million people. The history and economic importance of LA/Ontario International are vital to the growth and development of the Inland Empire. This regional significance suggests that local management and control are key components to future success of the airport.

The City of Ontario is well-positioned, economically and politically, to reestablish LA/Ontario International as a world-class airport that could witness dramatic increases in passenger traffic and air freight cargo, thus contributing to the growth and development of the Inland Empire and its continued recovery from the second worst economic recession in U.S. history.

FISCAL IMPACT: Adoption of Resolution No. 11-2895 would produce no significant fiscal impact.

RECOMMENDATION: City staff recommends the City Council adopt Resolution No. 11-2895 supporting and encouraging the transfer of title for LA/Ontario International back to the City of Ontario or to such regional authority as may be established.

RESOLUTION NO. 11-2895

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTCLAIR SUPPORTING AND ENCOURAGING THE TRANSFER OF TITLE FOR LA/ONTARIO INTERNATIONAL BACK TO THE CITY OF ONTARIO OR TO SUCH REGIONAL AUTHORITY AS MAY BE ESTABLISHED

WHEREAS, in 1929, the City of Ontario purchased a 30-acre tract in the southwest corner of the present Ontario International Airport for \$12,000 and the airfield became known as Ontario Municipal Airport; and

WHEREAS, from 1943 to 1947, Ontario Municipal Airport served as a U.S. Army training base in support of Army Air Corps missions during World War II; and

WHEREAS, in 1946, Ontario Municipal Airport was renamed Ontario International Airport (ONT) because of transpacific cargo flights originating from the airport; and

WHEREAS, in 1947, the U.S. Army departs ONT and the airport is rededicated to civil aviation, with commercial air service beginning in 1949; and

WHEREAS, in 1951, a 10,880-square-foot terminal building is constructed at ONT to serve the area's expanding demand for commercial air service; and

WHEREAS, in 1967, the Los Angeles City Department of Airports cosigns a joint powers agreement with the City of Ontario and ONT becomes part of Los Angeles' regional airport system, giving operational control to Los Angeles World Airports (LAWA); and

WHEREAS, in 1971, ONT's annual passenger volume passes 1 million; in 1978, passenger volume passes 2 million; in 1986, passenger volume passes 4 million; in 1989, passenger volume passes 5 million; in 1992, passenger volume passes 6 million; and in 2005, passenger volume passes 7 million; and

WHEREAS, in 1981, ONT opens a new runway that can accommodate wide-body jets; and

WHEREAS, in 1985, the City of Los Angeles receives official transfer of title for ONT from the City of Ontario and Daniel, Mann, Johnson & Mendenhall is selected as the planners, architects, and engineers for new terminals at ONT; and

WHEREAS, in 1990, United Parcel Service breaks ground on a \$53 million West Coast air cargo hub at ONT, establishing the airport's growing ability to accommodate significant air freight volume; and

WHEREAS, in 1998, new terminal service capable of handling up to 12 million passengers annually starts at ONT on September 27, four months ahead of schedule and \$26 million below the projected \$270 million budget; and

WHEREAS, from 2000 to 2009, ONT significantly expands domestic and international flight service through a number of air carriers including Air Canada, JetBlue, Aeromexico, Frontier JetExpress, Hawaiian Airlines, Lineas Aereas Azteca, Great Lakes Airlines, and Southwest Airlines; and

WHEREAS, from 2003 to 2008, ONT continues to make infrastructure improvements by completing the \$20.2 million Taxiway N Westerly Extension Project in 2003; completing the Runway 26R/8L Reconstruction Project in 2006; and installing a \$70 million in-line baggage screening system in Terminals 2 and 4 in 2008; and

WHEREAS, in 2006, Ontario International Airport is renamed LA/Ontario International and annual air freight reaches 602,326 tons; and

WHEREAS, in 2008, annual passenger volume at LA/Ontario International decreases to 6.2 million and annual air freight declines to 481,284 tons—both declines attributed by LAWA to an international recession; and

WHEREAS, in 2009, annual passenger volume at LA/Ontario International decreases to 4.8 million (a decline of 47 percent, with projections that annual passenger volume will not climb back to 7 million until 2040) and annual air freight declines to 390,932 tons, forcing action to shut down portions of the airport's twin terminals, reduce staffing, close parking lots, cut power and water in sections of the twin terminals, and raise the specter of closing one of the two terminals; and

WHEREAS, in 2009, City of Ontario officials first expressed concern with LAWA's management of LA/Ontario International, resulting in a May 2010 directive from the Los Angeles City Council for a feasibility study on returning control of the airport to the City of Ontario; and

WHEREAS, in September 2010, the Southern California Association of Governments submitted a letter to the City of Los Angeles urging LAWA to give up oversight of LA/Ontario International; and

WHEREAS, in September 2010, City of Ontario officials cited concern that LAWA is unable or unwilling to lower operational costs at the airport because of priority concern with rehabilitation of Los Angeles International (LAX) and further citing that high operational costs, in addition to the global recession and higher fuel costs, have combined to produce the dramatic decline in annual passenger volume and the loss of air carriers including JetBlue, Aeromexico, and ExpressJet plus concurrent reductions in service by other air carriers including Southwest Airlines; and

WHEREAS, in September 2010, City of Ontario officials revealed a "Recovery Plan" for LA/Ontario International noting that under LAWA management, the airport's rapid decline in passengers since 2007 has cost the region an estimated 8,075 jobs and \$410 million in economic losses, due in part to LAWA's failure to adequately redistribute air traffic service throughout the region; and

WHEREAS, the City of Ontario "Recovery Plan" further notes LA/Ontario International is burdened by excessively high operational costs, due in large part to (1) a larger than necessary workforce (John Wayne Airport employs 175 workers, Long Beach

Airport employs 124 workers, and LA/Ontario International employees 302 workers—the average ratio of airport employees per million passengers is 79 per million; at LA/Ontario International, the average is 163 per million), with employees earning higher than average wages (15 percent higher) for comparable positions at other LAWA airports, and (2) approximately \$8.7 million in annual administrative costs paid directly to LAWA; and

WHEREAS, the City of Ontario "Recovery Plan" finally indicates that LA/Ontario International is the only airport in Southern California that is unconstrained and enjoys political and community support for service expansion, further noting that under City of Ontario control, LA/Ontario International would be freed from the annual administrative charge paid to LAWA—producing an immediate 15 percent decline in the airport's operating budget and lowering the per passenger cost for air carrier operations by \$4—according to the report, the per enplaned passenger cost at LA/Ontario International is \$14.50; at LAX, the fee is \$11; at John Wayne Airport, the fee is \$9.93; and at Long Beach Airport, the fee is \$5.34; and

WHEREAS, in January 2011, City of Ontario officials submitted a proposal to LAWA to regain control of LA/Ontario International, claiming the City could successfully decrease operation costs by \$67 million—or 20 percent—thus lowering airport fees and encouraging a rise in annual passenger volume; and

WHEREAS, in January 2011, LAWA released a solicitation for Expressions of Interest (EOI) for the specific purpose of (1) evaluating the feasibility of and options for contracting management and operation of LA/Ontario International; and (2) providing LAWA with insight into any future selection process should LAWA choose to seek a long-term manager/operator for LA/Ontario International; and

WHEREAS, in February 2011, State Senator Bob Dutton (R-Rancho Cucamonga) with co-authorship from other area legislators including Senator Gloria Negrete-McLeod (D-Ontario) and Assembly Members Wilmer Amina Carter (D-Rialto), Kevin Jeffries (R-Lake Elsinore), Brian Nestande (R-Palm Desert), and Norma Torres (D-Ontario) introduced legislation that would transfer control of LA/Ontario International to a regional airport authority with the provision he would not move forward on the legislation without concurrence of the Ontario City Council; and

WHEREAS, in March 2011, LAWA officials announced a plan to consider selling LA/Ontario International with an anticipated sales price between \$250 million to \$500 million—reversing its position that the airport is a key asset to the City of Los Angeles.

NOW, THEREFORE, BE IT RESOLVED that LA/Ontario International is the transportation centerpiece of the Inland Empire, with a service area population in excess of 6 million; and the developing history and economic importance of LA/Ontario International are vital to the influence, growth, and continuing development of the Inland Empire.

BE IT FURTHER RESOLVED the City Council of the City of Montclair believes local focus would enable LA/Ontario International to thrive and demonstrate improved performance under local management and control.

BE IT FURTHER RESOLVED the City of Ontario is well positioned, economically and politically, to reestablish LA/Ontario International as a world-class airport that could witness dramatic increases in passenger traffic and air freight cargo, thus contributing to the growth and development of the Inland Empire and its continued recovery from the second worst economic recession in U.S. history.

BE IT FURTHER RESOLVED that the City Council of the City of Montclair, by adoption of this Resolution, encourages and supports the sale and transfer of title for LA/Ontario International back to the City of Ontario or such regional authority as may be established.

BE IT FURTHER RESOLVED that the Deputy City Clerk shall certify to the passage of this Resolution and the Mayor shall sign the same.

BE IT FINALLY RESOLVED that copies of this Resolution shall be forwarded to the Ontario City Council, Los Angeles World Airports Executive Director Gina Marie Lindsey, Los Angeles Mayor Antonio Villaraigosa, the Los Angeles City Council, and Federal Aviation Administration Director J. Randolph Babbitt.

APPROVED AND ADOPTED this XX day of XX, 2011.

..Mayor

ATTEST:

Deputy City Clerk

I, Yvonne Smith, Deputy City Clerk of the City of Montclair, DO HEREBY CERTIFY that Resolution No. 11-2895 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 Smith
Deputy City Clerk

**MINUTES OF THE MEETING OF THE MONTCLAIR
CODE ENFORCEMENT COMMITTEE HELD ON
MONDAY, MARCH 21, 2011, AT 6:02 P.M. IN THE
CITY HALL CONFERENCE ROOM, 5111 BENITO
STREET, MONTCLAIR, CALIFORNIA**

I. CALL TO ORDER

Council Member Paulitz called the meeting to order at 6:02 p.m.

II. ROLL CALL

Present: Council Member Paulitz; Council Member Dutrey; City Manager Starr; Fire Chief Ament; Police Chief Jones; Director of Community Development Lustro; Deputy Fire Chief Shiba

Absent: Mayor Eaton (excused)

III. APPROVAL OF MINUTES

A. Minutes of Code Enforcement Committee Meeting of January 18, 2011

It was the consensus of the Code Enforcement Committee to approve the minutes of the Code Enforcement Committee meeting of January 18, 2011.

IV. PUBLIC COMMENT - None

V. OLD BUSINESS - None

VI. NEW BUSINESS

- A. Director of Community Development Lustro updated the Committee on the Code Enforcement Unit's transition from the Fire Department to Community Development Department. He advised that a work-space has been identified at City Hall for Code Enforcement personnel; furniture and supplies will be moved from the Fire Department to City Hall on Thursday, April 7, 2011; and three staff vehicles and the C.A.U.T.I.O.N. trailer will be parked behind the Youth Center.

Director of Community Development Lustro noted meeting recently with Code Enforcement personnel (who are excited about the move and look forward to new challenges) to discuss new work schedules and that Code Enforcement personnel will work their first full day at

City Hall on Monday, April 11, 2011. He advised that he would be meeting with the Reserve Code Enforcement Officers in the week ahead to emphasize the importance of weekend patrol and that he would be revising personnel assignments with respect to the areas of the City each Code Enforcement Officer will be responsible to cover.

Council Member Paulitz asked that he continue to receive the Code Enforcement Work Schedule each month and that Code Enforcement Committee meetings continue in the same manner as they have in the past.

Council Member Dutrey requested the City Council be presented with an implementation plan of the strategies and priorities associated with the transition to ensure the Code Enforcement Unit continues to operate at peak efficiency in maintaining code compliance throughout the City.

- B. Council Member Paulitz requested a report detailing outstanding lien amounts recorded against properties in the City and the amount that has been collected on recorded liens.
- C. Protestors associated with the "40 Days for Life" campaign have taken up a physical presence in the Family Planning Center parking lot on San Bernardino Street. The property owner is threatening legal action if the protestors continue trespassing on his property. This matter will be investigated further.

VII. ROUNDTABLE DISCUSSION ON PROBLEM PROPERTIES

On Thursday, March 17, 2011, Community Development, Fire, and Police Department staff inspected a marijuana dispensary located at 4027 Holt Boulevard and notified the property owner's attorney that the City has banned marijuana dispensaries. City Prosecutor Eckart will contact the property owner's attorney and request the establishment be voluntarily closed to avoid legal action. Council Member Paulitz inquired as to how this occupancy occurred without the City being aware of it. Community Development Director Lustro advised that improvements to this property were made without City permits. Fire Chief Ament informed the Committee that the business was discovered by a Code Enforcement Officer during a routine survey of his assigned area.

The property located at 5676 San Jose Street was cleaned up by the property owner's family.

Trash, junk, and debris are beginning to accumulate again at 10245 Columbine Avenue.

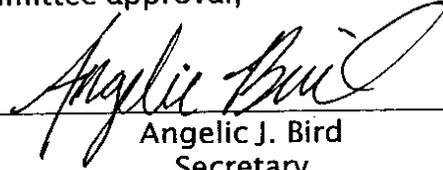
VIII. NEXT MEETING

The next meeting is scheduled for Monday April 18, 2011, at 6:00 p.m.

IX. ADJOURNMENT

At 6:19 p.m., Council Member Paulitz adjourned the Code Enforcement Committee.

Submitted for Code Enforcement
Committee approval,



Angelic J. Bird
Secretary

**MINUTES OF THE MEETING OF THE MONTCLAIR
PERSONNEL COMMITTEE HELD ON MONDAY,
MARCH 21, 2011, AT 8:07 P.M. IN THE CITY
ADMINISTRATIVE OFFICES, 5111 BENITO STREET,
MONTCLAIR, CALIFORNIA**

I. CALL TO ORDER

Mayor Eaton called the meeting to order at 8:07 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
March 7, 2011.**

Moved by City Manager Starr, seconded by Council Member Ruh,
and carried unanimously to approve the minutes of the Personnel
Committee meeting of March 7, 2011.

IV. PUBLIC COMMENT - None

V. CLOSED SESSION

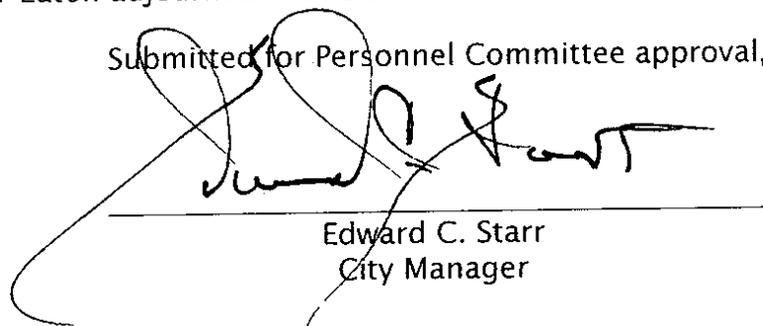
At 8:08 p.m., the Personnel Committee went into Closed Session
regarding personnel matters related to appointments, resignations/
terminations, and evaluations of employee performance.

At 8:27 p.m., the Personnel Committee returned from Closed Session.
Mayor Eaton stated that no announcements would be made at this time.

VI. ADJOURNMENT

At 8:27 p.m., Mayor Eaton adjourned the Personnel Committee.

Submitted for Personnel Committee approval,



Edward C. Starr
City Manager